

Cooperative Research & Development Agreement

Article 1. INTRODUCTION

This Cooperative Research and Development Agreement (CRADA) between the Office of Atmospheric and Oceanic Research, Ocean Exploration and Research, a Unit of the National Oceanic and Atmospheric Administration (NOAA) and Proteus Ocean Group Ltd. ("the Collaborator") will be effective when signed by all Parties. The research and development project(s) which will be undertaken by each of the Parties in the course of this CRADA is detailed in the Technical Statement of Work (SoW) which is attached as part of Appendix A. Any exceptions or changes to the CRADA are set forth in Appendix B.

Article 2. DEFINITIONS

As used in this CRADA, the following terms shall have the indicated meanings:

- 2.1 **"Background Invention"** means any invention of either Party that is neither conceived nor first actually reduced to practice under the CRADA.
- 2.2 **"Cooperative Research and Development Agreement"** or **"CRADA"** means this Agreement, entered into by NOAA pursuant to 15 U.S.C. 3710a.
- 2.3 **"Invention"** means any invention or discovery which is or may be patentable or otherwise protected under Title 35 (35 U.S.C.) or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).
- 2.4 **"Principal Investigator"** or **"PI"** means the person designated respectively by each Party to this CRADA who will be responsible for the scientific and technical conduct of the research.
- 2.5 **"Project Team"** means all personnel assigned by the Collaborator to conduct the research designated in this CRADA.
- 2.6 **"Proprietary Information"** "Proprietary Information" means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing confidential scientific, business, or financial information, including data created under this CRADA solely by the Collaborator at the Collaborator's research facilities, which may embody trade secrets provided by the Collaborator to NOAA in the course of this CRADA, and developed exclusively at private expense, except if such information:
 - 2.6.1 was in NOAA's possession before receipt from the Collaborator; or
 - 2.6.2 is or becomes a matter of public knowledge through no fault of NOAA; or
 - 2.6.3 is received by NOAA from a third party without a duty of confidentiality; or
 - 2.6.4 is disclosed by the Collaborator to a third party without a duty of confidentiality on the third party; or
 - 2.6.5 is independently disclosed by NOAA with the Collaborator's prior written approval; or
 - 2.6.6 is independently developed by NOAA without reference to information disclosed hereunder.

- 2.7 **"Research Products"** means all tangible materials, other than CRADA Data, first produced in the performance of this CRADA.
- 2.8 **"CRADA Data"** means all recorded information first produced in the performance of this CRADA, excluding Proprietary Information
- 2.9 **"CRADA Invention"** means any invention conceived or first actually reduced to practice under this CRADA.

Article 3. COOPERATIVE RESEARCH

- 3.1 **Research Plan and Changes.** The Research Plan/Statement of Work (SoW) of this CRADA, its duration, and its objectives are detailed in Appendix A. The research under this CRADA shall be performed on a reasonable efforts basis. Collaborator certifies the correctness of the information contained in Appendix A.
- 3.2 **Reviews and Reports.** Periodic conferences shall be held by NOAA and the Collaborator to review work progress. Parties shall exchange formal written interim progress reports and final reports on a schedule as set forth in Appendix A.
- 3.3 **Principal Investigators.** NOAA shall be the supervising Federal agency, both administratively and scientifically, for this CRADA. The NOAA PI is responsible for the scientific and technical conduct of this project on behalf of NOAA. The designated Collaborator PI is responsible for the scientific and technical conduct of this project on behalf of the Collaborator. The Collaborator shall designate the Project Team in Appendix A of this CRADA.
- 3.4 **Project Team.** While at NOAA, the Project Team shall pursue its activities according to the work schedule and under the Government security and conduct regulations that apply to NOAA employees. The project team shall conform to the Standards of Ethical Conduct for Employees of the Executive Branch (Executive Order 12674 and 5 CFR Part 2635), as provided on March 03, 2023 and hereby made part of this CRADA, to the extent that these standards prohibit private business activities or interests incompatible with the best interest of the Department of Commerce. Individuals selected to work at the other Party's laboratory will be subject to the acceptance by that Party. Such acceptance shall not be unreasonably withheld.
- 3.5 **Change in Collaborator Status.** Collaborator agrees to notify NOAA within thirty days should it become subject to the control of a foreign company or government at any time during this CRADA, or if any other change occurs relevant to Appendix A.

Article 4. FINANCIAL OBLIGATIONS

- 4.1 **NOAA and Collaborator Contributions.** Each Party's contribution to the CRADA is listed in Appendix A. Payment schedules, if applicable, are also indicated in Appendix A. The Collaborator shall provide directly for travel and related expenditures for its Project Team. NOAA may not contribute funds to a non-Federal collaborator.

