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Proposal for WiSSL 2.0

Build and Delivery in 2023

MBARI Monterey Bay Aquarium Research Institute

A nonprofit oceanographic research center

3D at Depth Proposal Reference Number: 1497

Date: 9th August 2023

Proposal Revision Number: Rev 1.0

Project Name or Client Reference Number: MBA-WiSSLGPh3and420223

Prepared for: David Caress | Principal Engineer

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Client Address: 7700 Sandholdt Road | Moss Landing, CA 95039

COMPANY OVERVIEW

3D Subsea LiDAR. Control the Beam… Control the Data… Control the Return ™

3D at Depth Inc. (3DD) is the world's leading expert in commercial subsea LiDAR laser technology. Our advanced subsea LiDAR laser (SL) systems and survey support services help customers transform the value of underwater 3D data. From data collection and processing, through visualization and analysis, 3DD delivers precise, repeatable, millimetric 3D point clouds to measure, map, and evaluate underwater assets, resources and environments.

Our portfolio of subsea LiDAR laser (SL) systems are powered by in-house patented algorithm software. Each survey application leverages the unique features of subsea LiDAR technology including total beam control with longer ranges up to 45 meters during the data collection process. Our subsea LiDAR solutions place photons where you want them, when you want them. 3D at Depth's multi-tiered data management, processing, and analytic service allows clients to extract greater value from their 3D data.

This comprehensive range of client deliverables is designed to enhance workflow efficiencies, support engineering analysis, and provide insight into long-term asset integrity. The result is robust, measurable 3D data sets with reflectivity, which easily integrate into existing GIS systems or CAD based platforms. One tool, multiple applications, delivered in a single cohesive data format for total asset awareness. 3D at Depth's subsea LiDAR VR Platform "Powered by IQ3" is an immersive collaboration tool connecting multiple users and key decision makers via any laptop, desktop or smart device through a secure web portal. Measure in 3D and manage in 4D, for greater insight and more effective decisions across the survey value chain.

Founded in 2009, the Company is focused on innovation and best practices for 3D data collection, visualization and analysis. 3D at Depth's office locations in the US and UK support client survey operations around the world. The Company, Employees and Board of Directors (BOD) are committed to conduct business in accordance with the highest standards of health, safety, security and environment policies and laws. 3D at Depth's core values are built around integrity, honesty and exceeding customer expectations.

3D at Depth's optical, laser, LiDAR, and in-water measurement systems are protected at least by:

- US Patent 8,184,276
- US Patent 10,502,829
- US Patent 10,698,112
- US Patent 11,125,875
- US Patent 8,467,044
- US Patent 10,545,233
- US Patent 10,871,567
- US Patent 11,249,193

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1. INTRODUCTION

3D at Depth Inc. is pleased to submit this proposal in response to a request for quotation from MBARI for the build and delivery of a WiSSL capable for AUV deployment (WiSSL 2.0).

3D at Depth and MBARI have agreed that the best approach is a phased program where both parties are only committed to the current phase – the same approach used in the development of the current WiSSL. At the end of each phase the performance, schedule, and costs are jointly reviewed and both parties can decide to continue to the next stage or not without penalty.

The phased approach includes the following project phases:

1. Feasibility / Preliminary design phase - COMPLETED
2. Detailed design phase, ending with critical design review at MBARI - COMPLETED
3. Build and factory test phase, ending with factory acceptance test at 3D at Depth
4. Validation tests in MBARI tank and sea trials

The scope, schedule, and cost of each phase is dependent upon the outcome of the prior phases. Therefore, this quotation, if accepted, shall be binding solely with respect to the third and fourth phase. Actual services and costs for future phases shall be agreed upon by the parties prior to commencement of each phase. The Terms and Conditions attached to this quotation shall apply to all phases.

2. SCOPE OF WORK (SOW)

Phase 2 – Detailed Design

The goal of the second phase is to perform detailed design of the new system building upon the requirements, trade studies, and preliminary designs of the first phase. – COMPLETED July 2023.

Phase 3 – Build and FAT at 3D at Depth

The goal of Phase 3 is to build, calibrate, and test the new WiSSL 2.0. This includes all material costs and labor for component purchase, build, software development, alignment, calibration, internal test, and Factory Acceptance Test at 3D at Depth's facility in Longmont, CO.

