

Terms of Service

We reserve the right to update and modify the Terms at any time without notice. New features that may be added to the Service shall be subject to the Terms. Should you continue to use the Service after any such modifications have been made, this shall constitute your agreement to such modifications. Please check this page frequently to obtain timely updates from us.

Violation of any part of the Terms of Service may result in termination of your account.

Definitions

SeaProc is an e-Procurement software service, designed for the Maritime industry to help Buyers (Ship Owners) and Sellers (Parts and Service Vendors) to send/receive RFQs, POs, Invoices, Messages and other transactions related to the Procurement cycle.

- A. **Agreement**. Is this document. It grants the Licensee rights to use the SeaProc™ (SeaProc) Software. This Agreement is executed between Licensee and iMarine Software, LLC (iMarine).
- B. **Licensee**. Is the iMarine Software customer who is authorized by this Agreement to use the SeaProc Software for the Licensee's internal business purposes.
- C. **Product**. Is the SeaProc eProcurement System.
- D. **SeaProc Software**. Is iMarine's proprietary eProcurement Software.
- E. **Obsolete Releases**. A SeaProc Software release that has been superseded by subsequent releases and is no longer supported.
- F. **Software Faults**. A problem in the SeaProc Software that results in the SeaProc Software being substantially or completely non-functional or inoperative.
- G. **Software Patch**. Supplemental programs, if and when developed and distributed by iMarine, which may contain bug fixes or a temporary work-around to correct Software Faults of the SeaProc Software.
- H. **Software Releases**. The distribution of a new version of the SeaProc Software if and when developed by iMarine. A Software Release does not include any release, new version, option or future Product, which iMarine licenses separately.
- I. **Software Service Packs**. A collection of Software Patches and Updates to SeaProc Software, if and when developed and distributed by iMarine.
- J. **Software Updates**. Supplemental programs, if and when developed and distributed by iMarine, that may contain Software Patches and/or improved program functions to enhance the performance, appearance, function, operation, platform, and usability of the SeaProc Software.

1. **License.** iMarine grants Licensee a non-exclusive and non-transferable license to use the SeaProc System, including all subsequent Software updates or enhancements purchased from iMarine, solely on each SeaProc system Licensee has acquired from iMarine. Licensee may only use the licensed Software on the SeaProc system on the vessel(s) to which the SeaProc system is assigned. This license is conditioned upon Licensee's strict compliance with all the terms of this Agreement.

2. **Term and Termination.** The license is perpetual unless terminated by Licensee or iMarine under this Agreement. Licensee may terminate the license granted hereunder by stopping the access of the system. iMarine may terminate this Agreement if Licensee; (i) makes a transfer or assignment of the Software except as provided in this Agreement; (ii) takes any action which in any way infringes on the intellectual property or patent rights of iMarine. iMarine will provide notice to Licensee of such breach and a thirty (30) day period for Licensee to cure the breach. Termination shall not relieve Licensee of its obligations specified in this Agreement. Upon termination, Licensee shall immediately cease all use of the Software and destroy or return to iMarine media containing Software in any form. iMarine shall have the right, at its own expense, to verify that all Software has been destroyed and to disable the Software remotely. Licensee acknowledges that any breach of the license terms would cause substantial harm to iMarine that could not be remedied by the payment of damages alone. Accordingly, iMarine will have the right to initiate judicial action to obtain injunctive relief without posting a bond, or if a bond cannot be waived, by posting a bond of \$100.

3. **Nonconformance.** If iMarine determines that a reported problem is due to nonconformance of the Product because of a Software fault of a supported Software version, then iMarine will provide any Software fix for the reported nonconformance available at the time the problem is reported. If there is no such available fix, iMarine will use commercially reasonable efforts to remedy such nonconformance, which may include a workaround or other temporary fix to the problem. If the Software is an Obsolete Release and the nonconformance has been corrected in a subsequent Software Release, Licensee will be advised to upgrade to the supported release and will be responsible for any fees required to upgrade. Although iMarine may attempt to resolve issues arising in an Obsolete Release, there is no obligation to do so and iMarine DOES SO WITHOUT WARRANTY, EXPRESSED OR IMPLIED. iMarine does not promise or guarantee that all nonconformances of the Software Faults can be corrected.

4. **Distribution and Installation of SeaProc Software Fixes, Service Packs and Releases.** In most cases, Software Patches, Service Packs, and Software Releases will be scheduled for automatic upload without Licensee intervention. In some cases, it may require a service technician to manually install the Software. The service technician will coordinate with Licensee for approval and a time to update the SeaProc System. The service technician may require assistance from Licensee personnel to complete the upgrade. If it is necessary for a service technician to board the vessel, Licensee agrees to pay time, materials, and expenses if Product is out of warranty or subject to Extended Period support.

5. **Software Enhancement Requests.** Requests for SeaProc Software enhancements are welcomed and handled on a consultative basis. All enhancement requests and resulting modifications belong entirely to iMarine.