Article 5. TITLE TO EQUIPMENT

- 5.1 **Equipment.** Equipment purchased by NOAA with funds provided under this CRADA by the Collaborator shall be the property of NOAA. All equipment loaned under this CRADA by a Party remains the property of that Party unless the Parties agree in writing on some other disposition. Each Party's equipment will be returned to the lending Party at the lending Party's expense and risk as soon as practical after termination of the CRADA.

Article 6. TREATMENT OF PROPRIETARY INFORMATION

- 6.1 **Protection.** Each Party agrees to limit its disclosure of Proprietary Information to the other to the amount necessary to carry out the SoW of this CRADA. The Collaborator shall place a Proprietary Information notice on all information it delivers to NOAA under this CRADA, which the Collaborator asserts is proprietary. NOAA agrees that Proprietary Information shall be used only for the purposes described in the attached SoW. Except

where NOAA is legally obligated to release information pursuant to the Freedom of Information Act (5 U.S.C. 552), or other requirement of law, Proprietary Information shall not be disclosed or otherwise made available in any form to any other person, firm, corporation, partnership, association or other entity without the written consent of the Collaborator. NOAA agrees to use its best efforts to maintain the confidentiality of Proprietary Information. NOAA will promptly notify the Collaborator of requests for Collaborator's Proprietary Information. The Collaborator agrees that NOAA is not liable for the disclosure of information designated as Proprietary which, after notice to and consultation with the Collaborator, NOAA determines may not lawfully be withheld or which a court of competent jurisdiction requires disclosed.

These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this CRADA and are controlling.

Under this agreement, Collaborator considers the following as Proprietary Information. Additional items may be added to the Proprietary Information during the execution of this agreement:

1. Drawing, schematics, and blueprints of the PROTEUS™ habitat and ecosystem.
2. PROTEUS™ International Space Station of the Ocean financials, business plan and model
3. Confidential data and network information from partners, sponsors, and clients.
4. Data or insight (as applicable) related to the concept maturation and initial development phase of its underwater saturation facility.
5. Methods of operation related to Collaborator missions.

Article 7. INTELLECTUAL PROPERTY

- 7.1 **Preference for U.S. Manufacturing.** The Parties agree that an important purpose of the CRADA is to improve U.S. competitiveness so as to provide substantial benefit to the U.S. economy. Thus, any product embodying CRADA inventions, or produced through the use of such inventions, for sale or use in the United States by the Collaborator or any affiliate, or licensee, shall be manufactured substantially in the United States.
- 7.2 **Rights to Background Inventions.** No rights to Background Inventions are conveyed by this CRADA.
- 7.3 **Reporting Inventions and Other Responsibilities.** Each Party shall promptly report in writing to the other Party, and to the NOAA Technology Partnerships Office, each CRADA Invention disclosed to it. Such reports shall be maintained as Proprietary by the receiving Party until such time as a patent or other intellectual property application claiming that CRADA Invention has been filed. The Collaborator shall ensure that all Project Team members (a) promptly report any CRADA Inventions they make to the Collaborator, and (b) sign any documents necessary or desirable for the filing and prosecution of patent applications. If any Project Team member is not the Collaborator's employee, the Collaborator shall require the member to agree in writing to assist the Collaborator in fulfilling all of its patent responsibilities under this CRADA.
- 7.4 **Treatment of CRADA Data.**
- 7.4.1 **Ownership of Original Copies of CRADA Data.** NOAA and the Collaborator agree to exchange all CRADA Data. Subject to these sharing requirements, the creating Party will retain the original copy of all CRADA Data created solely by it. NOAA shall retain the original copy of all jointly created CRADA Data; NOAA shall supply Collaborator with a copy of the original copy of jointly created CRADA Data, and Collaborator shall have access to the original copy. NOAA and Collaborator shall each have the

right to use all CRADA Data for their own purposes, consistent with their obligations under this CRADA.

7.4.2 **Ownership of Copyrights of CRADA Data.** Collaborator may copyright its works, or those identifiable portions of a joint work created solely by a Project Team member. When Collaborator claims copyright, Collaborator shall affix the applicable copyright notice of 17 U.S.C. §§ 401, 402, and 403, and an acknowledgment of the scientific and technical contributions of NOAA. The Collaborator grants to the U.S. Government, a paid-up, non-exclusive, irrevocable world-wide license to reproduce or have reproduced, prepare or have prepared in derivative form, and distribute or have distributed copies of CRADA Data for government purposes. CRADA Data created by NOAA employees are not subject to copyright in the United States pursuant to section 105 of title 17 of the United States Code.

7.5 **Ownership of Research Products.** NOAA and the Collaborator agree to exchange samples of all Research Products. Research Products will be shared equally by the Parties. Subject to these sharing requirements, the Research Products created under this CRADA are the jointly owned property of the Parties. The Parties agree to make mutually acceptable arrangements for the disposition of unique or hard-to-replace Research Products.

