

## AGREEMENT FOR THE HIRE OF EQUIPMENT

**PART I**

Line		
1.	<b>Place and date of the Agreement</b>	
2.	<b>Owners / place of business</b>	Offshore Cable Equipment B.V. Zuidbaan 525 2841MD Moordrecht  Contact person: E: Tel:
3.	<b>Hirers / place of business</b>	
4.	<b>Equipment (short description. A detailed description is contained in Annex A)</b>	
5.	<b>Period of Hire</b>	
6.	<b>Port or place of delivery</b>	
7.	<b>Port or place of redelivery</b>	
8.	<b>Delivery Date</b>	
9.	<b>Cancelling Date</b>	Three days after the Delivery Date specified in Line 8
10.	<b>Mobilisation Fee / when payable</b>	Amount: Payable:
11.	<b>Demobilisation Fee / when payable</b>	Amount: Payable:
12.	<b>Hire</b>	
13.	<b>Interest</b>	1,5% a month
14.	<b>Currency and method of payment</b>	Euros, payable in accordance with the instructions stated on Owners' invoice.
15.	<b>Insured amount</b>	
16.	<b>Dispute resolution</b>	Rotterdam, the Netherlands
17.	<b>Personnel to be provided by Owners to Hirers to operate the Equipment in accordance with Hirers' instructions (fill in function of each person and his day rate)</b>	

This Agreement consists of Part I, Part II and Annex A.  
The Owners let and the Hirers hire the Equipment and (if applicable) the Personnel subject to the conditions contained in this Agreement. In the event of a conflict of provisions, the provisions of PART I shall prevail over those of PART II to the extent of the conflict but no further.

**PART II**  
**AGREEMENT FOR THE HIRE OF EQUIPMENT**

**1. Definitions**

In this Agreement the following terms shall have the meanings hereby assigned to them:

(1) *"Affiliates"* means a company, partnership, or other legal entity which controls, is controlled by, or is under common control with, a party. For the purposes of this definition, the term "control" means the direct or indirect ownership of fifty per cent (50%) or more of the issued share capital or any kind of voting rights in a company, partnership, or legal entity, and "controls", "controlled" and "under common control" shall be construed accordingly.

(2) *"Clause"* shall mean a clause or sub-clause of Part II of this Agreement.

(3) *"day rate"* shall mean the daily rate to be paid for each person specified in Line 17. The day rate will be for one period of 12 hours work in every running period of 24 hours. The full day rate will apply if only part of the 12 hour period is worked.

(4) *"Effective date"* shall mean the date on which this Agreement has been signed for an on behalf of both Parties.

(5) *"Employees"* means employees, Personnel, directors, officers, servants, agents or invitees.

(6) *"Equipment"* shall mean the Equipment stated in Line 4 with particulars as specified in Annex A to this Agreement.

(7) *"Hirers"* shall mean the Party stated in Line 3 of Part I.

(8i) *"Hirers' Group"* means any of the following: (i) Hirers and Hirers' clients (of any tier); and (ii) co-venturers of any of the foregoing; and (iii) Affiliates of any of the foregoing; and (iv) contractors and sub-contractors (of any tier) of any member of the Hirers' Group; and (v) Personnel of any of the foregoing;

but always related to the project on which the Equipment is employed.

(9) *"Line"* means on of the numbered lines in Part I of this Agreement.

(10) *"Owners"* shall mean the Party stated in Line 2 of Part I.

(11) *"Owners' Group"* means: (i) Owners; and (ii) Owners' Affiliates; and (iii) contractors and sub-contractors (of any tier) of any member of the Owners' Group; and (iv) Personnel of any of the foregoing

but always related to the work or project on which the Vessel is employed.

(12) *"Parties"* shall mean both the Owners and the Hirers.

(13) *"Party"* shall mean either the Owners or the Hirers.

**2. Period of hire**

The Owners let and the Hirers hire the Equipment for the period as stated in Line 5 from the time the Equipment is delivered to the Hirers in accordance with clause 3.3.

