

MARLINK NETWORKS AS

# **GENERAL TERMS AND CONDITIONS FOR SEALINK SERVICES**

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**Version; 3.3**

Company Confidential

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## **DEFINITIONS**

The following terms as used in this Contract, shall have the meaning set out below:

<b>Acceptance</b>	shall mean the acceptance of the Equipment and the services of Marlink by the signature of the Customer in accordance with Article 1.7.
<b>Affiliate</b>	shall mean the parent company, subsidiaries, and persons or entities that are directly or indirectly controlling, controlled by, or under common control of a Party through this Contract.
<b>Annex</b>	shall mean an annex to this Contract paraphrased by both Parties, as may be amended from time to time in accordance with the provisions of this Contract.
<b>Article</b>	shall mean a contract clause of this Contract.
<b>Auxiliary Equipment</b>	shall mean all material and equipment on board the Vessel excluding the Equipment, whether hardware or software. The Auxiliary Equipment may include such items as gyro, private branch exchange (PBX), the local area network (LAN), interconnection equipment, and software required for use of the Equipment and/or the Sealink Services.
<b>Commencement Date</b>	shall mean the date immediately following the date on which the Customer signed the Service Acceptance Form.
<b>Commissioning</b>	shall mean the testing and activation of the Equipment by Marlink to ensure its correct operation and to verify that it is activated for the Sealink Services.
<b>Confidential Information</b>	shall mean any written information disclosed between the Parties in connection with their performance of this Contract, and which is clearly marked as being proprietary or confidential of a Party.
<b>Contract</b>	shall mean this Contract between Customer and Marlink including its Annexes, as may be amended from time to time in accordance with the provisions of this Contract.
<b>Coverage Area</b>	shall mean the geographic area set out in Annex 3, which may be adjusted from time to time by the discretion of the Space Segment Providers.
<b>Customer</b>	shall mean the legal entity who has entered into this Contract with Marlink.
<b>Customer Installation Document</b>	shall mean a document which describes the installation process of the Equipment in detail.
<b>Defaulting Party</b>	shall have the meaning ascribed to it in Article 7.4.
<b>Delivery</b>	shall mean the delivery of the Equipment accordance with Article 1.2.

<b>Delivery Location</b>	shall mean the location for Delivery designated by the Customer, as set out in Annex 7.
<b>Effective Date</b>	shall mean the last date noted on the front page of this Contract and on which both parties have signed this Contract.
<b>End-User</b>	shall mean the actual (physical) user of the Sealink Services on board of the Vessel.
<b>Equipment</b>	shall mean the shipboard equipment furnished by Marlink under this Contract as listed in Annex 1.
<b>ESV or Earth Station Onboard Vessel</b>	shall mean the satellite antenna equipment located on board the End-User's Vessel.
<b>ESV Regulations</b>	shall mean such laws, regulations or other governmental decrees as may be in force in an applicable jurisdiction and which applies to the use of satellite services to and on board the Vessel, including the Sealink Services.
<b>Event of Default</b>	shall have the meaning ascribed to it in Article 7.5
<b>Facilities</b>	shall mean the teleports, ground stations and switching facilities used to provide the Sealink Services.
<b>Force Majeure Event</b>	shall mean an event beyond the reasonable control of a Party, which could not be reasonably foreseen by the Party at the time of signing of the Contract, and which hinders a Party's performance of this Contract. A Force Majeure Event may include, but is not limited to events such as war, strike, fire, natural disaster, externally caused transmission interference, satellite failure, and unavailability of the space segment.
<b>General Arrangement Drawings</b>	shall mean the updated drawings describing the technical installations on board of the Vessel at any time.
<b>Helpdesk</b>	shall mean the Sealink Helpdesk. Contact details are set out in Annex 4.
<b>Initial Term</b>	shall have the meaning ascribed to it in Article 7.1.
<b>Installation Schedule</b>	shall mean the schedule for installation of the Equipment on board the Vessel, as specified in Annex 7.
<b>Maintenance Outage</b>	shall have the meaning ascribed to it in Article 2.2.
<b>Marlink</b>	shall mean Marlink Networks AS.
<b>Marlink Technician</b>	shall mean a person employed or otherwise engaged by Marlink, its agents or subcontractors, and which is authorized by Marlink to perform tasks on behalf of Marlink under this Contract.
<b>Monthly Call Charges</b>	shall mean the PSTN charges, billed per minute at the

	rates set forth in Annex 6.
<b>Monthly Service Fee</b>	shall mean the fixed monthly charge for the Services as set forth in Annex 6 to this Contract.
<b>Non-Default Outage</b>	shall have the meaning ascribed to it in Article 2.3.
<b>Onboard Services</b>	shall mean the preventive maintenance services and on-call repair, as further defined in Article 4.2.
<b>Outage Credit</b>	shall have the meaning ascribed to it in Article 2.6.
<b>Outage Time</b>	shall have the meaning ascribed to it in Article 2.5.
<b>Party</b>	shall mean either Marlink or the Customer as the case may be, and "Parties" shall mean Marlink and the Customer jointly.
<b>PM Service</b>	shall have the meaning ascribed to it in Article 4.2.
<b>PSTN</b>	shall mean the public switched telephone network.
<b>Renewal Term</b>	shall have the meaning ascribed to it in Article 7.1.
<b>Sealink Services</b>	shall mean the subscription based standardized maritime VSAT service allowing voice and data communications to and from the Vessel using the Equipment and the Facilities, as further described in Annex 1.
<b>Service Acceptance Form</b>	shall mean the "Service Acceptance Form" included in Annex 8 .
<b>Service Period</b>	shall mean the time period from Acceptance until the Termination Date, during which Sealink Services shall be provided in accordance with this Contract.
<b>Space Segment Provider</b>	shall mean the legal entity that owns and / or operates the satellites that provide the actual space segment capacity for the Sealink Services.
<b>Subscription Form</b>	shall mean the document entitled Service Subscription Form in Annex 7.
<b>Suspension Event</b>	shall have the meaning ascribed to it in Article 2.4.
<b>Terminating Party</b>	shall have the meaning ascribed to it in Article 7.4.
<b>Termination Charges</b>	shall have the meaning ascribed to it in Article 7.7.
<b>Termination Date</b>	shall mean the date that the lawful termination or expiration of this Contract becomes effective.
<b>Vessel</b>	shall mean the vessel designated in Annex 7, owned and/or operated by Customer or its Affiliates to which Sealink Services shall be provided hereunder.