7.6 **Publication and Disclaimer.** Except as provided in Sections 7.3 and 7.7, the Parties are encouraged to make publicly available the results of their research. Before either Party submits a paper or abstract for publication or otherwise intends to publicly disclose information about a CRADA Invention, CRADA Data, or Research Products, the other Party shall be provided thirty (30) days to review the proposed publication or disclosure. NOAA reports and publications developed under this CRADA shall carry the following disclaimer:

"This work was performed under a Cooperative Research and Development Agreement (CRADA) between NOAA and Collaborator. However, the views expressed herein are not necessarily those of NOAA, the Department of Commerce or the U.S. Government."

7.7 **Patenting and Ownership of CRADA Inventions.**

7.7.1 **Government's Minimum Rights.**

7.7.1.1 **NOAA Sole Inventions and Joint Inventions.** Pursuant to the Federal Technology Transfer Act of 1986 as amended (15 U.S.C. 3710a(b)), NOAA, on behalf of the United States Government, shall retain a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced NOAA Sole CRADA Inventions and Joint CRADA Inventions throughout the world by or on behalf of the Government.

7.7.1.2 **Collaborator Sole Inventions.** Pursuant to the Federal Technology Transfer Act of 1986 as amended (15 U.S.C. 3710a(b)), NOAA, on behalf of the United States Government, shall be granted a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced Collaborator Sole CRADA Inventions throughout the world by or on behalf of the Government for research or other Government purposes.

7.7.2 **Joint CRADA Inventions.** Joint CRADA Inventions shall be jointly owned. Collaborator shall be responsible for filing U.S. Patent Applications for joint CRADA Inventions in a timely manner. If Collaborator does not file a U.S. Patent Application on a joint CRADA Invention within six (6) months after disclosure, NOAA may file a U.S. Patent Application on such joint CRADA Invention. The non-filing Party shall reasonably cooperate and assist the filing Party in perfecting the patent application, and the Filing Party shall have the right to control the prosecution of the U.S. Patent Application.

7.7.3 **Sole CRADA Inventions.** Except for Joint CRADA Inventions, each Party shall retain title to any CRADA Invention of its employees or Project Team members. The Party retaining title to a CRADA Invention may file a U.S. Patent Application after consultation with the other Party. The owner of a CRADA Invention has no duty to file a U.S. or foreign patent application.

7.7.4 **Patent Expenses and Prosecution.** All of the expenses attendant to the filing of patent applications

shall be borne by the Party filing such application. Each Party shall promptly provide the other Party with copies of Provisional Patent Applications filed, Non-Provisional Patent Applications filed and Office Actions relating to any CRADA Invention. Any post filing and post-patent fees shall also be borne by the same Party.

- 7.7.5 **Foreign Filings of CRADA Inventions.** The Parties will consult with each other as to the advisability of filing for patent protection outside the U.S.

Article 8. LICENSING

- 8.1 **Option for a Commercialization License.** NOAA, on behalf of the Government, hereby agrees to grant to the Collaborator an option to choose an exclusive or nonexclusive commercialization license to patents or patent applications on NOAA CRADA Inventions and an exclusive commercialization license to NOAA's interest in patents or patent applications on joint CRADA Inventions. The exclusive or nonexclusive license shall be limited to fields of use defined by the subject matter of the SoW found in Appendix A. The license will specify the licensed fields of use, geographic territory, markets, term and royalties, and will, pursuant to Article 7.1 of this CRADA, contain a requirement that products manufactured for sale or use in the United States under the license will be manufactured substantially in the United States. Additional terms and conditions shall be added to all licenses consistent with applicable statutes and regulations. The royalty rates will be based on product sales and the rates conventionally granted in the field identified in the SoW for inventions with reasonably similar commercial potential. The royalty rates will also reflect the relative contributions of the Parties to the invention. Licenses granted under this Article are subject to the reservation of patent licenses in favor of the United States Government required in Section 7.7.1 above.
- 8.2 **Exercise of License Option to NOAA Sole CRADA Inventions.** The option of Section 8.1 must be exercised by written notice mailed within one (1) month after Collaborator's receipt from NOAA of the First Ex parte Action on the Merits by the PTO. The "First Ex parte Action on the Merits" is defined as: The First Ex parte Action on the Merits that clearly establishes the issues which exist between the examiner and the patent owner insofar as the patent is concerned. An action that contains only a restriction requirement does not constitute a "First Ex parte Action on the Merits." Exercise of this option by the Collaborator initiates a negotiation period that expires six (6) months after Collaborator's receipt from NOAA of the First Ex parte Action on the Merits by the PTO. If the last proposal by the Collaborator has not been responded to in writing by NOAA within this six (6) month period, the negotiation period shall be extended to expire one (1) month after NOAA responds. If no CRADA is concluded in this period or if Collaborator exercises its option for a nonexclusive license, NOAA shall be free to license such CRADA Inventions to others.
- 8.3 **Exercise of License Option to Joint CRADA Inventions.** The option to NOAA's interest in patents or patent applications on Joint CRADA Inventions of Section 8.1 must be exercised by written notice mailed within one (1) month after the Collaborator is notified by the Patent and Trademark Office that a patent will be allowed on the joint CRADA Invention. Exercise of this option by the Collaborator initiates a negotiation period that expires in six (6) months. If the last proposal by the Collaborator has not been responded to in writing by NOAA within this six (6) month period, the negotiation period shall be extended to expire one (1) month after NOAA responds. If no agreement is concluded in this period or if Collaborator exercises its option for a nonexclusive license, NOAA shall be free to license such CRADA Inventions to others.