### **3. Mobilisation, Delivery, Redelivery, Demobilisation and purchase option**

#### *1. Delivery*

The Equipment shall be delivered to the Hirers on the Delivery Date specified in Line 8 at the port or place of delivery specified in Line 6.

#### *2. Mobilisation*

The Hirers shall pay the Owners the Mobilisation Fee as specified in Line 10. In exchange for the Mobilisation Fee the Owners shall transport the Equipment to the Port or place of delivery specified in Line 6 and shall assemble the Equipment at that place.

#### *3. Site Acceptance Test*

On completion of assembly of the Equipment at the Port or place of delivery specified in Line 6, the Owners shall carry out a Site Acceptance Test. Mobilisation shall be deemed to be complete and Hire shall commence to run on successful completion of the Site Acceptance Test. The purpose of the Site Acceptance Test is to establish that the Equipment can operate in accordance with its specifications. Hirers shall be entitled, but not obliged, to witness the Site Acceptance Test.

#### *4. Cancelling*

If the Equipment is not delivered by midnight on the cancelling date stated in Line 9, the Hirers shall be entitled to cancel this Agreement. However, if the Owners know or ought reasonably to know that they will be unable to deliver the Equipment by the cancelling date, they shall give notice in writing to the Hirers thereof as soon as reasonably practicable stating in such notice the date and time by which they will be able to deliver the Equipment. The Hirers may within twenty-four (24) hours of receipt of such notice give notice in writing to the Owners cancelling this Agreement. If the Hirers do not give such notice, then the later date specified in the Owners' notice shall be substituted for the cancelling date for all the purposes of this Agreement. In the event the Hirers cancel the Agreement, it shall terminate on terms that neither party shall be liable to the other for any losses incurred by reason of the non-delivery of the Equipment or the cancellation of the Agreement. This exclusion of liability even applies if the delay in delivery of the Equipment is due to Owners' negligence.

#### *5. Redelivery*

Subject to Clause 3.6. the Hirers shall redeliver the Equipment at the expiration or earlier termination of this Agreement at the port or place of redelivery as stated in Line 7. The Hirers shall give not less than 10 (ten) days notice in writing of their intention to redeliver the Equipment. In the event that the property of the Equipment does not pass to Hirers pursuant to Clause 3.7., the Hirers shall be obliged to redeliver the Equipment in the same condition as it was at the time of delivery, fair wear and tear excepted.

#### *6. Demobilisation*

On redelivery of the Equipment, in exchange for payment of the Demobilisation Fee specified in Line 11, the Owners shall disassemble the Equipment at the port or place of redelivery specified in Line 7, pack the parts of the Equipment in containers and arrange for transport of the containers with the Equipment from the port or place of redelivery specified in Line 7 to the Owners yard in the Netherlands.

#### *7. Purchase Option*

Notwithstanding Clause 3.6., in the event that, at the expiration of this Agreement Hirers have complied with all their payment obligations (including, if applicable, payment of interest (Line 13) under this Agreement, the Hirers shall be entitled to purchase the Equipment from Owners for a price to be agreed between Owners and Hirers. The Equipment shall be sold in the condition that it is in at expiration of the Agreement. In the event that Owners and Hirers cannot reach agreement on the price for the Equipment and the conditions of the sale and purchase agreement within [xx] days

after the expiration of this Agreement this purchase option shall expire and no longer exist. In the event that the Parties enter into a contract of sale and purchase for the Equipment, the Demobilisation Fee (Line 11) will be cancelled and will no longer be payable by Hirers.

#### **4. Condition of Equipment on delivery**

At the date of delivery the Equipment shall comply with the specifications set out in Annex A. Owners make no warranty as to the fitness of the Equipment for any purpose. Owners are not responsible for the compliance of the Equipment with any applicable law, requirements of any classification society or requirements of any flag state or any other requirements whatsoever other than the specifications contained in Annex A.