Unless otherwise specified, words in the singular include the plural and vice versa. In addition to the above, Annex 1 lists a definition of technical abbreviations.

## **1 DELIVERY, INSTALLATION AND COMMISSIONING OF THE EQUIPMENT**

### **1.1 Scope of Delivery**

In order to provide the Sealink Services to Customer, Marlink shall provide Customer with the agreed Equipment.

### **1.2 Delivery**

Unless otherwise specifically set out in Annex 7, Marlink shall deliver the Equipment DDU (Delivered Duty Unpaid, Incoterms 2000) to the Delivery Location. In the interpretation of the Parties' obligations under Incoterms 2000, Marlink shall assume the role of the seller, and the Customer – or their designated representative- shall assume the role of the buyer, in connection with Delivery. The Customer shall reimburse Marlink for any freight charges incurred and shall pay all applicable charges.

### **1.3 Title and Ownership**

Title and ownership to the Equipment shall at all times remain with Marlink, and the Customer will not contest or otherwise challenge Marlink's ownership to the Equipment.

### **1.4 Risk of Loss or Damage**

Except for wear and tear resulting from normal use in accordance with any specifications from Marlink, the risk of loss or damage to the Equipment shall be with the Customer from Delivery until the Equipment has been de-installed and delivered back to Marlink in accordance with Article 3. Any damage to or loss of the Equipment, during the period which the Equipment is at the Customer's risk in accordance with the above, shall be at Customer's sole expense.

The Customer shall insure the Equipment in accordance with Article 5.4.

### **1.5 Marlink's Responsibilities**

Marlink shall procure and deliver to the Vessel as stated in Article 1.2, and if so agreed and required arrange for the installation of the Equipment in accordance with Annex 7.

As part of its obligations prior to Acceptance, Marlink shall with exception of the Customer's responsibilities as set out in Article 1.6:

- (i) deliver relevant specifications and designs of the Equipment; and
- (ii) deliver specifications and designs for signal- and power cables and their connectors; and
- (iii) arrange for the transport of the Equipment to the Delivery Location; and
- (iv) perform installation of the Equipment; and
- (v) carry out Commissioning; and
- (vi) deliver documentation for the Equipment in the form of manufacturers' users operation and maintenance manuals.

Marlink shall ensure that all work by Marlink in accordance with this Article 1.5 are carried out in a good and workmanlike manner, however Marlink will assume no responsibility, liability or obligations in connection with any installation activities performed by any third-party contracted by the Customer.

The Customer acknowledges that Commissioning constitutes a procedure that is specific to the Vessel on which the Equipment is installed, and that any relocation of the Equipment will require separate Commissioning and approval by Marlink.

## **1.6 Customer's Responsibilities**

### **1.6.1 Reimbursement of Charges by Customer**

Customer shall reimburse Marlink for any freight charges incurred in the Delivery, and shall bear all applicable charges for:

- (i) any custom duties, tariffs and fees related to the Delivery; and
- (ii) any labor charges and travel and subsistence expenses for Marlink representatives engaged in installation services, as specified in Annex 6; and
- (iii) any charges for third party installation costs incurred by Marlink in accordance with its obligations under Article 1.5.

### **1.6.2 Other Obligations of the Customer**

In connection with Delivery, installation and Commissioning, the Customer shall:

- (i) make the necessary arrangements for Marlink, its employees, agents, and subcontractors to have sufficient access to the Vessel; and
- (ii) ensure that the Marlink Technicians enjoy the same rights and comfort as the Customer's own employees, including food and lodging, at no charge to Marlink. The Marlink Technicians will undertake to comply with and follow the Customer's reasonable routines and rules in this respect; and
- (iii) provide Marlink with such logistical support as is necessary in connection with Marlink's Delivery, installation and Commissioning of the Equipment to the Vessel; and
- (iv) provide Marlink with an English speaking contact on board and at the installation site.
- (v) ensure that the installation site has been prepared for the assembly of the above deck and below deck units, including the arrangement of and payment for any cranes or other lifting equipment necessary to lift any Equipment aboard the Vessel as described in the "Checklist for Sealink Installations" inserted in Annex 2, part of the Customer Installation Document, separately handed over to the Customer; and
- (vi) provide a secure area indoors for antenna assembly at the Delivery Location and in addition shall provide adequate manpower to assist the Marlink Technician with the assembly of the antenna, as described in the Customer Installation Document which is separately handed over to Customer; and
- (vii) be responsible for all physical modifications to the Vessel as necessary or required for the installation of the Equipment, including the costs associated herewith, and

upon request provide Marlink with the vessel's General Arrangement Drawings to facilitate the installation process; and

- (viii) ensure the provision of Auxiliary Equipment and be responsible for any and all Auxiliary Equipment and services necessary to perform installation and Commissioning, including any welding or other "hot work", provisioning above deck's and below deck's equipment, and cable runs that are necessary to complete any shipboard modifications; and
- (ix) supply and install various cable runs which are required between the equipment rack and the ship's power supply, gyro distribution, PABX, and LAN as well as installing cables between the different units of the Equipment; and
- (x) be responsible for the interconnection between and the performance of the Auxiliary Equipment and the Equipment.