Article 9. TERMINATION

- 9.1 **Notices.** The Collaborator and NOAA shall each have the right to terminate this CRADA upon 30 day notice in writing to the other Party.
- 9.2 **Termination After Change of Control.** NOAA may terminate this CRADA immediately if direct or indirect control of the Collaborator is transferred to a foreign company or government; or, if Collaborator is already controlled by a foreign company or government, if that control is transferred to another foreign company or government.
- 9.3 **Interim Extension.** Upon written or electronic notice from the Collaborator and NOAA PI that it is the intent

that the CRADA be amended, as provided in Section 12.5, to extend the term of the CRADA, the term of this CRADA shall be extended for ninety (90) days. Such interim extension shall be available only once prior to the effective date of a written amendment pursuant to Article 12.5 extending the CRADA.

Article 10. **DISPUTES**

- 10.1 **Settlement.** Any dispute arising under this CRADA, which is not disposed of by agreement of the Parties, shall be submitted jointly to the signatories of this CRADA. A joint decision of the signatories or their designees shall be the disposition of such dispute. If the Parties cannot reach a joint decision, either Party may terminate this CRADA immediately.
- 10.2 **Continuation of Work.** Pending the resolution of any dispute or claim pursuant to this Article, the Parties agree that performance of all obligations shall be pursued diligently in accordance with the direction of the NOAA signatory.

Article 11. **LIABILITY**

- 11.1 **Property.** The U.S. Government shall not be responsible for damage to any property of the Collaborator provided to NOAA or acquired by NOAA pursuant to this CRADA.
- 11.2 **Indemnification.**
- 11.2.1 **Conduct of Employees.** Collaborator's Project Team assigned to this SoW are not employees of NOAA. The Collaborator shall indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind to the Collaborator's Project Team arising in connection with this CRADA, except to the extent that such loss, claim damage or liability arises from the negligence of NOAA or its employees. NOAA's responsibility for payment of tort claims in connection with the performance of work under this CRADA is governed by the Federal Tort Claims Act.
- 11.2.2 **Collaborator's Use of NOAA Research.** The Collaborator shall indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind arising out of the use by the Collaborator, or any Party acting on its behalf or under its authorization, of NOAA's research and technical developments or out of any use, sale or other disposition by the Collaborator or others acting on its behalf or with its authorization, of products made by the use of NOAA's technical developments.
- 11.3 **Force Majeure.** Neither Party shall be liable for any unforeseeable event beyond its reasonable control not caused by the fault or negligence of such Party, which causes such Party to be unable to perform its obligations under this CRADA (and which it has been unable to overcome by the exercise of due diligence), including, but not limited to, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civic disturbance or disobedience, strikes, labor dispute, or failure, threat of failure, or sabotage of the NOAA facilities, or any order or injunction made by a court or public agency. In the event of the occurrence of such a force majeure event, the Party unable to perform shall promptly notify the other Party. It shall further use its best efforts to resume performance as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the force majeure event.
- 11.4 **NO WARRANTY.** THE PARTIES MAKE NO EXPRESS OR IMPLIED WARRANTY AS TO ANY MATTER WHATSOEVER, INCLUDING THE CONDITIONS OF THE RESEARCH OR ANY INVENTION OR PRODUCT, WHETHER TANGIBLE OR INTANGIBLE, MADE OR DEVELOPED UNDER THIS CRADA, OR THE OWNERSHIP, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR ANY INVENTION OR PRODUCT.

Article 12. **MISCELLANEOUS**

- 12.1 **No Benefits.** No member of, or delegate to the United States Congress, or resident commissioner, shall be

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Collaborator: Proteus Ocean Group, Ltd.
Project Title: PROTEUS™ underwater saturation facility

admitted to any share or part of this CRADA, nor to any benefit that may arise therefrom; but this provision shall not be construed to extend to this CRADA if made with a corporation for its general benefit.

