

# EVOLUTION END-USER LICENSE AGREEMENT

This License Agreement is between you (the “Client) and EVOLUTION TACTIC SYSTEMS S.R.L. (ETS). The product described below is offered to you conditional on your acceptance of the terms and conditions of this License Agreement.

You automatically accept to be bound by the terms and conditions by installing the System and selecting the option “I Agree” when presented with this License Agreement while installing or starting the system or simply using an already installed copy.

If you do not agree to all of the terms of this agreement, do not install or use the System.

In case of doubts, don't hesitate to contact EVOLUTION TACTIC SYSTEMS S.R.L. at [info@evolution-tactic.com](mailto:info@evolution-tactic.com) or our website at <https://evolution-tactic.com>.

## **1. Description of the Product**

EVOLUTION, published by EVOLUTION TACTIC SYSTEMS S.R.L. (ETS), is a microcomputer application that may include one or more software programs, electronic nautical charts, documentation, other data, or media, all collectively referred to as the ‘System’.

ETS has the rights of commercialization of the System granted by its authors (the “System Authors”).

## **2. License Grant**

Subject to the payment of the applicable license fees and the terms and conditions, ETS grants the Client a non-exclusive, non-transferable right to use the System.

The Client may only use the System subject to the terms and conditions described in this agreement. ETS and the System Authors reserve any rights they may have in or to the System and are not explicitly granted in this Agreement.

## **3. Use of the System**

The System is licensed to the Client as a single product and may only be used with its full functionality on a specific computer aboard. To enforce this restriction, the software includes an activation process that enables the comprehensive use of the System.

To use EVOLUTION, interconnected to the boat’s instruments, the Client must first request and complete the System’s activation on a specific computer used aboard.

ETS will provide the activation for this, and only this, specific computer. This activation may be time and features limited depending on the options paid by the Client.

The Client may purchase an additional activation to run the System on another computer only if the original equipment breaks beyond repair. This activation will be issued to the Client at applicable fees and subject to the terms of this Agreement and ETS customer support policies.

The Client may also install the System on other computers not used aboard for data analysis, race planning, and other functions that do not require software activation.

## **4. Restrictions**

The Client may NOT, in any way or circumstance:

- a) Transfer any of the rights granted to them under this Agreement.
- b) Modify, or create derivative works based upon the System in whole or part.
- c) Rent, lease, loan, or resell the System License granted.

- d) Permit third parties to benefit from the use or functionality of the System via a timesharing, service bureau, the Internet, or another arrangement.
- e) Use the System's documentation, printouts or screen captures, or any other data or media to create derivative works to be sold, published, or distributed in any way.
- f) Reverse engineer, decompile, disassemble, or attempt to discover the source code of the System's software.
- g) Try to override or tamper with the activation mechanism.
- h) Remove any proprietary notices, copyright notices, or labels on the System and its Documentation.

## **5. Termination**

The License Term shall terminate immediately and without notice, if the Client shall be in breach of any term or condition of the present License Agreement;

The Client may terminate the License Term at any time, with or without cause, effective upon the delivery to ETS of a written notice of termination (30) thirty days in advance.

## **6. Effect of Termination of the License Term**

Immediately following the termination, the Client shall uninstall the System from all computers.

All of the provisions of this License Agreement, which are not expressly limited to the period of the License Term, including the requirements regarding disclaimers of warranties, limitations of liability, remedies, proprietary rights, and consent to use data, shall survive the termination.

## **7. Updates**

The Client is entitled to download revisions and upgrades (maintenance releases) to the System when ETS publishes them via its website or other online services. At its discretion, ETS may charge an upgrade fee for new releases that contain enhancements.

This License Agreement also applies to updates, supplements, and add-on components of the System that ETS may provide or make available to the Client after they obtain their initial copy of the System unless a separate license agreement accompanies them.

## **8. Ownership Rights**

ETS, the System Authors, and their suppliers expressly reserve any rights which they may have in or to the System which are not explicitly licensed by ETS to the Client hereunder, including but not limited to any such exploitation and commercialization rights, copyrights, patents rights, trademarks, and other intellectual property rights.

The System and all copies thereof, including any translations, compilations, partial copies, extracts, excerpts, summaries, modifications, and enhancements, shall remain the sole and exclusive property of the System Authors and their suppliers.

The System is protected by national and international copyright laws and treaties. ETS, the System Authors, and their Suppliers retain all rights, title, and interest in and to the System, including all copyrights, patents, trade secret rights, trademarks, and other intellectual property rights.

## **9. Consent to the Use of Data**

The Client agrees that ETS, the System Authors, and its Suppliers may collect and use technical information gathered as part of the System support services provided to them, if any, related to the System and that they may use this information solely to improve their products or to provide customized services or technologies to the Client, and will not disclose this information in a form that personally identifies the Client.