Phase 4 – Validation Tests in MBARI Tank and Sea Trials

The goal of Phase 4 is to assist with validation tests in the MBARI tank and sea trials. Major tasks include:

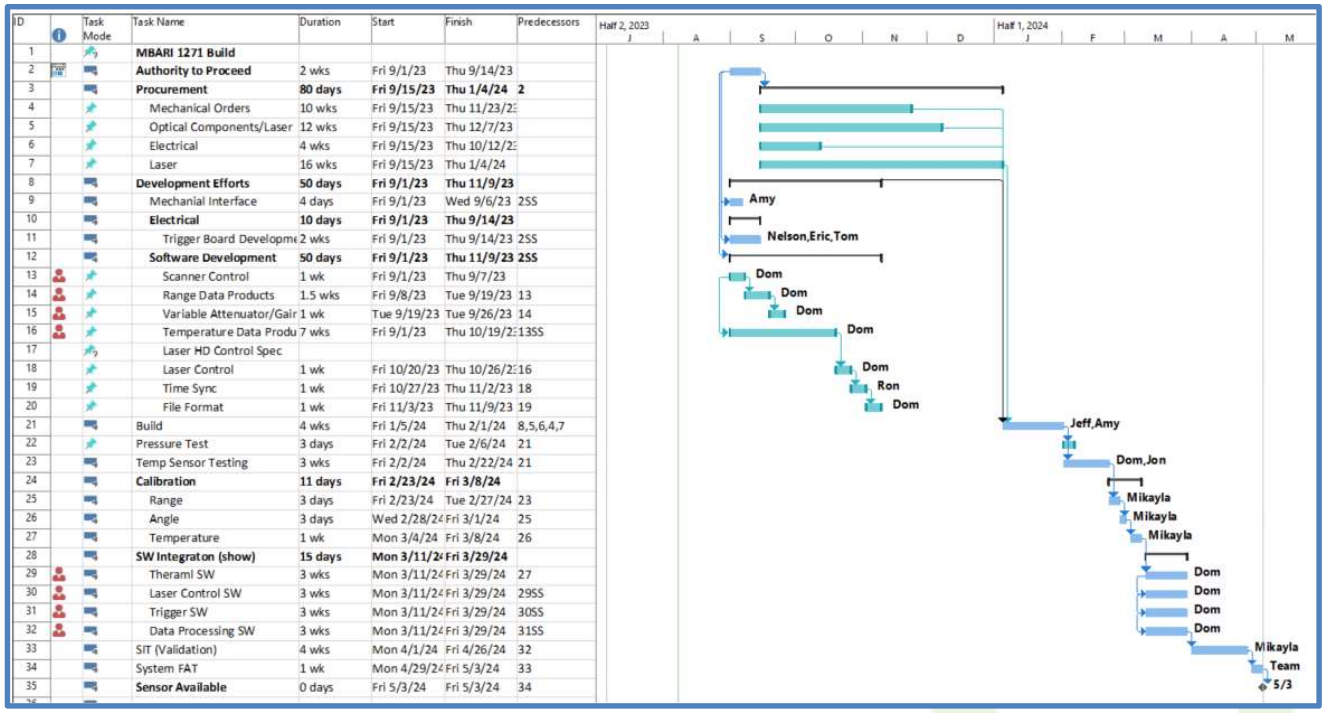
- Design and build of custom shipping container. Potentially can use standard Pelican case with custom foam design and build
- Software and general owner's manual generation and delivery
- Travel and time for 3D at Depth personnel to support tank tests and open water trials

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3. PROJECT SCHEDULE

Phase 3 – Build and FAT at 3D at Depth

It is estimated that Phase 3 will take 8 months to complete as shown in the Gantt chart below. It is anticipated that MBARI personnel will be on-site for two full days for the FAT. 3D at Depth does not guarantee this schedule but will use its best efforts to achieve it, subject to unforeseen circumstances and the cooperation of MBARI.



ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
1		**MBARI 1271 Build**				
2		**Authority to Proceed**	2 wks	Fri 9/1/23	Thu 9/14/23	
3		**Procurement**	**80 days**	**Fri 9/15/23**	**Thu 1/4/24**	**2**
4		Mechanical Orders	10 wks	Fri 9/15/23	Thu 11/23/23	
5		Optical Components/Laser	12 wks	Fri 9/15/23	Thu 12/7/23	
6		Electrical	4 wks	Fri 9/15/23	Thu 10/12/23	
7		Laser	16 wks	Fri 9/15/23	Thu 1/4/24	
8		**Development Efforts**	**50 days**	**Fri 9/1/23**	**Thu 11/9/23**	
9		Mechanial Interface	4 days	Fri 9/1/23	Wed 9/6/23	2SS
10		**Electrical**	**10 days**	**Fri 9/1/23**	**Thu 9/14/23**	
11		Trigger Board Developme	2 wks	Fri 9/1/23	Thu 9/14/23	2SS
12		**Software Development**	**50 days**	**Fri 9/1/23**	**Thu 11/9/23**	**2SS**
13		Scanner Control	1 wk	Fri 9/1/23	Thu 9/7/23	
14		Range Data Products	1.5 wks	Fri 9/8/23	Tue 9/19/23	13
15		Variable Attenuator/Gair	1 wk	Tue 9/19/23	Tue 9/26/23	14
16		Temperature Data Produ	7 wks	Fri 9/1/23	Thu 10/19/23	13SS
17		Laser HD Control Spec				
18		Laser Control	1 wk	Fri 10/20/23	Thu 10/26/23	16
19		Time Sync	1 wk	Fri 10/27/23	Thu 11/2/23	18
20		File Format	1 wk	Fri 11/3/23	Thu 11/9/23	19
21		Build	4 wks	Fri 1/5/24	Thu 2/1/24	8,5,6,4,7
22		Pressure Test	3 days	Fri 2/2/24	Tue 2/6/24	21
23		Temp Sensor Testing	3 wks	Fri 2/2/24	Thu 2/22/24	21
24		**Calibration**	**11 days**	**Fri 2/23/24**	**Fri 3/8/24**	
25		Range	3 days	Fri 2/23/24	Tue 2/27/24	23
26		Angle	3 days	Wed 2/28/24	Fri 3/1/24	25
27		Temperature	1 wk	Mon 3/4/24	Fri 3/8/24	26
28		**SW Integraton (show)**	**15 days**	**Mon 3/11/24**	**Fri 3/29/24**	
29		Theraml SW	3 wks	Mon 3/11/24	Fri 3/29/24	27
30		Laser Control SW	3 wks	Mon 3/11/24	Fri 3/29/24	29SS
31		Trigger SW	3 wks	Mon 3/11/24	Fri 3/29/24	30SS
32		Data Processing SW	3 wks	Mon 3/11/24	Fri 3/29/24	31SS
33		SIT (Validation)	4 wks	Mon 4/1/24	Fri 4/26/24	32
34		System FAT	1 wk	Mon 4/29/24	Fri 5/3/24	33
35		**Sensor Available**	0 days	Fri 5/3/24	Fri 5/3/24	34

Phase 4 – Validation Tests in MBARI Tank and Sea Trials

Phase 4 will occur in 2024. Schedule should be determined during or after Phase 3.

4. DELIVERABLES

Phase 3 – Build and FAT at 3D at Depth

The deliverables for Phase 3 are as follows:

1) Signed FAT document
2) Price and schedule validation for Phase 4

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Phase 4 – Validation Tests in MBARI Tank and Sea Trials

The deliverables for Phase 4 are as follows:

1) WiSSL 2.0 at MBARI (with shipping container)
2) Generate and deliver owner's manual and software manual
3) Assistance with validation tests at MBARI.
    a. Tank validation: 1 person at MBARI for 1 week (2 travel days, 3 full days on-site) with 3 full days of remote software support
    b. Offshor validation: 1 person at MBARI for 1 week (2 travel days, 3 full days on-site) with 3 full days of remote software support

5. PRICING

Phase 3 – Build and FAT at 3D at Depth

The below pricing shows two options – one for puchasing a single laser and one for purchasing two lasers. Both options include 24 month warranty on the laser itself and reliability testing.

3D at Depth Fixed Price Cost Summary – Phase 3		
Item	**Description**	**Project Budget Amount** ($USD)
1	**Phase 3 – Build and FAT at 3D at Depth (one laser) option**	$342,595
	Phase 3 – Build and FAT at 3D at Depth (two laser) option	$388,923
Phase 3 Total Cost		**One of the above**

Payment Terms

3D at Depth will invoice MBARI $130,000 at the signing of contract to cover up-front material costs. 3D at Depth will then invoice MBARI $30,000 at the end of each calendar month up to Month 8 (April 2024) ($340,000 total). The remainder will be invoiced upon delivery of the approved Factory Acceptance Test sign-off ($48,923). The above numbers are assuming the two-laser options. The numbers will be revised if the one-laser option is selected.