### 1.6.3 Computer Environment

Any part of the Equipment which is regarded as computer equipment, including the below deck Equipment, shall be installed in a suitable environment with appropriate cooling and protection. The Customer shall ensure that the Vessel facilitates such installation.

## **1.7 Acceptance**

Upon successful Commissioning of the Equipment, a Marlink Technician shall sign the Service Acceptance Form on behalf of Marlink, and the End-User shall sign the Service Acceptance Form on behalf of the Customer.

## **2 THE SEALINK SERVICES**

### **2.1 Sealink Services**

Marlink will provide Sealink Services to the Vessel during the Service Period subject to the terms and conditions of this Contract.

The Sealink Services will only be provided within the Coverage Area. Marlink shall in its sole discretion have the option to select the satellite systems and Facilities used to provide the Sealink Services.

### **2.2 Maintenance Outage**

Marlink may suspend or interrupt the Sealink Services from time to time for the purpose of routine maintenance of the Facilities or the Space Segment Provider's facilities (each a "**Maintenance Outage**").

Marlink shall endeavor to provide Customer with advance notice of Maintenance Outages, and will use its best efforts to resume the provision of Sealink Services in a timely manner following a Maintenance Outage.

### **2.3 Non-Default Outage**

The Parties acknowledge that the provision of Sealink Services may be interrupted or unavailable from time-to-time due to reasons beyond the control of Marlink at the time of its occurrence (each a "**Non-Default Outage**") such as:

- (i) the compliance with ESV Regulations; or
- (ii) emergency preemption by a governmental authority; or
- (iii) the Vessels' transit between satellite coverage areas; or
- (iv) malfunction of Auxiliary Equipment; or
- (v) portside blockages from buildings or other vessels; or
- (vi) radio operator error; or
- (vii) radio or electromagnetic interference; or
- (viii) terrestrial network failure; or
- (ix) geographical interferences with satellite signal due to the topography of the shoreline; or
- (x) temporary non-availability of satellite capacity or terrestrial networks; or
- (xi) satellite network conditions; or
- (xii) weather and environmental conditions; or
- (xiii) any Force Majeure Events; or
- (xiv) the lack of Onboard Services due to circumstances for which the Customer is responsible.

Customer acknowledges that any one of the abovementioned events may cause a Non-Default Outage, and agrees that the occurrence of a Non-Default Outage shall not constitute a breach of this Contract.

#### **2.4 Suspension of the Sealink Services**

Marlink may in its sole and reasonable discretion deny the End-User access to the Sealink Services or parts thereof with immediate effect, in the following events (each a "**Suspension Event**"):

- (i) If the Space Segment Provider gives notice to Marlink that the End-User is responsible for any of the following events;
  - a. the use of the Sealink Services by the End-User threatens the health of the satellite or is causing interference to any other user's access to the satellite or to any other satellite operated in the area; or
  - b. the use of the Sealink Services by the End-User has resulted in a claim against the Space Segment Provider on the grounds of defamation or illegality of content under any applicable law; or
  - c. the transmissions to and/or from the End-User are being "jammed" by a third party (governmental or otherwise) and such jamming is interfering with the use of or threatens the health of the satellite. Marlink shall deliver a notification of a denial of access to any End-User as soon as received. Such notification shall clearly state the reasons for such denial. Customer may be denied access until the Space Segment Provider informs Marlink that the

circumstances justifying the denial of access, cease. Such denial of access shall not constitute a breach of this Contract.

- (ii) When necessary for operational reasons, or in an emergency, or when Marlink is required or instructed to do so by any competent regulatory, administrative or judicial authority. Whenever practical, Marlink will notify the Customer in advance. Marlink will restore the service as soon as reasonably practicable after such temporary interruption.
- (iii) If an End-User is found to be using the Sealink Services in violation of requirements and terms for use as described in Article 2. Marlink may maintain the suspension until it receives an acceptable assurance from the Customer that there will be no further infringement in this respect.
- (iv) In case of events as set forth in Articles 4.3, 5.5, 6.4.3 and 7.4.

## **2.5 Outage Time**

If the Sealink Services are not available to the Vessel for at least one (1) consecutive hour within the Coverage Area ("**Outage Time**"), such Outage Time shall be eligible for Outage Credit, provided that the Customer:

- (i) shall notify the Helpdesk promptly following the relevant Outage Time occurrence; and
- (ii) has fulfilled its obligations under this Contract; and
- (iii) has not caused or made to be caused the interruption, or the conditions resulting in the Sealink Services not being accessible;
- (iv) allows a necessary service visit to the vessel within a reasonable timeframe. There is a minimum of 24 hours notice period required for travel purposes.
- (v) has filed any claim for Outage Credit latest 30 days after the Sealink Services have been successfully restored.

Outage Time is deemed to commence from the moment the Helpdesk has issued a tracking ticket and the Vessel is available for a service visit should this be necessary for the reported fault correction. The procedures in Article 4.2 (ii) as well as Annex 4 apply, in case a visit by a service technician is requested.

Outage Time ends when the Helpdesk confirms that the Sealink Services are successfully restored, unless the Customer notifies Marlink differently. Outage Credit shall be considered from commencement of Outage Time to restoration of the Sealink Services as described above.