#### **5. Maintenance of the Equipment and loss of or damage to Equipment**

1. During the Period of Hire (line 5) the Hirers shall grant the Owners 2 (two) hours in every running period of twenty-four hours for maintenance of the Equipment. Unused maintenance time shall accumulate until a maximum of 12 (twelve) hours. Times for maintenance shall be agreed between Owners and Hirers. In the event that Hirer does not allow Owners time for maintenance and the Equipment fails or breaks down, Hire will continue to run and Hirer shall be liable for the costs of repair of the Equipment.

2. Hirers shall be liable for loss or damage to the Equipment, that is not covered and actually paid out by the Owners' insurers.

#### **6. Payment of Hire**

1. The Hirers shall pay the Owners the Hire of the Equipment at the rate per calendar day stated in Line 12 commencing from the date of its delivery to the Hirers in accordance with clause 3.3. Hire shall continue until the date when the Equipment is redelivered by the Hirers to the Owners.

2. Payment of Hire shall be made in cash without withholding, set-off, deduction or discount every month 30 (thirty) calendar days in advance of the first day of the next month, in the currency and in the manner indicated in Line 12.

3. Payment of Hire for the first and last month's hire if less than a full month shall be calculated proportionately according to the number of days in the particular calendar month and advance payment shall be effected accordingly.

4. Time shall be of the essence in relation to payment of Hire hereunder. In default of punctual and regular payment specified, the Owners may require the Hirers to make payment of the amount due within ninety-six (96) running hours of receipt of notification from the Owners, failing which the Owner shall have the right to withdraw the Equipment and / or terminate this Agreement without prejudice to any other claim the Owners may have against the Hirers under this Agreement. In the event of termination of this Agreement by Owners because of late payment by Hirers, Hirers shall be fully liable to Owners for all costs and damages incurred by Owners. These costs and damages shall include costs incurred by the Owners recovering the Equipment, including all legal costs and loss of Hire income for the terminated period of the Agreement.

5. Any delay in payment of hire shall entitle the Owners to interest at the rate per month as agreed in Line 13.

6. Hirers agree that if they default with any payment obligation under this Agreement, Owners will be entitled to arrest the Hirer's vessel on board of which the Equipment is being employed to obtain security for their Claim. Hirers agree and acknowledge that Owners claims for payment under this Agreement are maritime claims within the meaning of the Brussels Arrest Convention 1952. Hirers explicitly waive the right to deny in any legal proceedings that Owners claims for payment under this Agreement are not maritime claims within the meaning of the Brussels Arrest Convention 1952.

## **7. Insurance**

### *1. Insurance of the Equipment*

Owners have insured the Equipment up to an amount of EUR 250,000 against loss or damage. Owners shall ensure that Hirers are co-insured on the insurance policy and that insurers shall waive their rights of subrogation against Hirers.

### *2. General Third Party Liability insurance*

Owners are insured for general third party liability up to EUR 2.500.000 per event. This insurance includes employer's liability insurance for the Owners' Personnel.

## **8. Owners' liability for Equipment not working**

If as a result of any deficiency of Owners' personnel or of breakdown of Equipment, failure of Equipment or other accidents to the Owners' Equipment attributable to Owners ("Breakdown"), the Hirer is prevented from carrying out its work or other operations, the Owners shall not be entitled to any payment for any time lost by Hirer. The Owners' liability for any loss, damage or delay sustained by the Hirer Group as a result of the Equipment not being operational for any reason whatsoever, including negligence of the Owner or its Personnel, shall be limited to suspension of payment of Hire for the period of any time lost and such suspension of payment shall be Hirer's sole financial remedy.

## **9. Knock for knock**

1. Notwithstanding anything else contained in this Agreement excepting Clause 5 (liability for damage to the Equipment) the Hirers shall not be responsible for loss of or damage to any property of any member of the Owners' Group, or for personal injury or death of any member of the Owners' Group, arising out of or in any way connected with the performance or non-performance of this Agreement whatsoever and in any circumstances, even if such loss, damage or personal injury or death is caused wholly or partially by the act, neglect, breach of duty (whether statutory or otherwise) or default of a member of the Hirers' Group, and the Owners shall indemnify, protect, defend and hold harmless the Hirers' Group from any and against all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of or in connection with such loss, damage, personal injury or death.