Phase 4 – Validation Tests in MBARI Tank and Sea Trials

Phase 4 will be conducted in 2024. Below is the estimated price for each of the main tasks in Phase 4. Final price may vary based upon any changes in travel costs.

1) Design and build of shipping container. Ship to MBARI: $2,518
2) Generate and deliver General owner's manual and software manual: $11,021

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3) Assistance with validation tank test at MBARI: $13,779
4) Assistance with validation offshore test at MBARI: $13,237

Total: $40,555

Assume shipping costs will be covered by MBARI through use of their FedEX or other shipping account.

6. MBARI TERMS AND CONDITIONS

For the purposes of these Terms and Conditions, the term "**Contract**" shall mean the agreement between 3D AT DEPTH, INC ("**3D at Depth**") and MBARI ("**Buyer**") arising as a result of Buyer's acceptance, whether by purchase order or otherwise, of a sales quotation or proposal for 3D at Depth's products or services. Such Contract shall be deemed to incorporate and be governed by these Terms and Conditions. **THESE TERMS AND CONDITIONS SHALL TAKE PRECEDENCE OVER ANY TERMS AND CONDITIONS WHICH APPEAR IN BUYER'S PURCHASE ORDER OR IN ANY DOCUMENTS AND COMMUNICATIONS INCORPORATED BY REFERENCE IN BUYER'S PURCHASE ORDER.** No term or condition of Buyer's purchase order additional to or different from these Terms and Conditions shall become part of the Contract unless explicitly agreed to in writing by 3D at Depth.

1. ***Sales Quotations:*** Prices, specifications and dates for delivery of products or performance of services referenced in 3D at Depth's sales quotations are estimates only and shall not be binding on 3D at Depth until all technical requirements have been agreed and 3D at Depth has accepted Buyer's purchase order referencing such quotation. Sales quotations terminate if not accepted by Buyer in writing within 30 days or by the date specified in the sales quotation. The term "sales quotation" as used herein shall include any quote, proposal, or other document proposing services or deliverables to be provided to Buyer by 3D at Depth.

2. ***Purchase Orders:*** By submitting a purchase order to 3D at Depth, Buyer agrees to be subject to these Terms and Conditions in their entirety. No purchase order, whether or not submitted in response to a sales quotation by 3D at Depth, shall be binding upon 3D at Depth until accepted in writing by 3D at Depth by an order acknowledgement.

3. ***Prices and Taxes:*** Prices do not include federal, state or local taxes, including without limitation sales, use, value-added or excise taxes now or hereafter enacted, applicable to the products or services sold or provided to Buyer, which taxes may be added to the sales price or billed separately and which taxes shall be paid by Buyer unless Buyer provides any necessary tax exemption certificate.

4. ***Shipment and Delivery:*** Unless otherwise agreed to in writing, delivery of all products sold or leased to Buyer hereunder is F.O.B. 3D at Depth's loading dock for domestic shipments and EXW 3D at Depth's facility (Ex-Works) (as defined in Incoterms, 2010). In the absence of specific instructions from Buyer, 3D at Depth will select the carrier and ship at Buyer's expense, but shall not be deemed thereby to assume any liability in connection with the shipment nor shall the carrier be construed to be the agent of 3D at Depth. Buyer must provide its own insurance. Title and

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risk of loss or damage to all products sold hereunder shall pass from 3D at Depth to Buyer upon delivery by 3D at Depth to the possession of the carrier. Any claims for loss, damage or mis-delivery thereafter shall be filed with the carrier.

5. ***Terms of Payment:*** Terms of payment shall be net thirty (30) days from date of invoice. If Buyer fails to pay any payment due hereunder when due, 3D at Depth may recover, in addition to the payment, interest thereon at the rate of 1 1/2% per month.