Notwithstanding the above, Outage Time shall not accrue for:

- (i) the first month following of the date of Commissioning; or
- (ii) the first consecutive 24 hours of Outage Time during a single calendar month; or
- (iii) in case a service visit is necessary to restore the Sealink Services; the time it takes to travel to the Vessel and the time it takes for spare-parts to arrive at the Vessel;
- (iv) any service outages caused by any of the following interruptions:

- a. maintenance on the Equipment; or
- b. a Maintenance Outage; or
- c. a Non-Default Outage; or
- d. a Suspension Event.

## **2.6 Outage Credit**

Marlink will on a Vessel-by-Vessel basis credit the Customer for the proportional part of the period representing a Monthly Service Fee which is Outage Time ("**Outage Credit**"). Outage Credit will be credited to the Customer by issuing a separate credit note without undue delay. Outage Credit shall be the Customer's sole remedy in case of Outage Time.

## **2.7 Additional Services or Upgrades**

The Customer may request an upgrade of the Sealink Services or additional services at any time during the Service Period by sending a written notice to Marlink requesting a proposal.

## **3 RETURN OF THE EQUIPMENT**

At the conclusion of the Service Period, Customer shall contact the Helpdesk to arrange for de-installation and return of the Equipment. Marlink shall perform de-installation services to remove the Equipment at such time and place to be agreed between the Parties, and no later than 60 days after the end of the Service Period.

In connection with the de-installation of the Equipment, the Customer shall:

- (i) be responsible for payment of all costs and charges described with respect to the de-installation services ( i.e. customs, duties, tariffs, fees, freight charges, labor charges, insurance charges, travel and subsistence expenses, and charges for third party services); and
- (ii) have such similar obligations with regards to de-installation as set forth in Article 1.6.2 of the Contract in regards to installation.

Upon de-installation the Customer shall return the Equipment to Marlink, to be delivered DDP (DDP, Incoterms 2000) at Norse Electronics AS, Tankbåtveien 2, 4056 Tanager, Norway, or to such other Marlink warehouse location to be determined at Marlink's discretion at the time of de-installation. In the interpretation of the Parties' obligations under Incoterms 2000, the Customer shall assume the role of the seller, and Marlink shall assume the role of the buyer, in connection with the return of the Equipment.

## **4 FURTHER RIGHTS AND OBLIGATIONS OF MARLINK**

### **4.1 Customer Service**

Marlink shall provide customer service support to the Vessel twenty-four (24) hours per day, seven (7) days per week throughout the Service Period, primarily through remote technical support. The procedures for fault correction and are set out in Annex 4.

## 4.2 Onboard Services

Marlink will provide Onboard Services on the Equipment as follows:

- (i) Marlink shall provide onboard routine inspection and preventive maintenance service visits as described in Annex 4 ("**PM Service**"). The Parties shall use their best efforts to schedule PM Service at mutually agreed upon ports of call on the itinerary of the Vessel. Customer shall be liable to Marlink for payment of all costs and charges (including labor, travel and subsistence charges) for the PM Service in accordance with Annex 6.
- (ii) Marlink will upon the request of the Customer to the Helpdesk, make a repair service visit aboard the Vessel at any time ("**On-Call Repair Service**") as set out in Annex 6. Prior to initiating any On-Call Repair Service, a written consent for such visit shall be obtained from the Customer.

The Customer acknowledges and accepts that Onboard Services are necessary for the Vessel to receive the Sealink Services, and that the Onboard Services are conditional upon the Customer's compliance with Article 5.1.

## 4.3 Right of Inspection

Marlink shall at all times have the right to inspect the Equipment at its own cost and expense, subject to Customer's reasonable instructions, vessel schedules, and operations, safety and security rules applicable to the Vessel. Marlink shall notify the Customer of an inspection with a minimum of ten (10) days advance warning.

The Customer shall promptly supply Marlink with the necessary information in order for Marlink to perform such inspections, and may only deny such inspections if it can prove that an inspection will cause an unreasonable and unavoidable disturbance of its business. Any denial shall be in writing and include a reasonably detailed explanation as well as an alternative date for inspection which shall be as soon as possible following Marlink's original proposal.

Marlink may at its discretion choose to suspend the Sealink Services if the inspection cannot be performed within 60 days from Marlink's inspection notice.

## 4.4 Use of Subcontractors

Marlink may fulfill its obligations under this Contract in whole or in part through use of Marlink employees or appropriately skilled subcontract personnel at Marlink's discretion.

## 4.5 Denial of Service

Notwithstanding the generality of Marlink's obligations under this Contract, Marlink may at its discretion deny a request for specific services under this Contract if the provision thereof would cause unreasonable burdens or risks. Such reasons include but are not limited to complex or lengthy processes on visa requirements for the Marlink Technicians, to travel to locations for which a restricted travel advise has been issued by the Ministry of Foreign Affairs in Norway ([www.landsider.no/traveladvise/](http://www.landsider.no/traveladvise/)), or which in Marlink's opinion entails an unacceptable risk to the health and/or safety of the Marlink Technicians.

## **5 FURTHER RIGHTS AND OBLIGATIONS OF THE CUSTOMER**

### **5.1 General Duty to Cooperate and Facilitate**

Following acceptance, the Customer shall have the same and/or similar obligations as set out in Article 1.6 to the extent applicable in relation to any Onboard Services, inspections, or as may otherwise be required in order for Marlink to fulfill its obligations under this Contract, and whether the Vessel is located in port or at sea.

### **5.2 Spare Parts Storage**

Customer shall appoint and maintain a safe and secure place on board the Vessel where the spare parts kit for the Equipment shall be kept.