6. **Disclaimer of Warranties and Limitation of Liability.** iMarine does not warrant that the SeaProc Software is error free. The Software is provided AS IS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, accuracy, omissions, completeness, or currentness. As used herein “iMarine Software” means iMarine, its personnel and independent contractors, and the third parties involved in the design, production, and installation of a SeaProc system. Licensee’s exclusive remedy and iMarine’s entire liability under this Agreement or otherwise, whether in contract, tort, or otherwise, and whether against any iMarine Party is limited to the purchase price of the SeaProc system(s) (excluding installation services) actually paid by Licensee. This Section will survive any termination of the license or this Agreement.

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT FOR LICENSEE’S VIOLATION OF SECTION 2 HEREOF OR LICENSEE’S IMPROPER USE OF THE SEAPROC SYSTEM, IN NO EVENT SHALL EITHER PARTY, NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION PRODUCTION OR DELIVERY OF THE SEAPROC SYSTEM, INCLUDING IMARINE SOFTWARE , RESELLER, OR ANY SUBCONTRACTOR, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF LIFE, PROPERTY, PROFITS, REVENUE, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IMARINE’S LIABILITY FOR DAMAGES AND EXPENSES HEREUNDER OR RELATING HERETO (WHETHER IN AN ACTION IN CONTRACT OR TORT) SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID TO IMARINE SOFTWARE WITH RESPECT TO THIS AGREEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, PORTIONS OF THE ABOVE LIMITATION MAY NOT APPLY TO LICENSEE.

7. **Ownership.** iMarine or iMarine licensors retain all title, copyright, and other proprietary rights in, and ownership of, the Software. iMarine may from time to time impose validation or other security measures to protect against improper use of the Software.

8. **Transfer and Assignment Restrictions.** Licensee may not transfer, sublicense, rent, lease, sell, loan, or assign the SeaProc system or any part thereof, or any of its rights or duties under this Agreement to any other person or entity without the prior written consent of iMarine. The rights hereunder shall follow the bona fide sale of the Licensee’s company with the SeaProc system included in the sale provided the new owner provides written acknowledgement to iMarine of acceptance of the terms of this Agreement within 30 days of the date of the sale.

9. **Consent to Use of Data.** iMarine may collect and use technical information gathered in any manner as part of Product support services provided to Licensee, if any. Uses for this information include troubleshooting, improving Products, and providing customized services or technologies to Licensee. iMarine may not disclose this information to others, including use in marketing and promotional activities.

10. **Modifications and Safety.** Licensee shall not alter or modify the SeaProc System, or the Software, nor knowingly permit any other person to do so. Specifically, but without limitation, Licensee shall not remove or obscure any warning or instructional label. Licensee shall replace warning and instructional labels as needed.

11. **Export and Import.** Licensee is solely responsible for the timely procurement of any necessary government authorizations, including, without limitation, export or import licenses and exchange permits. If iMarine applies for any such authorization, it does so as a convenience to Licensee and iMarine shall have no responsibility for any errors therein or failure to pursue or obtain an authorization. Licensee will comply with any applicable export control law and regulations.

12. **Limitation on Reverse Engineering, Decompilation, and Disassembly.** The SeaProc system is protected under United States and international intellectual property rights laws. Licensee may not reverse engineer, decompile, or disassemble the Software or any SeaProc system or allow or permit others to do so, or disclose any other aspect of the workings of or create derivative works based on the Software or SeaProc system, except and only to the extent that it is expressly permitted by applicable law notwithstanding this limitation.

13. **Confidentiality.** Licensee represents and warrants that it has secured confidentiality agreements from all of its personnel and affiliates and has advised all personnel who will have access to the SeaProc system of their obligations for confidentiality relative to this Agreement, and will provide iMarine proof thereof upon request. Licensee and iMarine to the extent of their respective rights and abilities to do so shall exchange such commercial and technical information and data as are reasonably required by each party to perform its part of this Agreement ("Proprietary Information"). Both parties agree that Proprietary Information, furnished by the party which has developed the information, hereinafter called "Owner," verbally and/or in writing, and identified in writing as Proprietary Information, or reasonably assumed to be Proprietary Information by the nature of the disclosure, will, within the best efforts of the recipient, be maintained by the recipient in confidence and not disclosed to third parties nor made use of for any other purpose not related to the business which may be transacted between the parties. This commitment shall terminate ten (10) years from the date of termination of the Term. This commitment shall impose no obligation upon the recipient with respect to any portion of the received Proprietary Information which:

(i) is now or which hereafter through no act or failure to act on the part of the recipient becomes generally known or available to the public,

(ii) is known to the recipient at the time of receiving such Proprietary Information,

(iii) is furnished to others by Owner without restriction on disclosure,

(iv) is hereafter furnished to the recipient by a third party acting to the best knowledge of the recipient as a matter of right and without restriction on disclosure, or

(v) is independently developed by the recipient provided that the person or persons developing same have not had access to the same Proprietary Information received from Owner.

14. **Force Majeure.** iMarine's performance under this Agreement is subject to interruption and delay by causes beyond its reasonable control. Dates stated for Software releases are estimates only.