6. ***Compliance with Laws.*** The Parties shall comply with, and pay all costs associated with, all applicable laws, regulations, treaties, community laws, directives and administrative orders that relate to or govern the import, export, use, reuse, collection, and treatment of the products provided by 3D at Depth and their components. Buyer represents and warrants the following: (a) that neither it nor the customers to which it provides services and/or products is on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated National and Blocked Persons and is not otherwise a person to whom providing goods or services is legally prohibited; (b) Buyer will not use the described products or services for the development, design, manufacture, production, stockpiling, or use of nuclear, chemical or biological weapons, weapons of mass destruction, or missiles; and (c) Buyer will not transport or otherwise provide products or services to any person (including any natural person or government or private entity) located in or is a national of any embargoed country or one that is restricted under U.S. export regulations. Regardless of any disclosure made by Buyer to 3D at Depth of the ultimate destination of 3D at Depth products, Buyer shall not export either directly or indirectly any 3D at Depth product either in contravention of statute or regulation.

7. ***Contingencies:*** 3D at Depth shall not be liable for any delay in delivery or for non-delivery, in whole or in part, caused by the occurrence of any contingency beyond the control of 3D at Depth, including, by way of illustration but not limitation, Federal government or military orders with defense-rated priority, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof, judicial action, labor dispute, accident, epidemic or pandemic, fire, explosion, floods, storm or other act of God, shortage of labor, fuel, raw material or machinery or technical failure where 3D at Depth has exercised ordinary care in the prevention thereof.

8. ***Ownership of Intellectual Property:*** The products and services being provided under this Contract are primarily based upon 3D at Depth's pre-existing designs and intellectual property, including without limitation 3D at Depth patents. Although Buyer will own the deliverables developed under this Contract, all right, title and interest in and to any and all hardware and software designs or other intellectual property developed by 3D at Depth under this Contract or included in any deliverables will be owned by 3D at Depth. 3D at Depth shall at all times have and retain sole title and full ownership of all worldwide intellectual property rights in all deliverables provided by 3D at Depth and in all materials, content, concepts, data and information utilized in the performance of or embodied in any services provided by 3D at Depth, including without limitation all hardware, software, firmware, and claimed methods contained in all deliverables and

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all patents and including without limitation any software or documentation supplied by 3D at Depth for use with the deliverables and any know-how, ideas or concepts disclosed to Buyer during any training, data processing or other services (collectively, the "*3D at Depth IP*"). Buyer agrees not to manufacture, reproduce, modify, disassemble, or reverse engineer any deliverables or 3D at Depth IP, or to otherwise in any manner attempt to replicate the functionality of the deliverables or 3D at Depth IP. Nothing in this Contract will be deemed to grant, by implication, estoppel, or otherwise, any interest in or license to any 3D at Depth IP except as set forth in Section 9 below.

9. ***License:*** Upon providing any deliverables to Buyer, 3D at Depth grants to Buyer a limited, non-transferable, nonexclusive, perpetual, royalty-free, worldwide, irrevocable license to use any 3D at Depth IP that is imbedded in such deliverables solely to the extent necessary for the use and operation of the deliverables by Buyer or by Buyer's personnel.

10. ***Warranty***. All 3D at Depth products and services are provided on a best-efforts basis. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 11 OR 12 BELOW, ANY WARRANTIES, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR NONINFRINGEMENT OF THIRD-PARTY RIGHTS ARE HEREBY DISCLAIMED.

11. ***Limited Liability and Remedies:*** 3D AT DEPTH'S SOLE AND EXCLUSIVE LIABILITY, AND BUYER'S SOLE AND EXCLUSIVE REMEDY, FOR ANY NONCONFORMITY OR DEFECT IN THE DELIVERABLES OR SERVICES PERFORMED BY 3D AT DEPTH OR ANYTHING DONE IN CONNECTION WITH THIS CONTRACT, IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHERWISE, SHALL BE TO REPAIR OR REPLACE DEFECTIVE PRODUCTS WITHIN A COMMERCIALLY REASONABLE TIME AFTER RECEIVING NOTICE AND RETURN OF SUCH DEFECTIVE PRODUCTS.

12. ***Patent Indemnification:*** 3D at Depth shall defend any suit or proceeding brought against Buyer to the extent that it is based on a claim that the construction or design any products or deliverables manufactured by 3D at Depth and purchased by Buyer infringe a United States patent, and shall indemnify Buyer against all costs, damages and expenses finally awarded against Buyer and payment of any settlement amount provided that Buyer notifies 3D at Depth promptly in writing of any such claim and gives 3D at Depth full and complete authority, information and assistance for the defense of such claim, including without limitation authority to approve or reject any settlement. Notwithstanding the foregoing, Buyer hereby represents and warrants that any information, specifications, or requests that Buyer provides to 3D at Depth in connection with this proposal shall not infringe the rights of any third parties, and 3D at Depth's indemnification obligations hereunder shall not include indemnification for any claims to the extent arising from such information, specifications, or requests provided by Buyer to 3D at Depth. THE FOREGOING STATES THE ENTIRE LIABILITY OF 3D AT DEPTH, AND THE EXCLUSIVE REMEDY OF BUYER, WITH RESPECT TO ANY ALLEGED PATENT INFRINGEMENT BY ANY PRODUCTS OR DELIVERABLES.