- 12.2 **Governing Law.** The construction validity, performance and effect of this CRADA for all purposes shall be governed by the laws of the United States.
- 12.3 **Entire Agreement.** This CRADA constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes any prior understanding or written or oral agreement relative to said matter.
- 12.4 **Headings.** Titles and headings of the Sections and Subsections of this CRADA are for the convenience of references only and do not form a part of this CRADA and shall in no way affect the interpretation thereof.
- 12.5 **Amendments.** If either Party desires a modification in this CRADA, the Parties shall, upon reasonable notice of the proposed modification by the Party desiring the change, confer in good faith to determine the desirability of such modification. Such modification shall not be effective until a written amendment is signed by all the Parties hereto by their representatives duly authorized to execute such amendment.
- 12.6 **Assignment.** Neither this CRADA nor any rights or obligations of any Party hereunder shall be assigned or otherwise transferred by either Party without the prior written consent of the other Party except that the Collaborator may assign this CRADA to the successors or assignees of a substantial portion of the Collaborator's business interest to which this CRADA directly pertains.
- 12.7 **Notices.** All notices pertaining to or required by this CRADA shall be in writing and shall be directed to the signatories.
- 12.8 **Independent Contractors.** The relationship of the Parties to this CRADA is that of independent contractors and not as agents of each other or as joint venturers or partners. Each Party shall maintain sole and exclusive control over its personnel and operations.
- 12.9 **The Use of Name or Endorsements.** The Use of Name or Endorsements. Collaborator shall not use the name of NOAA or the Department of Commerce on any advertisement, product or service which is directly or indirectly related to either this CRADA or any patent license or assignment agreement which implements this CRADA. By entering into this CRADA, NOAA does not directly or indirectly endorse any product or service provided, or to be provided, by the Collaborator its successors, assignees, or licensees. The Collaborator shall not in any way imply that this CRADA is an endorsement of any such product or service. NOAA shall not use the name or brand assets of Collaborator without notice to Collaborator.
- 12.10 **Duration of the CRADA.** It is mutually recognized that the duration of this project cannot be rigidly defined in advance and that the contemplated time periods for various phases of the SoW are only good faith guidelines subject to adjustment by mutual agreement to fit circumstances as the SoW proceeds. In no case will the term of this CRADA extend beyond the term specified in Appendix A § 9 unless it is revised in accordance with Section 12.5.
- 12.11 **Full Execution.** The Collaborator acknowledges that this CRADA is not an offer to enter into a contract and cannot unilaterally be made binding. No contract exists until this CRADA is fully executed and signed by all parties.
- 12.12 **Survivability.** The provisions of Articles 6, 7, 8, 11, and 12.9 shall survive the termination of this CRADA.
- 12.13 **EXPORT OF TECHNICAL DATA.** THE COLLABORATOR AGREES TO COMPLY WITH UNITED STATES EXPORT LAWS AND REGULATIONS, INCLUDING BUT NOT LIMITED TO THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (22 CFR PART 121 ET SEQ.) AND THE DEPARTMENT OF COMMERCE EXPORT REGULATIONS (15 CFR PART 770 ET SEQ.). THE COLLABORATOR AGREES THAT DURING THE PERFORMANCE OF WORK UNDER THIS CRADA, NO TECHNICAL DATA CREATED UNDER THIS CRADA WHICH IS CONTROLLED BY U.S. EXPORT LAWS AND REGULATIONS SHALL BE DISCLOSED TO ANY FOREIGN NATIONAL, FIRM, OR

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Project Title: PROTEUS™ underwater saturation facility

COUNTRY, INCLUDING FOREIGN NATIONALS EMPLOYED BY THE COLLABORATOR, WITHOUT THE COLLABORATOR FIRST OBTAINING THE APPROPRIATE LICENSES OR APPROVALS, IF NECESSARY.

- 12.14 **GOVERNMENT DISCLOSURE** Nothing in this CRADA bars disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

IN WITNESS WHEREOF, the Parties have caused this CRADA to be executed by their duly authorized representatives as follows:

Signatory for the Collaborator:



Lisa Marrocchino
Chief Executive Officer

March 9, 2023

Date

Mailing Address for Notices:

Proteus Ocean Group, Ltd.
888 Seventh Avenue
29th Floor
New York, NY 10106

Signatories for NOAA:




Jeremy Weirich
Director, Ocean Exploration Research

March 14, 2023

Date

Approved by:



Steven M. Thur, PhD
Assistant Administrator
Oceanic and Atmospheric Research

April 13, 2023

Date

Mailing Address for Notices and Informational Copies:

Attention:

NOAA, Technology Partnerships Office
1305 East West Highway
SSMC 3, Room 12107
Silver Spring, MD 20910
301-628-1010

Appendix A The Research Plan/Statement of Work

NOAA requires the information listed below. NOAA considers items 7, 10, 11, 14, and 15 proprietary business information.

