

Service Level Agreement of International Maritime Information Systems Limited [IMIS].



1. Scope of Application

1.1 This Service Level Agreement [SLA] of IMIS shall apply to all systems and services supplied by IMIS to a licensee (not the End User). The End User will contract with the Licensee on its own terms and conditions.

1.2 In principle, IMIS concludes contracts on its own terms and conditions. Deviating terms and conditions (e.g. commercial Terms and Conditions of purchase and SLA) shall only be applicable if IMIS explicitly consents to the same in writing.

2. Definitions

2.1 **IMIS** is International Maritime Information Systems Limited based in Fareham in the United Kingdom.

2.2 **Licensee** is the party with whom the primary contract is placed and who has been comprehensively trained to provide first and second level support.

2.3 **End User** is the customer of the Licensee or IMIS Partner who uses the service supplied by the Licensee, software or equipment supplied by IMIS to the Licensee

2.4 **Time and Material** is all costs including:

- a) Time
- b) Material
- c) Travel
- d) Accommodation

2.5 **First line** support is support that is able to be delivered using only the operators and administrators functionality within the system and includes configuration, archiving and database maintenance using the Graphical User Interface [GUI] provided with the system.

2.6 **Second line** support is support that is able to be delivered using remote access tools and database access tools and includes the loading and reloading of the system software, activation of the License Key, configuration of the Node, configuration of the Firewall and the use of basic Linux commands to fault find and maintain the system.

2.7 **Third line** support is support that addresses software faults / bugs that cannot be addressed by First line and Second line support activities. This does not relate to Wide Area Networks, Local Area Networks, connection to third party products unless these are specifically included in the initial system description, responsibility allocation and order placed on IMIS.

2.8 **Broadband** is an Internet connection that has DNS services and allows IMIS to connect to the system at speeds of 128kb/s or above.

2.9 **Approved platform** means any hardware platform that has been supplied by IMIS or has been through a formal testing process with the cooperation of both IMIS and the Licensee. Approval is indicated by a formal exchange of documentation.

2.10 **Factory Acceptance Test** [FAT] is a test conducted in the IMIS premises using the Approved platform with the full participation of the Licensee. Success is indicated by a formal exchange of documentation.

2.11 **Technology** means MariWeb and all derivatives thereof.

2. Terms

2.1 The IMIS SLA shall be subject to review and change. 30 days notice will be provided.

2.2 All SLA documents must not be made accessible to third parties / End Users without IMIS's consent. They may be reclaimed at any time and shall be returned to IMIS immediately if the SLA is placed with someone else.

2.3 IMIS explicitly reserves the right to make technical changes to its Technology so long as these changes do not remove or impair any feature or service to the Licensee or End User. Changes will be effected in co-operation with the Licensee.

2.4 IMIS shall not be liable for printing errors.

2.5 The information contained in catalogues, brochures and the like as well as any other written or oral statements shall only be relevant if explicitly referred to in the acknowledgement of the order.

2.6 Subsequent modifications of or amendments to the SLA must be confirmed in writing in order to be valid.

2.7 An SLA is put in place with Licensees that has completed the comprehensive IMIS training courses presented by at least two IMIS trainers covering all supplied modules and that covers at least the following:

- a) System overview
- b) Operators course
- c) Administrators course
- d) Technical maintenance course
- e) Technology overview and Database administration

The IMIS training is to be completed with simulations of typical operational scenarios and is to include Licensee system specific requirements, remote maintenance and support techniques.

2.8 All fault / bug repair will be completed remotely by IMIS by means of a Broadband connection to the Internet. The Licensee will make the Broadband connection available to IMIS at no charge to IMIS. Should the Broadband connection not be available at any time and fault / bug repair is still required, IMIS will charge the Licensee for all activities in resolving the fault / bug on a Time and Material basis. IMIS will not accept any instruction in this regard from an End User.

