



INTERNET FLIGHT PLANNING SYSTEM- REGISTRATION FORM

continuations, renewals, reissues and extensions of the foregoing (as and to the extent applicable) now existing, or hereafter filed issued or acquired, shall remain with NAV CANADA.

- (c) The Subscriber hereby consents to NAV CANADA's use of the personal and confidential information provided pursuant to this agreement, including any information filed on any flight plan, for data handling/processing of the flight plan, Search and Rescue (SAR) purposes and billing purposes.

2. Access

- (a) Following reasonable notice to the Subscriber, the Application may be interrupted at any time in order to maintain, modify or enhance the Application. Although NAV CANADA shall use reasonable efforts to assure the Applications uninterrupted, no responsibility is assumed for interruptions of or delays in delivery of same.
- (b) NAV CANADA SHALL NOT BE LIABLE TO THE SUBSCRIBER OR ANY THIRD PARTY FOR ANY MALFUNCTION, INTERRUPTION, FAILURE, DELAY, ERROR OR OMISSION IN THE COMMUNICATION OR TRANSMISSION OF INFORMATION PROVIDED THROUGH THE APPLICATION.

3. General Restrictions on Use

The Subscriber agrees to the following restrictions on the use of the Application:

- (a) Access to the Application is provided solely and exclusively for the internal use of the Subscriber. The Subscriber shall not provide access to the Application to any other person or entity including any affiliate.
- (b) The Subscriber acknowledges that the Application was compiled, revised, selected and arranged by NAV CANADA through the application of methods and judgement developed and applied through the expenditure of substantial time, money and effort, and constitute valuable intellectual property, including copyright, protected compilations, and trade secrets of NAV CANADA.
- (c) The Subscriber acknowledges that NAV CANADA will, using its best efforts, operate and maintain the Application.
- (d) The Subscriber agrees to co-operate with NAV CANADA and protect the intellectual property, including copyright and/or any other proprietary rights of the Application.
- (e) The Subscriber agrees to not sell, transfer, assign, publish, distribute, disseminate, allow any third party access to, or convey any part of the Application. The Subscriber shall however have the right to print single copies of reports obtained, using the Application and utilise same in the normal course of its business.
- (f) The Subscriber agrees that it shall not attempt to copy, modify, reverse engineer, disassemble, decompile or decrypt the Application and that it shall not attempt to reconstruct, copy or prepare derivative works based on the Application.
- (g) The Subscriber shall not remove, alter or obscure any proprietary notices on the Application or any printed extracts.
- (h) The Subscriber is responsible for the protection and use of the user identifier (USERID), password, and access control items to be used by the Authorized User. The Authorized User shall be the only person authorized to use the Application and the Authorized User shall not be permitted to share the USERID or assigned password.

4. Termination

- (a) NAV CANADA may terminate this Agreement by 30 days written notice to the Subscriber.
- (b) In the event that NAV CANADA determines, at its sole discretion, that the Subscriber has violated any of the terms and conditions contained in this Agreement, NAV CANADA shall have the right to unilaterally terminate the Agreement immediately.

5. Disclaimer of Warranties; Limitation of Liability

- (a) Except as expressly provided in this Article 5, there are no understandings, representations, warranties, covenants, conditions, promises, guarantees or agreements, express or implied, statutory or otherwise, or arising from a course of dealing or usage of trade, relating to the Application, including but not limited to any implied warranty of merchantability or fitness or adequacy for any particular purpose or use, or of quality, productiveness, capacity or accuracy. In no event shall NAV CANADA be liable for any indirect, incidental, special, consequential or punitive damages occurring out of or in connection with the delivery, use or performance, or failure thereof, of the Application, or from a fundamental breach, even if NAV CANADA has been advised of the possibility of such damages. Without limiting the generality of the foregoing,



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NAV CANADA does not warrant that the Application will perform uninterrupted or error free, that any deficiency can or will be corrected, or that the functions or performance of the Application will meet the Subscriber's requirements.

- (b) If the Application provided by or operated or distributed by NAV CANADA malfunctions or fails to perform properly or at all, and the malfunction or failure is a cause of inadequate results obtained by the Subscriber, then the Subscriber's exclusive remedy is to discontinue the use of the Application and NAV CANADA shall not be liable in any way.
- (c) The Subscriber agrees to indemnify and save harmless NAV CANADA from and against all claims, demands, losses, costs, damages, actions, suits or other proceeding by any person made, sustained, brought or prosecuted in any manner based upon or attributable to anything done or omitted to be done by the SUBSCRIBER, or its officers, employees, agents and contractors, in connection with the Subscriber's obligations under this Agreement.

6. General

- (a) Changes. NAV CANADA may from time to time, and in its sole discretion, change the content or format of the Application in accordance with general changes made to its standard service offering. The terms and conditions applicable to use of the Application may be changed from time to time upon reasonable notice to the Subscriber.
- (b) Assignment. This Agreement and any rights arising out of this Agreement may not be assigned in whole or in part by the Subscriber without the written consent of NAV CANADA.
- (c) Force Majeure. NAV CANADA shall not be liable for any default or delay resulting from circumstances beyond its reasonable control.
- (d) Notifications. The Subscriber requests and authorises NAV CANADA to inform the Subscriber from time to time of other services available from NAV CANADA.
- (e) Injunctive Relief. Since unauthorised use or disclosure of the Application may diminish substantially the value of NAV CANADA's intellectual property rights, including copyright, proprietary rights, and/or trade secrets interests that are embodied in same and if the Subscriber breaches any of the Subscriber obligations with respect to limited use of same, NAV CANADA will be entitled to all remedies available at law or in equity to protect their interests therein, including but not limited to injunctive relief as well as money damages.
- (f) Jurisdiction. The terms of this Agreement shall be construed according to the laws of and shall be subject to the non-exclusive jurisdiction of the courts of Ontario, Canada. The Subscriber agrees to commence any action relating to or arising from this Agreement in such courts.
- (g) Survival. Any terms which by their nature are intended to survive the termination of this Agreement shall continue in full force and effect after termination, which terms shall include, but not be limited to Article 3 (Restrictions) and Articles 5(b) and 5(c) (Disclaimer of Warranties; Limitation of Liability).
- (h) Severability. The invalidity or unenforceability of any provision or covenant in this Agreement shall not affect the validity or enforceability of any other provision or covenant herein contained, and this Agreement shall be construed as if such invalid or unenforceable provision or covenant were omitted.
- (i) Action. No action, regardless of form, arising out of or pertaining to the Application may be brought by the Subscriber more than one (1) year after the cause of action, its discovery by the Subscriber or such time as it should have reasonably been discovered by the Subscriber.
- (j) French Language. The parties hereby confirm their express wish that this Agreement and all documents relating thereto be drawn up in English only. Les parties aux présentes confirment leur volonté que le présent contrat de même que tous autres documents s'y rapportant soient rédigés en anglais seulement.

Questions can be directed to NAV CANADA Customer Service at:
1-800-876-4693
Monday – Friday 0800 – 1800 EST