## **10. Consent to Mention**

The Client agrees that during the License Term, ETS has the right to mention them as one of its clients in any ETS verbal, written, or graphical commercial-oriented material in connection with the publicity, advertising, or promotion of ETS and its products; that ETS may publish this material in any way, including but not limited to brochures, newsletters, magazines, newspapers, educational and training manuals, Internet websites, and broadcast interviews; and that in such case the Client will not receive any compensation from ETS. The Client consents that ETS may include, at its will and convenience, references to them and the yacht where the System will be used, including information such as names, dates, events, quotes, and photographs. This right is limited only to: 1) public domain information, 2) information ETS has received directly from the Client, except when this information is part of a confidentiality agreement expressly signed by the Client and ETS, and 3) information for which ETS has duly obtained rights to use and publish.

## **11. Links to Third Party Sites**

The System and the Documentation and ETS website may contain links or referrals to third-party information. ETS is not responsible for the contents of any third-party sites or services, links in third-party sites or services, or changes or updates to third-party sites or services. ETS provides these links and access to third-party sites and services only in the Client's interest, and the inclusion of any link or access does not imply an endorsement by ETS of the third-party site or service.

## **12. Limited Warranty**

ETS warrants its System distribution channels will be available to the Client to obtain the latest version of the software and its documentation in digital format.

## **13. Customer Remedies**

ETS' entire liability and the Client's exclusive remedy for any breach of the preceding limited warranty shall be ETS' best effort to promptly deliver the software and its documentation by the best suitable means. The Client must advise ETS about the issue and request a digital copy of the System to benefit from these options.

## **14. Registration Activation and Security**

The System includes a software-embedded activation method to verify that the Client complies with the License terms. Under no circumstance shall the Client tamper with such mechanisms' operation.

The User must follow the "Activation" procedure described in the System's documentation to activate the System. This procedure includes the exchange of information with ETS. The information provided by the User will be kept confidential as part of the Client Registration by ETS.

The Client acknowledges and agrees that under the terms of this License, he is obliged to secure and control the activated installation of the System, being the Client responsible for any use of the System that may be done in violation of the terms of this License.

In the event of theft or loss of the computer with an activated installation and its unauthorized use by third parties, the Client agrees to immediately notify ETS of such events so that ETS can take appropriate actions.

In the event of the loss or breakage of the computer where the System was activated, the Client acknowledges and accepts that in no case will ETS be obliged to replace the activation of the software for new equipment. And this action may mean for the Client the payment of a fee equivalent to the original license cost.

## **15. Warranty Disclaimer**

Except for the limited warranty outlined in clauses 12 and 13, the System is provided “as is”. To the maximum extent permitted by applicable law, ETS disclaims all warranties, expressed or implied, including implied warranties of merchantability, fitness for a particular purpose, and non-infringement for the System and the accompanying Documentation. ETS makes no warranties about the suitability, reliability, or accuracy of the information contained in the System or other information provided to the Client by ETS or regarding the use or the results of the use of the System in terms of correctness accuracy, reliability, or otherwise. ETS makes no warranties that the product will be error-free. The Client assumes the entire risk for the results and performance of the System.

## **16. Limitation of Liability**

In no event and under no legal theory, whether in tort (including negligence), contract, or otherwise, shall ETS, the System Authors, or their suppliers be liable to the Client or any other person for any indirect, consequential, special, punitive, exemplary or incidental damages of any character, including without limitation, loss of goodwill, work stoppage, computer failure or malfunction, damages for loss of profits, business interruption, loss of business information or other financial losses arising out of:

- a) Any breach by ETS of any warranty, agreement, or obligation contained herein, even if ETS has been advised of the possibility of such damages,
- b) The use of or the inability to use the System,
- c) Errors or omissions in cartography or any other content supplied with the System, including but not limited to cartography, contour charts, tide, current data, meteorological data, magnetic variation data, and routing information.

In no event shall ETS be liable for any damages above the list price ETS charges for a License to the corresponding system version. The preceding provisions shall be enforceable to the maximum extent of applicable law.

## **17. Warning Regarding Navigational Use**

The Client agrees to comply with all laws, regulations, and requirements of the Country and maritime jurisdiction in which the System is being used.

The Client understands and agrees that:

- a) Nautical navigation is an inherently dangerous activity. The System is provided only as an aid to decision-making while racing. It should never be used as the sole or primary source of information for navigation and piloting.
- b) The System does NOT take the place of conventional and prudent navigational, piloting and steering practices.
- c) The System should NOT be used with the yacht’s steering devices, specifically with automatic pilots.
- d) The Automatic Identification System (AIS) functionality for maritime traffic tracking, included in the System, is provided only as additional assistance for security purposes. In NO case should it be used to replace the conventional practices of Watch Keeping Collision Avoidance.
- e) The Man over Board (MOB) positioning function, included in the System, is provided only as an additional aid to conventional Search and Rescue practices. In NO case should they be used as the primary means for rescue operations.
- f) Only nautical charts, notices to mariners, and related material published by national hydrographic offices or official agencies contain all information needed for the safety of navigation. As always, the captain is responsible for their prudential use.