2.9 All faults / bugs that are found to exist as a result of the installation of software or the provision of services using the IMIS Technology on a non-approved platform or on a system that is running non-approved third party software or operating systems will be charged to the Licensee at Time and Material rates retrospectively.

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3. Service Levels

3.1 The Licensee will validate and classify all reported faults / bugs. The Licensee will attempt to resolve all faults / bugs first using the training provided by IMIS. Should the fault / bug be found to exist and the Licensee is unable to resolve the fault / bug, the fault / bug will be classified in one of the three priority statuses enumerated below:

3.1.1 **Critical.** A Critical fault / bug is one that disables a significant part or sector of the system and/or renders the system or sector unable to be used by the End User and there is no redundant or backup system or service available. This requires immediate attention (24/7) and if more than one fault / bug exists at any one time, the Critical fault / bug will enjoy the highest priority. All Critical faults are expected to be solved within 4 hours.

3.1.2 **Major.** A Major fault / bug is one that disables a primary service and limits the use of this primary service within the system. This requires prioritized attention (24/7) and if more than one fault / bug exists at any one time, the Critical fault / bug will enjoy the highest priority. The Major fault / bug will have the next highest priority. Should a redundant or backup system be available and the reported Major fault / bug does not affect system availability, the Major fault / bug will be de-escalated to Minor status. The de-escalation will be agreed with the Licensee. All Major faults are expected to be solved within 24 hours.

3.1.3 **Minor.** A Minor fault / bug is one that affects a seldom used feature or service or feature or service for which a working redundant or backup feature or service exists and is available. A Minor fault / bug will be attended to during office hours (Monday to Friday 8:30AM to 4:30PM excluding all Bank, Public or Federal Holidays in the USA, UK and South Africa) should all Critical and Major faults / bugs have been cleared. All minor faults are expected to be solved within 7 days.

3.2 Where IMIS has more than one Critical fault / bug being dealt with on any other system, these will be completed first and then all Major faults / bugs and then all Minor faults / bugs.

3.3 Demonstration, trial and training systems will always have the lowest priority.

4. Fault / bug reporting

4.1 The reporting of faults / bugs will be by means of the IMIS web based Fault Reporting Service [FRS]. Usernames and passwords will be issued to each Licensee. No End User access will be granted to the IMIS FRS.

4.2 The FRS is monitored on a 24/7 basis by IMIS.

4.3 The FRS will be the only repository of all faults / bugs on the system and all relevant interaction between IMIS and the Licensee will be completed using this system. This does not prevent any other form of communication being employed where applicable.

4.4 Faults / bugs not reported on the FRS may only be attended to during offices hours.

4.5 Faults / bugs should not to be reported to IMIS by email, fax, telephone or GSM text or Short Message Service [SMS] calls.

5. Costs and Payment

5.1 All fault / bug repairs are at no charge for 12 months starting from the date of delivery of the system or Technology to the Licensee. Should a suitable Broadband Internet link not be available and the fault / bug still requires repair or on site attendance is required by IMIS, these works will be completed and charged for on a Time and Material basis.

5.2 All fault/ bug repairs outside the 12 months guarantee period will be charged for on a Time and Material basis.

5.3 All Time and Material fault / bug repair payments are due within 30 days. Should international or significant travel and accommodation costs be required, the estimated costs will be advanced to IMIS by the Licensee prior to required works being undertaken.

5.4 Payments shall be effected to IMIS in the agreed currency and without any deduction. Any and all related interest and charges (such as, for example, collection charges and discount charges) shall be borne by purchaser.

5.5 The Licensee shall not be entitled to withhold or set off payments on grounds of warranty claims or other counterclaims.

5.6 A payment shall be deemed effected at the date at which IMIS is able to dispose of the same.

5.7 If the Licensee is in default of an agreed payment or other performance arising out of this transaction or any other transactions, IMIS may, without prejudice to its other rights:

a) postpone fulfilment of its own obligations until such payment or other performance is completed

b) ask for immediate payment of all outstanding claims under this transaction or any other transactions and charge default interest of 1.5% per month on these amounts as of the respective due date unless IMIS proves costs exceeding these amounts. In any case IMIS shall be entitled to invoice costs arising prior to proceedings, in particular dunning charges, collection charges and cost of legal counsel.