### **5.3 No Alterations to the Equipment**

Customer shall not, without Marlink's prior written consent, alter or affix or install any attachment to the Equipment.

The Equipment shall be assembled so that 3 cm and 10 cm radar does not irradiate the low-noise amplifier in the satellite receiver. Customer shall ensure that any future mounting of other Vessel equipment (radar, antenna's, masts etc) will not lead to obstruction or disturbances of the Equipment's antenna. If the Customer is uncertain of the conditions, it shall contact Marlink for information, before mounting any additional equipment.

### **5.4 Obligation to Insure the Equipment**

From Delivery until the date the Equipment is returned to Marlink in accordance with Article 3, the Customer shall maintain insurance for the Equipment. The insurance shall cover against loss of and damage to the Equipment in the event of any claim brought against Customer during the time which the Equipment is at the Customer's risk in accordance with Article 1.4, and the Equipment shall be insured for the values set out in Annex 6. Marlink shall be listed as the beneficiary in the insurance policy. The Customer shall provide proof of insurance upon Marlink's request.

In addition, Customer shall maintain such public liability, property damage and employee liability and compensation insurance as will protect Marlink from any claims described at Article 10.1.

The failure of the Customer to provide insurance in accordance herewith shall constitute a material default of the Contract by the Customer.

### **5.5 Compliance with law and regulations**

The Customer shall ensure that the Sealink Services are not used in a manner that violates any applicable law or regulation. As part of this requirement, the Customer is responsible for obtaining all licenses necessary for the lawful operation of the ESV at all times, including any export/import authorizations when necessary.

The Customer acknowledges that ESV Regulations may impose restrictions on the provision and use of the Sealink Services, and that ESV Regulations may vary for different jurisdictions and depending on the geographical location of the Vessel. The Customer shall inform the End-User of applicable ESV Regulations and ensure cooperation and compliance with applicable ESV Regulations. It is acknowledged that compliance with ESV Regulations may include Marlink shutting off transmission of the Sealink Services to the Vessel when it is within a specified territorial limit of a governing

jurisdiction. It is strictly prohibited for the Customer to interfere with the Equipment to disable or circumvent any functionality which allows and/or enforces compliance with the ESV Regulations.

Marlink shall have no liability to the Customer or the End-User for any suspension of Sealink Services that is necessitated to ensure that the provision and/or use of the Sealink Services do not violate applicable law or regulations, including ESV Regulations.

Failure of the Customer to comply with this Article 5.5 shall give Marlink the right to suspend the Sealink Services and shall be regarded as a material default of the Contract by the Customer. The Customer shall indemnify Marlink for any costs incurred by Marlink in connection with Customer's breach hereof.

The Customer shall indemnify Marlink for any violation of this Article 5.5 caused by the End-User, the Customer, or any of its agents, officers, employees or contractors.

## **5.6 Restrictions on Use**

With reference to article 5.5, the Customer shall immediately cease transmissions upon notice from Marlink or the Space Segment Provider, and shall ensure that the End-User complies with all such instructions.

Failure of the Customer to comply with this Article 5.6 shall give Marlink the right to suspend the Sealink Services and shall be regarded as a material default of the Contract by the Customer. The Customer shall indemnify Marlink for any costs incurred by Marlink in connection with Customer's breach hereof.

## **5.7 Disclaimer in Contracts with Third Parties**

By entering into this Contract, Marlink only accepts contractual obligations towards the Customer. The Customer agrees to include, in any contract or other undertaking between it and any third party relating to the Sealink Services or the performance of this Contract, provisions stating that the third party cannot make any claims towards Marlink resulting from Marlink's performance of this Contract. For the avoidance of doubt, this clause shall extend to any employees of the Customer or other persons not engaged by Marlink.

Marlink shall only be responsible towards the Customer to the extent explicitly provided for in this Contract, and the Customer shall indemnify Marlink from any excess claim from any third party in connection with a contract between the Customer and such third party.

## **6 CHARGES AND PAYMENT**

### **6.1 Charges for Sealink Services**

The Monthly Service Fee and the Monthly Call Charges will be calculated in accordance with the rates as set out in Annex 6.

### **6.2 Charges for Onboard Services**

Onboard Services will be charged at the rates set out in the Annex 6 to this Contract.

### **6.3 Charges for Delay in Installation and Onboard Services**

If the installation of Equipment is delayed for more than 30 days after the agreed installation date, due to circumstances for which the Customer is responsible, Marlink may at its discretion, invoice 50% of the agreed Monthly Service Fee. For the avoidance of doubt, ordinary service rates will apply from Acceptance.

### **6.4 Payment**

#### **6.4.1 Invoices**

Invoices to the Customer shall be sent to the invoice address as provided by the Customer in Annex 7, and which may be changed by written notice to Marlink. Payment to Marlink shall take place within 30 days of the invoice issue date for the Sealink Services.

The Monthly Service Fee will be invoiced in advance, while the Monthly Call Charges will be invoiced monthly in arrears. If the Service Period does not commence on the first date of a month, the Customer's Monthly Service Fee for the month in which the Sealink Services commences will be reduced accordingly for the applicable month.

All charges are exclusive of value added tax, and other taxes and duties. The Customer is responsible for the payment of all taxes, duties and levies, including federal, state, and local taxes of any type that may arise in connection with the performance of this Contract.

#### **6.4.2 Bank Account Details**

Unless otherwise set out in the invoice, payments to Marlink shall be sent to the account name and bank account details as provided in Annex 6, and which may be changed by written notice to the Customer.