- g) No national hydrographic office or official agency of any country has verified the data or information in the System, including but not limited to nautical charts, tide, current data, meteorological data, magnetic variation data, routing information, or other data in digital or physical form.
- h) No national hydrographic office or agency warrants that this product satisfies national or international regulations regarding using the appropriate products for navigation.

## **18. Confidentiality**

The Client acknowledges that the System contains trade secrets and other confidential and proprietary information of ETS, the System Authors, or its Suppliers (all such material is collectively referred to herein as the 'Confidential Information'). Accordingly, the Client agrees that, except as expressly permitted herein, neither they nor any of his/hers associates, crew, employees, representatives, agents, subcontractors, affiliates, or successors (the "Related Parties") shall, at any time, in whole or in part, directly or indirectly, use, divulge and disclose any Confidential Information for his, her or its benefit, or for the benefit of any other person, partnership, association, corporation, limited liability company or other entity.

Without limiting the generality of the preceding, the Client agrees that, except as expressly authorized herein, they shall not transfer, publish, disclose, display or otherwise make available to any third party any portion of the System in any way.

As used herein, the term "Confidential Information" shall not be deemed to include any information which (a) is or becomes publicly known through no wrongful act of the Client or any Related Party, (b) is rightfully furnished to the Client, and any Related Party and a third party without any restriction of confidentiality, c) is approved for release by written authorization of ETS, the System Authors or its Suppliers, (d) is developed independently by the Client or any Related Party without access to any Confidential Information.

## **19. Client Warranties**

The Client warrants that:

- a) All individuals accessing or using the System will be bound by the terms and conditions of this License Agreement.
- b) He has actual authority to bind their organization and all other System users to all terms and conditions of this License Agreement.
- c) At his own expense, he shall promptly enforce the restrictions in this License Agreement against any person who obtains access to the System in violation of the terms of this agreement.
- d) He shall immediately notify ETS in writing of any misuse, misappropriation, or non-authorized disclosure, display, or copying of the System that may come to his attention

## **20. Breach of Agreement**

The Client agrees that damages alone would not adequately compensate ETS if their use of the System violates the terms of this Agreement. In such an event, injunctive relief shall be essential for protecting the legitimate interests of ETS and its successors and assigns. Accordingly, the Client agrees that if they or any Related Party shall use the Product in violation of the terms hereof, then ETS shall be entitled to obtain injunctive relief against the Client or any Related Party, without bond but upon due notice, in addition to such other relief as may appertain at law or in equity.

## **21. Indemnification**

The Client agrees to indemnify, defend and hold ETS, the System Authors, or its Suppliers harmless from and against any loss, cost, damage, liability, and expense (including without limitation reasonable attorney's fees, court costs, and other affordable litigation and arbitration

expenses) including claims by third parties, which ETS, the System Authors or its Suppliers may suffer, sustain or incur in as a result of, arising out of, or relating to the Client's breach of any of their representations, warranties or agreements contained herein.

## **22. Entire License Agreement**

This Agreement sets forth all rights of the Client to the System and is the entire agreement between the parties. This Agreement supersedes any prior representations, warranties, conditions, arrangements, and understandings, whether oral or written, express or implied, relating to the System and the Documentation. To the extent the terms of any ETS policies or programs conflict with this License Agreement, the terms of this License Agreement shall rule.

This Agreement may not be modified except by a written addendum issued by a duly authorized representative of ETS. No provision hereof shall be deemed waived unless such waiver shall be in writing and signed by ETS or a duly authorized representative of ETS.

## **23. Severability**

This License Agreement is intended to be interpreted in such a manner as to render it enforceable. Suppose any court, arbitration panel, or other competent authority determines that any provision of this License Agreement is not enforceable. In that case, such provision may be modified or limited to the extent necessary to cause it to be enforceable. If any provision cannot be modified or limited, then such provision shall be severed, and the remainder of this License Agreement shall remain in full force and effect.

## **24. Waiver**

Failure to insist upon strict compliance with any of the terms or conditions hereof shall not be deemed a waiver or relinquishment of such term or condition, nor shall any waiver or relinquishment of any right or remedy hereunder at any one or more times be deemed a waiver or relinquishment of such right or remedy at any other time or times.

## **25. Independence of the Parties**

The parties involved in this License Agreement are independent entities. No party shall acquire obligations or rights other than those expressly contained herein, and in no event shall a party become a representative for the other. Each party supervises and controls its employees and the related employment conditions, costs, and taxes.

## **26. Governing Law**

The laws of the Argentine Republic govern this License Agreement, and the parties submit themselves to the jurisdiction of the courts of the City of Buenos Aires.