1. Collaboration Project Title. **PROTEUS™ underwater saturation facility**
2. Contracts, Grants and Other Pre-Existing Relationships.

NOTE: The U.S. Government may not transfer any funds to a Collaborator directly under a CRADA. Therefore, and in accordance with 15 C.F.R. 17.3, the technical subject matter of any existing funding agreement must be sufficiently distinct from that of the CRADA, and a Collaborator may not transfer funds to a Laboratory under a CRADA using funds awarded under a contract by that Laboratory.

Please check the appropriate box

- Laboratory/Program does not have an existing contractual or similar legal relationship with the prospective partner(s); or
- Laboratory/Program does have an existing contractual or similar legal relationship with the prospective partner(s), but the Laboratory Director has determined, in accordance with the factors listed at 15 CFR 17.3(c), that the technical subject matter of the funding agreement is sufficiently distinct from that of this CRADA;

Please reference any existing contracts or other agreements below:

<u>Type of Relationship</u>	<u>Tracking Number</u>	<u>Start Date</u>	<u>End Date</u>
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3. National Environmental Policy Act (NEPA) Compliance. The NOAA PI and Laboratory/Program signatory are responsible for ensuring compliance with all NEPA regulations for activities under this CRADA.
4. Collaborator Eligibility. In order to assure compliance with section 2 of the Federal Technology Transfer Act of 1986 (15 U.S.C. 3710a), the Collaborator must provide the following information to NOAA:

Please check the appropriate box

- Collaborator certifies that it is not subject to the control of any foreign company or government, and agrees to notify NOAA within thirty days should it become subject to the control of a foreign company or government at any time during this CRADA; or
- Collaborator acknowledges that it is subject to the control of the following foreign company or government (if a company, please specify nationality):

Company Name, Country/Government

Collaborator certifies to NOAA that it is incorporated under the laws of one of the states or territories of the United States; and that it has a manufacturing presence in the United States; and that the foreign government listed above permits United States agencies, organizations, or other persons to enter into cooperative agreements and licensing agreements.

5. Protection of Human Subjects. To assure compliance with 15 CFR Part 27 (the Common Rule for Protection of Human Subjects) and other relevant statutes, regulations and Presidential statements of Policy, the Collaborator must check the appropriate box:

Please check the appropriate box

- The research to be conducted under this CRADA does not involve human subjects within the meaning of 15 CFR Part 27.
- The research to be conducted under this CRADA involves human subjects within the meaning of 15 CFR Part 27, and Collaborator agrees to take all steps required by NOAA to assure compliance with 15 CFR Part 27. Collaborator certifies that research involving human subjects shall not begin until an appropriate exemption or IRB review is completed and approved by NOAA.
6. Protection of Animal Subjects. To assure compliance with the Animal Welfare Act as amended, and implementing regulations (7 U.S.C. 2131 et seq., 9 CFR Parts 1, 2, and 3), and other Federal statutes and regulations relating to animals, the Collaborator must check the appropriate box:

Please check the appropriate box

- The research to be conducted under this CRADA does not involve animal subjects within the meaning of 7 U.S.C. 2131 et seq. and 9 CFR Parts 1, 2, and 3.
- The research to be conducted under this CRADA involves animal subjects within the meaning of 7 USC 2131 et seq. and 9 CFR Parts 1, 2, and 3, and Collaborator agrees to take all steps required by NOAA to assure compliance with 9 CFR Parts 1, 2, and 3. Collaborator certifies that research involving animal subjects shall not begin until documentation of the appropriate reviews and certifications have been provided to and approved by NOAA.
7. Company Name and Address (city, state, zip code):
- Proteus Ocean Group, Ltd.
888 Seventh Avenue
29th Floor
New York, NY 10106
8. Licensing of Background Inventions belonging to NOAA. CRADA partners may apply for exclusive or nonexclusive licenses in Background Inventions belonging to NOAA. Collaborator hereby states that:

Please check the appropriate box

- Collaborator is not engaged in discussions with NOAA concerning a NOAA Background Invention that is related to the work done under this CRADA.
- Collaborator is engaged in discussions with NOAA concerning a NOAA Background Invention that is related to the work done under this CRADA.
9. NOAA's Principal Investigator (please provide name, mail address, and telephone number):
(The NOAA P.I. may change at NOAA management's sole discretion.)
- Jeremy Weirich Jeremy.weirich@noaa.gov
1315 East West Highway
Silver Spring MD 20910
671-875-4658
10. Collaborator's Principal Investigator(s) (please provide name, mail address, and telephone number):