2. Notwithstanding anything else contained in this Agreement the Owners shall not be responsible for loss of or damage to any property of any member of the Hirers' Group, or for personal injury or death of any member of the Hirers' Group, arising out of or in any way connected with the performance or non-performance of this Agreement whatsoever and in any circumstances, even if such loss, damage or personal injury or death is caused wholly or partially by the act, neglect, breach of duty (whether statutory or otherwise) or default of the Owners' Group, and the Hirers shall indemnify, protect, defend and hold harmless the Owners' Group from any and against all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of or in connection with such loss, damage, personal injury or death.

## **10. Excluded Losses**

Notwithstanding anything else contained in this Agreement neither Party shall be liable to the other for:

(i) any loss of use (including, without limitation, loss of use or the cost of use of property, equipment (including the Equipment), materials and services including without limitation, those provided by contractors or subcontractors of any tier or by third parties), loss of profits or anticipated profits; loss of product; loss of business; business interruption; loss of or deferral of drilling rights; loss, restriction or forfeiture of licences, concession or field interest; loss of revenue, shut in, loss of

production, deferral of production, increased cost of working; cost of insurance; or any other similar losses whether direct or indirect; and

(ii) any consequential or indirect loss whatsoever;

arising out of or in connection with the performance or non-performance of this Agreement even if such loss is caused wholly or partially by the act, neglect, breach of duty (whether statutory or otherwise) or default of the indemnified party, and even if such loss is caused wholly or partially by the unseaworthiness of any vessel, and the Owners shall indemnify, protect, defend and hold harmless the Hirers' Group from such losses suffered by the Owners' Group and the Hirers shall indemnify, protect, defend and hold harmless the Owners' Group from such losses suffered by the Hirers' Group.

#### **11. Applicable law and jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of the place stated in Line 16 and any dispute arising out of or in connection with this Agreement shall be decided by the Court of Rotterdam, which court shall have sole and exclusive jurisdiction to decide all such disputes.

#### **12. Personnel**

The Owners will provide the Personnel specified in Line 17 to operate the Equipment in accordance with the Hirers directions and instructions.

#### **13. Tax**

Owners shall be liable for and shall pay for i) all taxes imposed by the authorities of the Netherlands on the income of Owners ii) all taxes and social premiums for Owners personnel. Hirers shall protect, indemnify and hold harmless Owners from all other taxes, duties, levies or costs imposed by authorities outside of the Netherlands of whatever kind whatsoever.

#### **14. Liens**

In no event whatsoever shall Hirer exercise any type of lien or arrest on the Equipment. The Hirers shall protect, indemnify and hold harmless the Owners from any type of lien or arrest exercised on the Equipment by any third party.

#### **14. Limitation of Liability**

Owner Group's maximum liability to Hirer Group arising out of or in connection with this Agreement or termination of this Agreement (including any extra cost incurred by Hirer after termination of the Agreement to complete its works / operations) shall be limited to suspension of payment of Hire to Owner for any time lost by Hirer within the meaning of Clause 8. This limitation of liability does not apply to the indemnities contained in clauses 9 and 10.

#### **15. Applicability of Exclusions and limitations of liability contained in this Agreement.**

The exclusions and limitations of liability and the indemnities contained in this Agreement are to be liberally construed and shall apply even if the claim, loss, damage, cost, personal injury, pollution or consequential loss is caused by or results from strict liability, breach of warranty (express or implied), imperfection of material, condition of any premises or transport to or from such premises, breach of duty (statutory or otherwise), or the negligence of the indemnitee (or excluded Party) or any of the members of its Group, whether the Hirer Group or the Owner Group, and whether such negligence be sole, joint or concurrent, active or passive, and whether the basis for any claim is in tort, under contract or otherwise at law.

**Owners**

Date:

Place:

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**Hirers**

Date:

Place:

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## **ANNEX A**

Parties agree that Annex A is formed by the specification sheets that are attached to this Agreement.