#### **6.4.3 Defaulted Payment**

In the event that the Customer fails to make payment in full to Marlink by the due date stated on an invoice, Marlink may at its discretion choose to suspend the Sealink Service(s) to the Customer pending receipt of amounts outstanding, including all applicable late charges.

Marlink shall notify the Customer of any suspension in service due to defaulted payment in writing fifteen (15) days prior to the intended date of such suspension.

#### **6.4.4 Late Payment Interest**

Customer shall pay interest on any overdue undisputed balances at one and a half per cent (1.5%) per month.

### **6.5 Dispute of Invoices**

In the event that the Customer wishes to dispute an invoice, the Customer must notify Marlink in writing of the legal and factual basis for the claim as soon as possible, and no later than sixty (60) days after the date of the relevant invoice. The Customer shall nevertheless pay the invoice by the due date.

If Marlink accepts the claim made by the Customer, Marlink will issue a credit note in connection with a future invoice and without undue delay. If the claim is disputed by Marlink, then Article 14 shall apply. Any claims received by Marlink after the claim period

set out above shall be deemed null and void, unless Marlink at its sole discretion decides to honor such claim.

## **6.6 Payment Guarantees**

Marlink may require the Customer to make an advance payment of one month's estimated charges (Monthly Service Fee plus Monthly Call Charges), and/or deposit to be held by Marlink as a guarantee of the payment of charges due hereunder.

In addition to an advance payment and/or deposit, Marlink may require the Customer to provide a third party guarantee by means of a bank guarantee other similar security acceptable to Marlink, in such amount as it deems necessary to provide adequate assurance of payment, limited to twelve (12) months estimated charges under this Contract.

## **6.7 Price Adjustments**

The prices in Annex 6, except the Monthly Service Fee during the Initial Period, may be adjusted annually.

# **7 TERM AND TERMINATION**

## **7.1 Term**

This Contract shall be valid and effective from the Effective Date.

From the start of the Service Period, the Sealink Services shall be provided to the Vessel(s) in accordance with the terms of this Contract for a minimum period as defined in Annex 7 (the "**Initial Term**"). If no Initial Term is defined in Annex 7, the term shall be sixty (60) months from the start of the Service Period.

The Initial Term shall start on the Commencement Date and shall automatically be renewed thereafter in subsequent twelve (12) month increments (each a "**Renewal Term**"), unless terminated in accordance with this Article 7.

## **7.2 Customer's Right to Terminate**

The Customer may terminate this Contract:

- (i) by providing Marlink with a minimum of ninety (90) days written notice prior to the expiration of the Initial Term or the then current Renewal Term; or
- (ii) by providing Marlink with a minimum of ninety (90) days written notice in case of a sale or scrapping of the Vessel, provided that satisfactory documentation thereof is provided to Marlink.

## **7.3 Marlink's Right to Terminate**

Marlink may terminate this Contract:

- (i) if the Customer fails to make payment of any sum due to Marlink, and such default has not been rectified within twenty (20) days from the date of written notice of the failure by Marlink to the Customer; or
- (ii) if a Suspension Event for which the Customer is responsible persists for more than 30 days; or

- (iii) if the Customer has performed its obligations under this Contract in such a manner that, in Marlink's sole discretion, it will have an adverse effect on the reputation of Marlink as a quality supplier of telecommunication services.

#### **7.4 Mutual Rights of Termination for Default**

Each Party (the "**Terminating Party**") shall have the right to terminate this Contract upon ninety (90) days written notice to the other Party (the "**Defaulting Party**") in case one (1) or more Event of Default has occurred. If a cure period is specified, the Terminating Party may not terminate this Contract until the end of such cure period.

Notwithstanding the above, Marlink may always at its sole discretion choose to suspend the Sealink Services as a permanent or temporary alternative to termination for as long as an Event of Default which gives rise to termination persists.

#### **7.5 Events of Default**

The following events shall be considered an Event of Default, unless to the extent caused by a Force Majeure Event:

- (i) any representation or warranty made by a Party hereunder is proven to be incorrect or untrue in any material respect at the time that it is made; or
- (ii) the Defaulting Party fails to perform or observe or is in breach of any material obligation contained in this Contract, and the Party fails to cure such breach within ten (10) days following the receipt of written notice of the breach from the non-breaching Party; or
- (iii) the Defaulting Party fails to perform or observe or is in breach of any non-material obligation contained in this Contract, and the Party fails to cure such breach within thirty (30) days following the receipt of written notice of the breach from the non-breaching Party; or
- (iv) the Defaulting Party (a) files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files a petition or answer seeking any reorganization, liquidation or similar relief for itself under any applicable statute, law or regulation, or (b) has been appointed a trustee, receiver or liquidator for itself or a substantial part of its properties, or (c) makes a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or
- (v) a petition is filed against the Defaulting Party seeking any reorganization, liquidation or similar relief under any applicable statute, law or regulation, and such either (a) such petition is not dismissed or suspended after sixty (60) days (whether or not consecutive), or (b) an order for relief in respect of such petition is entered ; or, if a trustee, receiver or liquidator as been appointed for the Party, and such appointment is not dismissed or suspended after sixty (60) days (whether or not consecutive ).

#### **7.6 Effects of Termination of Contract**

Upon termination or expiration of this Contract becoming effective for whatever reason, Marlink shall no longer be obliged to continue the Sealink Services, and the Customer shall no longer be entitled to receive the Sealink Services.

Termination or expiration of this Contract in accordance with its terms shall not release the Parties from any liability which a Party has already accrued on the Termination Date

or which thereafter may accrue in respect of any act or omission of a Party prior to the Termination Date, or from any obligation which is expressly stated in this Contract to survive the Termination Date.