Dr. Brian Helmuth	35 Stony Brook Rd. Marblehead, MA 01945	803-238-3011
Dr. Mark Patterson	18 Naples Road, Salem MA 01970	617-373-3676

11. Duration of the CRADA: 3yrs
12. Collaborator Personnel, Services, Facilities, Intellectual Property, Equipment, and/or Funds Contributions are listed as follows:

All Collaborator Personnel, Services, Facilities, Intellectual Property, Equipment, and/or Funds Contributions are included in the Statement of Work (Item #15 below)

13. NOAA Personnel, Services, Facilities, Intellectual Property, and/or Equipment Contributions are listed as follows (NOAA management reserves the right to replace these staff members at its sole discretion):

All NOAA Personnel, Services, Facilities, Intellectual Property, Equipment, or other contributions are included in the Statement of Work (Item #15 below)

14. Collaborator's Project Team (please list):

<u>Name</u>	<u>Telephone</u>
Lisa Marrocchino	203-858-1198
Dr. Brian Helmuth	803-238-3011
Dr. Mark Patterson	617-373-3676
Randy Brandenburg	617-852-8220
Lisa Truitt	202-251-9544
Storm Boswick	917-860-4316

15. The Technical Statement of Work (SoW):

NOAA is a science-based federal agency within the Department of Commerce with regulatory, operational, and information service responsibilities with a presence in every US state and territory. Through its long-standing mission of science, service, and stewardship, NOAA generates tremendous value for the Nation — and the world — by advancing our understanding of and ability to anticipate changes in the Earth's environment, by improving society's ability to make scientifically informed decisions, and by conserving and managing ocean, coastal, and Great Lakes' resources.

Collaborator is building PROTEUS™, the world's most advanced underwater research station ("PROTEUS™). PROTEUS™ is an ocean observatory and research platform and lab that will enable in situ underwater human presence of scientists, innovators, private citizens, the public sector, and global customers to search for and reveal solutions to our planet's most critical concerns; including data gathering, sensor deployment, new wellness and medicinal discoveries, food sustainability, and the impacts of climate change, aquanaut and astronaut training, space innovations and overall ocean's health for present and future generations. The habitat will include innovative life support systems, including food production such as aquaponics, aeroponics, hydroponics, and aquaculture allowing inhabitants to grow fresh plant life for food, assessing and studying the physiology and psychology of humans while under saturated conditions, marking a unique approach to address challenges that come with underwater living and working. The habitat will work toward 100% sustainable power exploring hybrid sources including wind and solar, and ocean thermal conversion technology, and will include a full-scale video production facility to provide continuous live streaming for facilitating research and educational programming.

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Project Title: PROTEUS™ underwater saturation facility

NOAA and Collaborator agree to provide initial insight into opportunities for research using the unique capabilities provided by the PROTEUS™ underwater saturation facility and by the Collaborator team of experts, including but not limited to questions related to climate change and climate impacts; ecosystem health and resilience; marine debris; public engagement in ocean exploration; sustainable ocean food production; natural products and biotechnology. Acknowledging the shared values of both organizations, this CRADA is designed to identify opportunities for collaboration and articulate actions to achieve common goals. The scope of this CRADA shall be to determine NOAA's needs, recommendations, and desired capabilities in underwater research facilities.

The parties therefore intend to:

Provide each other with relevant updates and meet at least annually to share objectives, plans, and needs for both the current year and the following three year period. In sharing these objectives and plans, the parties will endeavor to provide mutual assistance within their respective abilities to do so.

Share data and scientific information resulting from cruises, expeditions, and campaigns, to the best extent practicable, noting that Collaborator, as a privately held company, may have a proprietary interest in first use or other rights to data, images, footage and certain discoveries resulting from cruises, expeditions, and campaigns it conducts on its own. Any use restrictions necessary prior to sharing Collaborator data will be agreed upon as indicated in writing before providing such data to NOAA, and may not inhibit NOAA's rights to such data under Article 7.4.2. In the event of joint data collections, the parties will agree upon the sharing of data in writing prior to data collection, and generally intend to openly share environmental data collected jointly under an open license.

NOAA may provide, as practicable, access to subject matter experts, vessels and other equipment, technology expeditions, and mission results, as well as shoreside facilities and programs throughout the mission portfolios of oceans, weather, climate, and coastal science, and mission programs such as but not limited to the Ocean Exploration, Ocean Acidification, Ocean Observing, National Marine Sanctuaries Program, Sea Grant, Marine Debris, Coastal Zone Management, Estuarine Research Reserves, Climate, Satellite, and other programs.

Collaborator may provide data or insight (as applicable) related to the concept maturation and initial development phase of its underwater saturation facility.

NOAA and Collaborator may undertake joint expeditions, exchange personnel, and conduct engagements of personnel to share methods of operation related to the missions.

Where appropriate and following a mutually agreed upon approval process, communicate their activities across various media platforms.

