

## VOYAGE CHARTER CONTRACT

THIS VOYAGE CHARTER CONTRACT ("Charter Contract") is entered into as of the Effective Date, by and between BIGELOW LABORATORY FOR OCEAN SCIENCES ("Owner"), being owner of the good vessel called R/V "BOWDITCH" which is more specifically described in Exhibit A, attached hereto and made a part hereof ("Vessel"), and the Charterer ("Charterer"). For and in consideration of the Hire Cost and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Owner and Charterer (individually, "Party" and, collectively, "Parties") agree as follows:

1. Term. The term of this Charter Contract shall commence on the Effective Date and shall end on the Redelivery Date and Time ("Term").
2. Definitions. The following terms shall have the following meanings for purposes of this Charter Contract:
  - a. "Charterer's Personnel" means Charterer's employees, representatives, agents, and subcontractors, including without limitation Charterer's scientific party and any volunteers, students, or interns.
  - b. "Owner's Crew" means Owner's employees, representatives, agents, and subcontractors, including without limitation the Master, Chief Scientist, and other crew.
  - c. Except for those terms that are expressly defined in this Charter Contract, all other capitalized terms shall have the meaning ascribed to them in the Cruise Plan submitted by Charterer and approved by Owner pursuant to paragraph 5(b), below, which shall be deemed attached hereto and made a part hereof as Exhibit B.
3. Voyage Charter. Owner agrees to let, and Charterer agrees to hire the Vessel (including the Vessel's tackle, apparel, equipment, machinery, apparatus, furniture, and stores), along with Owner's Crew, for the Term or until earlier terminated, pursuant to the provisions of this Charter Contract.
4. Condition of Vessel. Owner shall, before and at the commencement of any voyage and throughout the Term, exercise due diligence to ensure that the Vessel meets the following requirements:
  - a. Seaworthiness. The Vessel's hull, machinery, tackle, gear, apparatus, and equipment shall be seaworthy in all respects, and conform to the minimum standards set forth in the applicable Code or Federal Regulations for the Vessel's class.
  - b. Documentation. The Vessel shall comply with the provisions of 46 CFR Subchapter U that apply to a vessel of the Vessel's size. If the Vessel will carry more than six passengers, it shall be documented as a Passenger Vessel and shall meet the inspections and safety requirements of 46 CFR Subchapter T or H that apply to a vessel of its size. If the Vessel will carry six or fewer passengers, it shall possess a current USCG Safety Inspection form or decal and be documented for coastwise service or fisheries coastwise service.
  - c. Inspections. Charterer or its designee may inspect the Vessel at any time during the Term to ensure that the Vessel meets the requirements of this Charter Contract, subject to Owner's prior approval which shall not be unreasonably withheld. Any such inspection shall be made without any undue interference with or hindrance to the Vessel's safe and efficient operation.
  - d. Suitability. Owner warrants that the Vessel is fit for Charterer's Type of Operation and General Operating Area.
5. Operations.
  - a. Control of Vessel. In matters of navigation and the safety of the Vessel, Owner's Crew, and Charterer's Personnel who occupy the Vessel at any time during the Term, the judgment of the Master shall control at all times. Charterer's Personnel who occupy the vessel at any time during the Term shall be limited to providing the Master with direction as to the Vessel requirements needed to accomplish the work to be conducted during a voyage.
  - b. Cruise Plan. Prior to commencement of any voyage by the Vessel, Charterer shall submit a written Cruise Plan to Owner in form acceptable to Owner. The Cruise Plan must be approved by written signature of Owner or designee prior to commencement of any voyage.

- c. Dangerous Cargo. At no time shall the Vessel carry any cargo deemed hazardous or dangerous by Owner, except when specifically required for the work to be conducted during a voyage and upon Owner's written consent in its sole discretion.
- d. Firearms. Firearms and ammunition may be needed for the safety of individuals during the Term. All firearms and ammunition shall be stored in a secure location accessible only to the Master and Owner's Chief Scientist when not in use. Firearms for hunting or recreation are prohibited on the Vessel.

6. Owner's Obligations.

- a. Manning of the Vessel. Owner shall, before and at the commencement of any voyage and throughout the Term, exercise due diligence to ensure that the Vessel is manned at all times during the Term by a competent crew. Each member of Owner's Crew shall be licensed if so required by U.S. Coast Guard (USCG) regulations for the Vessel class. The Master must have, at minimum, a 100-ton Master's license or, if the Vessel is larger than 100 tons, a license equal to or greater than that required by USCG regulations for the class or size of the Vessel. The Master must have experience in the waters of the General Operating Area.
- b. Wages. Owner shall provide and pay for all wages of Owner's Crew. Owner's Crew shall be and remain at all times and in every respect the servants, employees, and agents of Owner, and shall at no time and under no circumstances be "borrowed servants" or Charterer's Personnel.
- c. Insurance. Owner shall provide and keep in effect during the Term the following minimum insurance coverages and limits:
  - i. General liability (protection and indemnity) insurance, in an amount no less than \$1,000,000 per occurrence;
  - ii. Workers Compensation insurance, as required by Maine statutes for the Vessel's crew and officers; and
  - iii. Any other insurance coverage required by the Jones Act or other federal statute applicable to operations of the type covered by this Charter Contract including, without limitation, Jones Act Crew coverage.

Upon request, Owner shall provide Charterer with true copies of certificates of current insurance required herein. Owner shall provide at least 30 days advance written notification to Charterer of any cancellation, termination, or material change in coverage or limits of the insurance policies required herein.

