# Mutual Non-Disclosure Agreement

In connection with discussions between \_\_\_\_\_\_\_, org. no.\_\_\_\_\_\_\_\_\_ and Optime Subsea AS, org. no. 988 810 401 (“**Optime**”), including any of its subsidiaries, consultants or any other affiliated party. “Affiliate” means any company, corporation or other entity controlled by, in control of or under common control with one of the Parties to the Agreement. For purposes of this definition, “control” means the ownership, legally or beneficially, directly or indirectly, of more than fifty percent (50%) of the voting shares of any company or corporation.

The selected information or potential transactions involving purchases and/or sale of goods, services and other items to identify possible business opportunities (the “**Disclosing Purpose**”). Each party (as to information disclosed by it, the “**Disclosing Party**”) is prepared to furnish the other party (as to information received by it, the “**Receiving Party**”) with certain confidential and proprietary information.

Whereas each party is prepared to provide the other party with confidential information that may be valuable and proprietary in nature, each party agrees to the following terms and conditions as specified below in this agreement (the “**Agreement**”):

1. **Confidential Information.** “Confidential Information” is defined as any transmitted in writing or other physical or electronic media, software or information in any format considered by either party to be representative of its intellectual Property or otherwise confidential information, disclosed to the Receiving Party by the Disclosing Party relating to the Disclosure Purpose, which is clearly marked at the time of disclosure as “confidential” or may not be marked as confidential due to the nature of certain electronic media. Information transmitted verbally or visually and identified at that time as confidential shall be considered as Confidential Information if it is reduced to writing, marked “confidential”, and transmitted to the receiving party within ten (10) days after the verbal transmission. Confidential Information also includes information furnished by one party, either written or verbal, which the Receiving Party – due to the nature of the received information – should recognize as confidential even if not marked “confidential”. Confidential Information also includes, but is not limited to, personal data as defined in this Agreement or by applicable law, whichever is broader, and personal data shall not be required to be marked “Confidential” or “Proprietary” to be treated as Confidential Information under this Agreement. As used in this Agreement, “personal data” means any information relating: (x) to an identified; or (y) to a directly or indirectly identifiable, natural person. Confidential Information may include, without limitation: (a) proprietary technical information; (b) the identity of or other pertinent information with respect to Optime and its individual instituting partners, including information related to Optime business purpose, plans and each partners role; (c) the identity or any other pertinent information of potential customers or customer contacts and customer sales strategies; (c) sales, costs and other financial data; (d) trade secrets, know-how, designs, and proprietary commercial and technical information, methods, practices, procedures, processes and formulas with respect to manufacturing, assembly, installation, design, or processing the products subject to this Agreement and any component or part thereof; (e) sources of supply for products, components and services; (f) any other secret processes, formulas and methods; and g) photographs of equipment owned by the other party and/or located at such party’s facilities.
2. **Nondisclosure and Restriction on Use.** The Receiving Party agrees to retain Confidential Information in confidence for a period of three (3) years from the date of last receipt of the Confidential Information by exercising reasonable precautions to prevent unauthorized disclosure of the received Confidential Information to any third party, in whole or in part, and not to use the Confidential Information for any purpose other than in furtherance of the Disclosure Purpose. The standard of care imposed on the Receiving Party for protecting Confidential Information received from the Disclosing Party will be reasonable and prudent to prevent improper disclosure or use of such Confidential Information, including but not limited to allowing access to such Confidential Information only to those persons who have a need to know in connection with the Disclosure Purpose. In the event of its own negligence, loss or theft of any documents, items of work in progress, or any work products embodying Confidential Information by or from any party, the other party must be notified immediately.
3. **Reproduction of Confidential Information.** Neither party shall reproduce copies of the Confidential Information**.** Subject to the terms of this Agreement, either party may duplicate documents, which do not bear the aforementioned legend, provided that such duplication is a reasonable requirement for furtherance of the Disclosure Purpose.
4. **Disclosure of Confidential Information.** Each party shall limit dissemination of the other’s Confidential Information to such of its employees, officers, directors, agents, consultants, contractors and/or contract employees or representatives who have a need to know in furtherance of the Disclosure Purpose. All persons to whom disclosure of the Confidential Information is made shall be contractually obligated to adhere to the nondisclosure obligations set forth in this Agreement, or ensure they are under written agreement with the Receiving Party that establishes confidentiality and use restrictions regarding such Confidential Information that are no less restrictive than those set forth herein.
5. **Exceptions to Nondisclosure.** Neither party shall be subject to the obligations of this

Agreement with respect to Confidential Information which:

1. is or becomes known publicly through no wrongful act of the Receiving Party; or
2. was already known to the receiving party at the time of disclosure hereunder as shown by the Receiving Party’s prior written records; or
3. is learned by the Receiving Party from a third party under no obligation to the Disclosing Party; or
4. is independently developed by an employee, agent, or consultant of the Receiving Party with no knowledge of disclosures hereunder, or

1. is approved for release by written authorization of the Disclosing Party.

1. **No License or Right.** No right or license, whether expressed or implied, in the

Confidential Information is granted to the Receiving Party other than to use the Confidential Information in the manner and to the extent authorized by this Agreement.

1. **Return of Confidential Information.** The Receiving Party agrees to promptly returnto the Disclosing Party, upon written request, all Confidential Information and all copies and notes thereon, regardless of the form of storage or retrieval.
2. **Confidential Information Exchange.** No Confidential Information shall be exchanged after the parties abandon the Disclosure Purpose or any time after prior written notice is given by one party to the other that the notifying party does not wish to receive or disclose any further Confidential Information, whichever occurs earlier.

## **Reverse Engineering.** All kinds of reverse engineering performed by or for any of the Parties in relation to the Disclosure Purpose, produced or delivered by either party or its Representatives are strictly forbidden, unless necessary to achieve the Disclosure Purpose.

## **Publicity.** No information, release or public announcement or confirmation or denial of this Agreement will be made without prior coordination and the express written approval of the other party.

## **Costs and Fees.** Unless otherwise agreed in writing, each party shall bear its own costs and expenses in connection with the Disclosure Purpose.

1. **Controlling Law and forum.** This Agreement shall be governed and interpreted in accordance with the laws of Texas, if Company is US-domiciled or the laws of Norway, for non US-domiciled Companies, without reference to their respective conflicts of law principles. In the event of any dispute, or difference arising out of, or relating to this Agreement, or the breach thereof, the parties shall be free to settle the dispute in the state or federal courts in Houston, Texas, if Supplier is US-domiciled or by arbitration in accordance with the rules of the International Chamber of Commerce, if Supplier is not US-domiciled. The forum for any such arbitration shall be Oslo, Norway.
2. **Entire Agreement.** This Agreement contains the entire and complete agreement between the parties, and supersedes any and all prior understandings, promises, representations, and agreements, oral or written, with respect to the Disclosure Purpose. The official language of this Agreement shall be English, and any translation into any other language shall be for convenience only. No modifications, change, or waiver of this Agreement shall be valid unless made in writing and signed by authorized representatives of the parties. The Agreement shall be prepared and signed in two (2) duplicates, one (1) to be held by each party to the Agreement.

**IN WITNESS WHEREOF,** the parties have caused this Agreement to be executed by their duly authorized representatives and agree that the effective date shall be the later of the dated signatures below.

**For Optime: For Company:**

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(Signature) (Signature)

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(Name in CAPITAL LETTERS) (Name in CAPITAL LETTERS)

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(Title) (Title)

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(Dated) (Dated)