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13. ***Limitation of Damages.*** IN NO EVENT, REGARDLESS OF THE FORM OF ACTION, SHALL 3D AT DEPTH BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES ARISING OUT OF OR RELATED TO THE SALE OR USE OF ITS DELIVERABLES OR SERVICES OR ARISING OUT OF ANYTHING DONE IN CONNECTION WITH THIS CONTRACT. NO CLAIM OR CLAIMS OF ANY KIND, WHETHER BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, WARRANTY AND STRICT LIABILITY), STATUTORY OR REGULATORY PROVISIONS, INDEMNITY, CONTRIBUTION, OR OTHERWISE, SHALL BE GREATER IN AMOUNT IN AGGREGATE THAN THE PURCHASE PRICE PAID BY BUYER FOR THE DELIVERABLES OR SERVICES IN RESPECT OF WHICH DAMAGES ARE CLAIMED.

14. ***Insurance and Buyer Indemnity.*** Buyer will obtain and maintain insurance coverage from a reputable insurance provider covering any leased products at a minimum replacement cost of $450,000 USD. Buyer shall indemnify and hold harmless 3D at Depth, its officers, directors, shareholders, employees, subsidiaries, parents, affiliates and insurers from and against any and all liabilities, damages, losses, claims, lawsuits, including costs and expenses in connection therewith, for death or injury to any persons or loss of or damage to any property whatsoever, caused in any manner by materials, specifications, or information provided by Buyer to 3D at Depth or by Buyer's possession, use or operation of any services or deliverables provided by 3D at Depth, excluding only claims for which 3D at Depth is obligated to indemnify Buyer pursuant to Section 12 above.

15. ***Cancellation of the Contract:***

3D at Depth and Buyer have agreed that the best approach to this Contract is a phased approach where both parties are only committed to the current phase as set forth in the sales quotation. At the end of each phase, the performance, schedule, and costs shall be jointly reviewed and both parties can decide to continue to the next phase or not without penalty. Either party can terminate at any time provided that 3D at Depth is compensated for all work and expenses accrued through the date of termination including advanced expenses.

16. ***Restrictions on Use and Resale***

3D at Depth does not customarily sell its subsea LIDAR products and is regularly in the business of leasing such products. In order to prevent damage to its core business, 3D at Depth requires assurance that Buyer will not resell, lease or otherwise provide the deliverables developed under this program to any third party or for any use in the oil and gas, nuclear utility, hydroelectric power, or defense/security markets without 3D at Depth’s consent. Accordingly, as a condition of entering into this agreement, Buyer agrees that it will not resell, lease or otherwise provide the deliverables developed under this program to any unrelated third parties or for any use in the oil and gas, nuclear utility, hydroelectric power, or defense/security markets without 3D at Depth’s written consent. In the event that Buyer desires to sell the deliverables, Buyer will offer 3D at Depth to repurchase it at a reasonable fair market value to be determined by mutual agreement at the time of such offer.

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17. ***Non-Waiver; Remedies:*** No waiver of any breach of these Terms and Conditions shall constitute a waiver of any prior or subsequent breach of any similar or dissimilar provision or a modification of this Contract. All rights and remedies, whether evidenced hereby or by any other contract or document, shall be cumulative and nonexclusive and may be exercised singularly or concurrently. In the event that any provision of the Contract or these Terms and Conditions is held unenforceable by a court of competent jurisdiction, such provision shall be removed and the remainder of the Contract shall remain enforceable as written.

18. ***Applicable Law and Dispute Resolution:*** The validity, performance and construction of this Contract shall be governed by the laws of the State of Colorado. Prior to commencement of any legal proceedings, Buyer and 3D at Depth shall meet at a senior level to attempt to resolve differences.