In addition, the Parties shall have the following obligations upon termination or expiration:

- (i) Marlink shall de-install and remove the Equipment and Customer shall cooperate therewith, in accordance with the provisions of Article 3.
- (ii) Each Party shall return, or at the other Party's written request, destroy, all Confidential Information of the other Party in its possession no later than five (5) days following the Termination Date.
- (iii) Within forty-five (45) days of the Termination Date, the Parties shall perform a final accounting of all sums due hereunder which shall be offset by amounts (if any) that may become payable under Articles 7.7 and 8.
- (iv) All mutual indebtedness of the Parties that shall have accrued as of the date of termination or expiration, as well as any Termination Charges that have accrued pursuant to Article 7.7, shall become due and payable within ninety (90) days from the Termination Date, unless earlier due pursuant to the terms of this Contract.

## **7.7 Termination Charges**

In the event that this Contract is terminated for any reason other than Marlink becoming a Defaulting Party, Customer shall make payment of the following amounts to Marlink as of the Termination Date ("**Termination Charges**"):

- (i) If the Termination Date occurs during the Initial Term or during a Renewal Term, a lump sum payment equal to the balance of Monthly Service Fee remaining unpaid as of the Termination Date through the remainder of the applicable term except where the Contract is terminated due to a Force Majeure Event as set out in Article 8; or
- (ii) If the Vessel is sold or scrapped, a lump sum payment equal to the Monthly Service Fee calculated for a 60-day period in addition to the required 90 days notice period;

In addition, regardless of the reason for termination:

- (iii) All costs associated with the de-installation and removal of the Equipment as provided for in Article 3; and
- (iv) All charges for Sealink Services in accordance with this Contract that are either unpaid and/or have accrued as of the Termination Date.

In case of termination due to the Customer becoming a Defaulting Party, payment of the Termination Charges shall be in addition to any other remedy to which Marlink may be entitled to at law or otherwise.

## **8 FORCE MAJEURE**

A Party to this Contract shall not be considered as a Defaulting Party to the extent it is prevented from performing any of its obligations hereunder due to a Force Majeure Event.

A Party experiencing a Force Majeure Event which persists for more than twentyfour (24) hours shall promptly endeavor to notify the other Party of such occurrence including a reasonably detailed description of the event, and shall use commercially reasonable efforts to avoid or remove such cause of non-performance. Marlink reserves the right to require proof of any Force Majeure Event claimed by the Customer.

In the event that a Force Majeure Event prevents the provision of the Sealink Services to the Vessel, the Customer's obligation to remit payment of the Monthly Service Fee and any charges incurred pursuant to this Contract shall nevertheless continue without interruption for up to thirty (30) days. Marlink acknowledges that this payment will ensure that the space and ground segments required to provide the Sealink Services shall remain available during such 30-day period for immediate reinstatement to the Vessel upon resolution of the Force Majeure Event. Marlink shall have no liability to the Customer or any End-User for any unavailability of the Sealink Services caused by a Force Majeure Event.

In the event that a Force Majeure Event continues for more than thirty (30) consecutive days, the Sealink Service(s) to the affected Vessel(s) may be terminated by written notice to the other Party on the 31<sup>st</sup> day and the Parties' obligations with respect to such Vessel(s) shall be governed by this Article 8 and Article 7.7 subsections (iii) and (iv).

## **9 CONFIDENTIALITY**

Any Confidential Information shall be kept and maintained as confidential and secret by the receiving Party, and will be used only in connection with this Contract by the receiving Party unless and to the extent such Confidential Information

- (i) can be documented to have been known by the receiving Party prior to receipt; or
- (ii) can be documented to have been developed independently by the receiving Party; or
- (iii) is or becomes publicly available other than by the receiving Party's breach of its confidentiality obligations hereunder; or
- (iv) is received by the receiving Party without restrictions on confidentiality from a third party having lawful access and distribution rights to such Confidential Information; or
- (v) is required to be disclosed by governmental or judicial order.

The duty of confidentiality under this Article 9 shall survive the expiration or termination of this Contract by three (3) years.

## **10 LIABILITY AND INDEMNIFICATION**

### **10.1 Limitations of Liability**

Except to the extent caused by the gross negligence or willful misconduct by Marlink, and then provided that the loss was reasonably foreseeable at the time that such injury or damage was caused, Marlink shall not be liable for:

- (i) any Non-Default Outages; or
- (ii) any loss, injury, harm or damage to Vessel or persons, occurred in connection with the installation or operation of the Equipment; or
- (iii) any failure in or breakdown of Facilities associated with the Sealink Services , or any other act or omission of Marlink in connection with the Sealink Services provided hereunder, whatever the cause, and whether attributable to any act or omission of Marlink or its subcontractors or suppliers; or
- (iv) any malfunction, breakdown, lack of maintenance, outage, failure to function, incompatibility, or defect of any Auxiliary Equipment, or any consequence thereof, that is not caused directly by the negligent acts of a Marlink Technician; or
- (v) any loss, injury, harm or damage arising out of any use of Sealink Services to transmit any material of content in violation of any applicable laws or third party's rights. Such material or content may include, but is not limited to (a) copyrighted material to which the sender does not hold the copyright or has not cleared the use of such material with the holder of the copyright (b) material legally judged to be threatening or obscene or confidential material that the sender is not authorized to send; or
- (vi) in the event that a Force Majeure Event affects either the End-User's ability to use, or the quality of, the Sealink Services.