Designate key points of contact and establish their own reporting mechanisms to ensure the relationship is professionally managed and mutually beneficial.

Appendix B

Exceptions or Changes to the CRADA

All changes listed below have been reviewed and approved by legal as of 3/3/2023

*Adjust Section 3.4 as follows:

While at NOAA, the Project Team shall pursue its activities according to the work schedule and under the Government security and conduct regulations that apply to NOAA employees. The project team shall conform to the Standards of Ethical Conduct for Employees of the Executive Branch (Executive Order 12674 and 5 CFR Part 2635), as provided on ___(date)___ and hereby made part of this CRADA, to the extent that these standards prohibit private business activities or interests incompatible with the best interest of the Department of Commerce. Individuals selected to work at the other Party's laboratory will be subject to the acceptance by that Party. Such acceptance shall not be unreasonably withheld.

*Revise Add the following language at the end of the existing language in in Article 6:
Article 6. TREATMENT OF PROPRIETARY INFORMATION

Under this agreement, Collaborator considers the following as Proprietary Information. Additional items may be added to the Proprietary Information during the execution of this agreement:

1. Drawing, schematics, and blueprints of the PROTEUS™ habitat and ecosystem.
2. PROTEUS™ International Space Station of the Ocean financials, business plan and model
3. Confidential data and network information from partners, sponsors, and clients.
4. Data or insight (as applicable) related to the concept maturation and initial development phase of its underwater saturation facility.
5. Methods of operation related to Collaborator missions.

*Adjust Section 7.4.2 as follows:

Collaborator may copyright its works, or those identifiable portions of a joint work created solely by a Project Team member. When Collaborator claims copyright, Collaborator shall affix the applicable copyright notice of 17 U.S.C. §§ 401, 402, and 403, and an acknowledgment of the scientific and technical contributions of NOAA. The Collaborator grants to the U.S. Government, a paid-up, non-exclusive, irrevocable world-wide license to reproduce or have reproduced, prepare or have prepared in derivative form, and distribute or have distributed copies of CRADA Data for government purposes. CRADA Data created by NOAA employees are not subject to copyright in the United States pursuant to section 105 of title 17 of the United States Code. NOAA may, however, claim copyright in such works outside of the United States.

*Adjust Section 12.9 as follows:

The Use of Name or Endorsements. Collaborator shall not use the name of NOAA or the Department of Commerce on any advertisement, product or service which is directly or indirectly related to either this CRADA or any patent license or assignment agreement which implements this CRADA. By entering into this CRADA, NOAA does not directly or indirectly endorse any product or service provided, or to be provided, by the Collaborator its successors, assignees, or licensees. The Collaborator shall not in any way imply that this CRADA is an endorsement of any such product or service. NOAA shall not use the name or brand assets of Collaborator without notice to Collaborator.

*Adjust Section 2.6 as follows:

"Proprietary Information" means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing confidential scientific, business, or financial information, including data created under this CRADA solely by the Collaborator at the Collaborator's research facilities, which may embody trade secrets provided by the Collaborator to NOAA in the course

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of this CRADA, and developed exclusively at private expense, except if such information:

Appendix C
NOAA Principal Investigator
Certification and Conflict of Interest Statement

As used in this Statement, the term "Collaborator" refers to the specific organization(s) that is/(are) proposed as a signator(s) of this Cooperative Research and Development Agreement.

With my signature, I certify the following are true:

- The Lab/Program will comply with all reporting requirements under the **National Environmental Policy Act (NEPA)** for the research and development conducted under this agreement.
- The Collaborator is not currently engaged in a contractual relationship with the Lab/Program which could be construed as payment by NOAA for the activities they are conducting under this CRADA.
- The work conducted under the CRADA is not being used in place of services that would normally be conducted through a contractual relationship.
- This agreement is not intended to provide unfair advantage to the Collaborator by developing requirements for a future contractual activity.

I understand that I, my spouse, and other relatives living with me may not engage in activities or relationships that present a real or potential conflict of interest. This includes:

- Financial interests that can be directly affected by the Collaborator of this CRADA.
- Employment with or promises of employment from the Collaborator.
- Nonofficial relationships with the Collaborator that have or may have a real or potential personal benefit.

There may be activities or relationships (past, present, or planned in the future) with the Collaborator other than those listed above that may raise a concern of real or apparent conflicts of interest. Such activities or relationships should be briefly described below. In the event that I become aware of any possible conflict of interest, I must notify my Laboratory Director as soon as possible.

Signature of NOAA Scientist _____ Date: _____

Printed Name: _____ Organization: _____

RETURN FORM TO:
NOAA, Technology Partnerships Office
1305 East West Highway
SSMC 3, Room 12107
Silver Spring, MD 20910
301-628-1010