19. ***Jurisdiction; Venue:*** Each of the parties consents and submits to the exclusive jurisdiction of the state courts located in Boulder, Colorado and the federal courts located in Denver, Colorado in connection with any suits or other actions arising between the parties to this Contract, and consents and waives any objections to the venue of such action or proceeding in such courts. The prevailing party in any legal action brought by one party against the other will be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorney's fees.

20. ***Confidentiality***. In connection with this Contract, each party may be exposed to Confidential Information of the other party. "Confidential Information" shall include information acquired through documents, observations, inspections of facilities, assets or properties or discussions with employees or agents of either party, irrespective of the form of communication, as well as any related reports, technical or other data, analyses, opinions or other proprietary materials, provided that such information is (a) designated as confidential, or (b) is of a nature or character such that the receiving party should reasonably be aware that such information is confidential. The confidentiality obligations herein do not apply to any information that: (i) is or becomes generally available to the public through no fault of the receiving party; (ii) is possessed by the receiving party, as evidenced by the receiving party's written records, before receipt thereof from the disclosing party; (iii) is disclosed to the receiving party in good faith by a third party who has an independent right to such information; (iv) is developed by the receiving party as evidenced by documentation, independently of the confidential information; or (v) is required to be disclosed by the receiving party pursuant to an order of a court of competent jurisdiction or other governmental agency having the power to order such disclosure, provided the receiving party uses its best efforts to provide timely notice to the disclosing party of such order to permit the disclosing party an opportunity to contest such order. Each party will hold in confidence and will not disclose to any other person or entity, except with the written consent of the other party or pursuant to the exceptions stated in this paragraph, any Confidential Information of the other party, and will not use such Confidential Information except as necessary to perform such party's obligations pursuant to this Contract.

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21. ***Assignment:*** This Contract shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns. 3D at Depth may assign this Contract in connection with any sale of substantially all of its assets. This Contract is personal to Buyer, and Buyer may not assign any of its rights or delegate any of its obligations there under, in whole or in part, without the prior written consent of 3D at Depth which may be withheld for any reason.

22. ***Complete Agreement; Modifications:*** This Contract constitutes the entire agreement between the parties relating to the sale of the products and performance of services (if any) and no addition to or modification of any provision of this Contract shall be binding unless agreed in writing by 3D at Depth and Buyer.

23. ***Notices:*** All notices given under this Contract shall be in writing, mailed by first class mail, certified or registered, or delivered by hand or sent by a nationally recognized overnight courier, to the address of the other party set forth in the sales quotation or to such other address as such party may designate from time to time by such notice, and shall take effect when received.

24. ***Non-Exclusivity***. The parties acknowledge and agree that nothing set forth herein shall impair the either party's right to provide products, services or any other services or materials to any third parties on such terms and conditions as such party may determine in its sole discretion.

25. ***Relationship of the Parties***. The parties acknowledge and agree that their relationship is that of independent contractors. Nothing set forth herein shall be construed to place the parties in the relationship of partners or joint venturers, and neither party shall have any right or power to obligate or bind the other in any manner whatsoever except as authorized in this Agreement or otherwise specifically authorized in writing.

*26. **MBARI Reimbursement of Non-Recurring Engineering (NRE) Costs**:*

MBARI has requested that if the subsea LIDAR system developed under this Contract is sold, leased or otherwise provided by 3D at Depth to other clients for profit, then there is a mechanism for MBARI to recoup a portion of the Non-Recurring Engineering (NRE) costs associated with this Contract, which will primarily be realized in the second phase of the program (Detailed Design Phase). Total recoupable NRE costs will be determined by 3D at Depth at the end of the second phase and a description thereof will be provided to MBARI in writing. It is agreed that NRE reimbursement is not for standard changes (such as housing length changes or connector changes), but for significant changes in technology beyond what 3D at Depth has already implemented or designed. 3D at Depth agrees that if the design of the subsea LIDAR specifically developed for MBARI under this program is used commercially by 3D at Depth and such use generates income for 3D at Depth, then MBARI will be paid 10% of the net income actually paid to 3D at Depth in connection with such use until 100% of the recoupable NRE costs have been reimbursed. Payments pursuant to this provision will be made to MBARI within 30 days of 3D at Depth receiving payment.

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Accepted by:

3D at Depth, Inc.

Name: Carl Embry

Title: CEO

Date:_____

Accepted by:

MBARI

Name: _____

Title: _____

Date:_____

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