IN NO EVENT WILL MARLINK BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR UNDER THIS CONTRACT, INCLUDING WITHOUT LIMITATION LOSS OF REVENUE OR LOST PROFITS, REGARDLESS OF THE FORESEEABILITY OF SUCH DAMAGES.

NOTWITHSTANDING ANY OTHER PROVISION IN THIS CONTRACT, MARLINK'S AGGREGATE LIABILITY HEREUNDER IS LIMITED TO THE AMOUNT OF USD 20,000.- (TWENTYTHOUSAND).

### **10.2 Claim Period**

All claims must be made in writing by registered mail to Marlink within six (6) months from the time which the Customer became or should have been aware of the event causing the relevant claim. All claims received after the expiration of the said claim period, including any claims resulting directly from such events, shall be deemed null and void.

### **10.3 Indemnification**

The Customer agrees to indemnify Marlink, its suppliers, subcontractors and the Space Segment Providers, in the event of any claims brought against Marlink and/or the Space Segment Providers by a End-User or third party arising from or in connection with;

- (i) any libel, slander or invasion of privacy or any allegation thereof or infringement of copyright or other intellectual property rights arising as a result of the use of Services; or
- (ii) the loss of information resulting from delays, non-deliveries, mis-deliveries, or service interruptions suffered by the End-User while using the Sealink Services; or
- (iii) the failure to obtain or comply with any license or authorization required for utilizing the Services; or
- (iv) any claim for which Marlink shall not be responsible for in accordance with Article 10.1.

The Customer shall protect and defend Marlink, its suppliers, subcontractors and the Space Segment Providers, from any suits or claims related to such failure, and shall pay all expenses and satisfy all judgments which may be incurred by or rendered in connection therewith.

## **11 WARRANTIES**

### **11.1 Warranties**

Each Party hereby represents and warrants to the other Party that it is duly organized, validly existing, and in good standing under the laws of its jurisdiction of incorporation; that it has all requisite authority and approvals to enter into and perform its obligations under this Contract; and that all requisite corporate action has been taken for the execution, delivery and performance of this Contract.

### **11.2 Exclusive Warranties**

Except as otherwise expressly provided for in this Contract, Marlink makes no representations or warranties, express or implied, including but not limited to any warranties of merchantability or fitness for a particular purpose or any other statutory or common-law warranty in connection with this Contract including the Sealink Services and the Equipment.

## **12 ASSIGNMENT**

Neither Party shall assign its rights and obligations arising under this Contract without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, provided however that an assignment shall not relieve the assigning Party of its obligations and liabilities under this Contract, without the express written consent of the other Party.

Notwithstanding the above, Marlink may assign or transfer its rights and obligations to an Affiliate, or to a third party together with the business comprised by this Contract, without consent from the Customer.

## **13 MISCELLANEOUS**

### **13.1 Notices**

All notices required or permitted under this Contract shall be in writing and addressed to the persons and contact points specified in Annex 5 to this Contract, and which may be changed by written notice to the other Party.

### **13.2 Publicity**

Except as required by the requirements of any relevant law or regulation, including any stock exchange regulations applicable to a Party, neither Party shall issue any press release regarding this Contract, nor use the other Party's name in any promotional or marketing materials, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

### **13.3 No Third Party Benefits**

The provisions of this Contract are solely for the benefit of the Parties hereto and their lawful successors and assignees, and no other party may seek to enforce, or benefit from any provisions of this Contract.

### **13.4 No Waivers**

A Party's waiver, expressed or implied, of any of its rights hereunder or of the other Party's failure to perform or breach of its obligations herein shall not constitute or be deemed a waiver of any other right it may have or of any other failure or breach by the other Party.

### **13.5 Amendments**

Customer acknowledges and agrees that Marlink may revise the terms and conditions of this Contract at any time and without consent of the Customer to incorporate modifications imposed by Marlink's suppliers in connection with the sale, resale, transmission, or delivery of space segment capacity. Marlink will notify the Customer at least with fifteen (15) calendar days in advance of any such changes to this Contract.

Except as provided above, all modifications and / or amendments to this Contract shall be implemented as written, numbered supplementary agreements. Upon signature by both Parties, such supplementary agreement(s), shall constitute a part of this Contract.

### **13.6 Survival**

If any term or provision of this Contract shall be found to be illegal or unenforceable, then such term or provision shall be deemed stricken and replaced by a mutually agreeable substitute provision which is legal and enforceable and the remainder of this Contract shall continue in full force and effect.

### **13.7 Entire Contract**

This Contract, including the Annexes hereto, constitute the entire Contract between the Parties and is intended as the complete and exclusive statement of the terms of the Contract between the Parties, and supersedes all previous understandings, commitments or representations concerning its subject matter.

The Parties hereto each acknowledge that the other Party has not relied on any representations other than those that are contained herein.

#### **14 GOVERNING LAW AND DISPUTE RESOLUTION**

This Contract shall be construed and interpreted in accordance with and governed by the laws of Norway, without regard to the choice of law principles thereof.

In the event that a dispute arises with respect to the interpretation or implementation of any provision of this Contract, the Parties agree to use all reasonable efforts to resolve such dispute amicably through negotiations.

If Parties fail to resolve the dispute, each of the Parties may demand that the dispute is finally resolved by an arbitral court in accordance with the Norwegian Arbitration Act 2004. The arbitral court shall consist of three members. Each of the Parties may appoint one independent arbitrator, which in turn jointly decides on the presiding arbitrator. If the Parties are unable to agree on the presiding arbitrator, the presiding arbitrator shall be elected by the chairman of the Norwegian Bar Association for the district of Oslo. The arbitral court shall be set in Oslo. The arbitration proceedings as well as the verdict shall be confidential.