5.8 Applicable IMIS standard commercial Terms and Conditions are included by reference. Where the SLA and standard Commercial Terms and Conditions are different, the SLA shall apply.



6. Liability

6.1 Unless any mandatory statutory regulations provide for a more strict liability and these are brought to the attention of IMIS in writing at the time of placing the order with IMIS, IMIS shall only be liable for damages within the scope of the statutory provisions if it is proven that IMIS acted with wilful intent or gross negligence.

6.2 IMIS shall not be liable for any damages in case of non-compliance with instructions for assembly, commissioning and operation (such as are contained in Operators manuals) or non-compliance with licensing requirements.

6.3 The Licensee shall be solely responsible for proper and professional use of IMIS products as well as for processing and installation of the same.

6.4 The Licensee warrants that he holds all permits and authorizations necessary for distribution and/or installation and/or operation of the systems provided by IMIS.

6.5 The Licensee acknowledges the fact that IMIS products only support existing "safe" navigational aids (e.g. RACON, radar, GPS, etc.). In case of improper use any liability shall be excluded.

6.6 IMIS shall not be responsible for any consequential damages or claims including, without limitation, lost profits, loss of data, loss of use or claims of third parties.

7. Technology

7.1 The use of software / technology not supplied and not produced by IMIS is subject to the conditions of the software producer.

7.2 Technology delivered by IMIS for operation or use of the IMIS MariWeb or derivatives shall exclusively be used for the purpose agreed on placement of the order. Any reproduction, even for one's own purposes, shall be prohibited. Passing on of Technology or confidential documentation to third parties in whatsoever way or for whatsoever purpose without IMIS's prior consent is prohibited.

8. Industrial property rights and copyright

8.1 If IMIS produces goods, software or other services on the basis of construction data, drawings, models or other specifications of the purchaser, the purchaser shall indemnify and hold IMIS harmless in case of an infringement of property rights, if any.

8.2 Execution documents, such as, for example, plans, plots and other technical documentation as well as samples, catalogues, brochures, illustrations, software and the like shall always remain IMIS's intellectual property and shall be subject to the respective statutory provisions with respect to reproduction, imitation, competition, etc.

9. General

9.1 Severability clause

If individual provisions of this SLA or of these provisions are ineffective, the effectiveness of the remaining provisions shall not be affected thereby. The ineffective provision shall be replaced by a valid one which comes as close as possible to the intended purpose.

9.2 Miscellaneous

The fact that IMIS does not exercise a right to which it is entitled shall constitute no waiver of the said right.

10. Place of jurisdiction and law

For settlement of all disputes arising out of the contract - including those regarding existence or non-existence of the same - the court having jurisdiction over the subject matter at the head office of IMIS, in England, shall have exclusive jurisdiction. The contract shall be subject to English law excluding the rules of conflict. Application of the UNCITRAL Convention of the United Nations on Contracts on the International Sale of Goods shall be excluded by mutual consent.

11. Force Majeure

IMIS shall not be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting directly or indirectly by reason of fire, flood, earthquake, explosion or other casualty, strikes or labour disputes, inability to obtain supplies or power, war or other violence, any law, order, proclamation, regulation, ordinance, demand or requirement of any Government agency or any other act or condition whatsoever beyond the reasonable control of IMIS.

12. Term and termination

12.1 The SLA shall remain in force for a period of 12 months and is renewable every 12 months.

12.2 Should this agreement be cancelled by either party with 30 days by means of written notice, all payments and deliverables become immediately due.

13. Disputes

The Licensee and IMIS shall attempt in good faith to resolve any dispute, breach, controversy or claim arising between the parties out of or in connection with the provisions of this Agreement through amicable discussions between appointed appropriate executives of the Licensee and IMIS.