15. **Notices.** Except as otherwise provided in this Agreement, all notices must be given in writing to iMarine Software, LLC, 660 White Plains Road, Tarrytown, NY 10591 and to Licensee at the address stated above. Any party may change its address for notices by giving notice of the change.

16. **Governing Law; Arbitration.** Any controversy or claim arising out of or relating to the agreements or the SeaProc system, including the breach, termination, or validity of this Agreement, shall be determined by final and binding arbitration conducted in the English language in New York, New York, USA in accordance with the International Arbitration Rules of the International Centre for Dispute Resolution. The laws of the State of New York, USA, apply to this contract, except those relating to the conflict of laws. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. If any action in law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which such party may be entitled.

17. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement, or the application thereof to any person or circumstance, is for any reason or to any extent invalid or unenforceable, the remainder of this Agreement and the application of such provision to the other persons or circumstances shall not be affected thereby, but rather is to be enforced to the greatest extent permitted by law.

18. **No Implied Waivers.** The failure of any party hereto to require performance by any other party of any provision hereof will in no way affect the right to require such performance at any time thereafter, nor will the waiver by any party of a breach of any provision hereof.

19. **General Provisions.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter. All prior Agreements are superseded hereby and no amendment or modification of this Agreement shall be effective unless it is in writing and signed by all parties. This Agreement is intended for the exclusive benefit of the parties to this Agreement and their respective heirs, successors, and permitted assigns. Nothing contained in this Agreement shall be construed as creating any rights or benefits in or to any third party. This Agreement commences when accepted by the Licensee user at initial system sign-on. The parties' rights and obligations under Section 2 to the extent therein provided and Sections 3 through 19 shall survive termination of this Agreement for any reason.

20. **Passwords and Accounts.** You're responsible for keeping your account name and password confidential. You're also responsible for any account that you have access to. You

agree to notify us immediately of any unauthorized use of your account(s). We're not responsible for any losses due to stolen or hacked passwords.

You will not represent that you are any other individual or entity unless such individual or entity has given you written permission to act on their behalf.

21. **Cancellation and Termination.** You alone are responsible for the proper cancellation of your account. You may cancel your account at any time by sending an email to info@seapro.com or through your account settings menu. If cancelling via email, the sender email must be a verifiable admin user of the account.

In the event of cancellation or termination we retain the right to retain or delete data provided to us by you at our sole discretion.

We also reserve the right, but do not have any obligation, to refuse service to anyone and close your account(s) without notice for any or no reason at all.

22. **Amendments and Changes to SeaProc.** We reserve the right, at our sole discretion, to change, modify, add, or remove portions of the Terms, at any time with or without a notice. Amendments or changes to these Terms won't be effective until we post revised Terms on the Website.

It is your responsibility to check the Terms periodically for changes. Your continued use of SeaProc following the posting of changes will mean that you accept and agree to the changes.

We reserve the right to do any of the following, at any time, without notice to you: (1) to modify, suspend or terminate operation of or access to SeaProc, or any portion of SeaProc for any reason; (2) to modify or change SeaProc, or any portion of SeaProc, and any applicable policies or terms; and (3) to interrupt the operation of SeaProc, or any portion of SeaProc, as necessary to perform routine or non-routine maintenance, error correction, or other changes.

23. **Payment Terms.** The free tier offer entitles new, registered users to a thirty (30) days free trial of the Services.

Our Service Payment Subscription is broken down into 5 Tiers, as follows:

- Tier 1: This tier is Complimentary, and for accounts that generated a Total PO value (USD) for the previous month that ranges from \$0 - \$2,000
- Tier 2: This tier is \$40/Month (USD) for accounts that generated a Total PO value (USD) for the previous month that ranges from \$2,000 - \$8,000
- Tier 3: This tier is \$85/Month (USD) for accounts that generated a Total PO value (USD) for the previous month that ranges from \$8,000 - \$20,000
- Tier 4: This tier is \$200/Month (USD) for accounts that generated a Total PO value (USD) for the previous month that ranges from \$20,000 - \$50,000
- Tier 5: This tier is \$400/Month (USD) for accounts that generated a Total PO value (USD) for the previous month that ranges from \$50,000 and above

- Service fees are usually calculated on a per account per month basis, and charged monthly -- depending on the Service Plan and other particulars of the subscription. Customer shall ensure that sufficient funds are available on the relevant account and acknowledges that late payment may result in the suspension of Service or termination of the Agreement. A 3 month grace period is given prior to the suspension of Service or termination of the Agreement.

All fees are exclusive of all taxes or duties imposed by governing authorities. You are solely responsible for payment of all such taxes or duties.

Monthly Plan: The Services are billed after the month's usage on a monthly basis and are non-refundable. There will be no refunds or credits for partial months, for account upgrades or downgrades, or for months unused with an open account. Your account will automatically renew each month unless you cancel your account. Payments can be made via Credit Card, Check or Bank Wire. In the case of Bank Wire, you are responsible for any Bank Wire fees related to the payment.

We reserve the right to change service fees upon thirty (30) days notice. Such notice may be provided at any time by posting the changes to our Website.

Questions: If you have any questions or concerns about the Terms, please email us at info@seaproc.com.