- d. Provisions. Owner shall, during the Term, provide and pay for all necessary stores and provisions for Owner's Crew and for Charterer's Personnel who occupy the Vessel at any time during the Term.
- e. Accommodations. Owner shall provide living quarters and accommodations suitable for the use of Charterer's Personnel who occupy the vessel at any time during the Term. Owner will maintain living, eating, and head facilities in a clean and sanitary condition throughout the duration of any voyage.
- f. Records. At Charterer's reasonable request, Owner shall furnish Charterer with a true copy of all relevant logs, including the Vessel's bridge log and weather log.
- g. Compliance with Applicable Law. Owner warrants that the Vessel complies with all applicable provisions of 46 CFR §§ 188-196 (Subchapter U). Owner shall provide Charterer with a Cruise Handbook.
- h. Charges. Owner shall pay all wharfage, port dues, pilotage, towage and other charges or taxes customarily charged to the Vessel.

7. Charterer's Obligations.

- a. Passenger Waiver and Release. All of Charterer's Personnel who intend to or actually occupy the Vessel at any time during the Term must execute a passenger waiver and release, in such form as determined necessary and appropriate by Owner in its sole discretion, prior to the Effective Date. Charterer acknowledges and agrees that (i) execution of said waiver and release by each of the aforesaid Charterer's Personnel is an express

precondition of boarding the Vessel and Owner, in its sole discretion, may refuse to allow any such individual from boarding the Vessel and participating in any voyage for failure to execute said waiver and release.

- b. Hire Cost; Payment. Charterer shall pay the Hire Cost within 30 days of receipt of a payment request from Owner but, in no event, after the Effective Date.
- c. Cruise Handbook. Charterer warrants that Charterer and all passengers have reviewed the Cruise Handbook or User Manual provided by Owner and shall comply with all provisions set forth therein during any voyage.
- d. Cargo. Only lawful cargoes that have secured Owner's prior approval, which approval shall not be unreasonably withheld, may be loaded on the Vessel.
- e. Compliance with Master's Orders and Information Requests. Charterer's Personnel who occupy the Vessel at any time during the Term shall at all times cede authority on all matters of navigation and safety concerning the Vessel and the voyage to the Master and shall promptly comply with all requests by Master for information related to the use of the Vessel and any voyage.
- f. Compliance with Applicable Law. Charterer shall comply with all applicable state, federal or local laws, regulations, or ordinances, including those specific to Owner, pertaining to the use of the Vessel and the export of technical data, computer software, laboratory prototypes, and all other export-controlled commodities. Charterer shall not, directly or indirectly, reexport any controlled commodities to which it gains access under this Charter Contract, unless it first secures authorization or a license to do so from the applicable governmental authority. By entering into this Charter Contract, Charterer warrants that its use of the Vessel will not include the participation, at any level, of the entities and persons on the U.S. Government Consolidated Screening List ([www.trade.gov/consolidated-screening-list](http://www.trade.gov/consolidated-screening-list)). Charterer shall at all times accommodate unrestricted access to the Vessel by Owner and Owner's Crew in order to ensure compliance with this Charter Contract and any applicable laws, regulations, or ordinances. Charterer shall be solely responsible for securing any governmental permits, licenses, certifications, or approvals required by Charterer's operations on the Vessel prior to commencing any such operations.
- g. Special Equipment. Prior to any voyage, Charterer shall identify any of Owner's special equipment on the Vessel that is to be used to accomplish the work to be conducted during a voyage, including without limitation Owner's CTD Rosette. Charterer's Personnel shall at all times adhere to instructions of Owner's Crew qualified to operate such special equipment.
- h. Safe Ports. Charterer shall nominate safe ports for any personnel or cargo to be loaded and discharged. Owner shall nominate safe ports for refueling and refitting. A port is safe when the Vessel can reach it, use it, and return from it without exposure to danger or hazards which cannot be avoided by competent navigation and seamanship.
- i. Insurance. Charterer shall provide and keep in effect during the Term the following minimum insurance coverages and limits:
  - i. Maritime employer's liability insurance, in an amount no less than \$1,000,000 per occurrence.

Charterer shall cause Owner to be identified as an additional insured and shall provide a waiver of subrogation for all insurance policies required hereunder. Charterer shall provide Owner with true and correct copies of certificates of current insurance required hereunder. Charterer shall provide at least 30 days advance written notification to Owner of cancellation, termination or material change in coverage or limits of the insurance policies required herein.

- 8. Alcohol and Controlled Substances; Drug-Free Workplace. The Parties acknowledge that Owner is obligated to maintain its Vessel by federal standards as a drug-free workplace for occupancy and use by Charterer and the Vessel's crew. Neither Owner's Crew nor Charterer's Personnel who occupy the Vessel at any time during the Term shall possess or use alcoholic beverages or illegal drugs or other controlled substances while participating on any voyage during the Term, nor shall they board the Vessel while under the influence of said substances.
- 9. Indemnification; Limitation of Liability.

- a. To the fullest extent permitted by law, Charterer shall defend, indemnify, and hold harmless the Vessel, Owner's Crew, and Owner, its affiliates, officers, directors, employees, contractors, agents, students, volunteers, and representatives ("Indemnified Parties") from and against: (i) any and all losses, damages, liabilities, liens, deficiencies, claims, actions, judgments, settlements, fines, costs, penalties, or expenses, including reasonable attorneys' fees ("Claims") that are incurred by any of the Indemnified Parties to the extent that the Claims arise out of or are caused by any breach of this Charter Contract by Charterer's Personnel, Charterer, its affiliates, officers, directors, employees, contractors, agents, students, volunteers, representatives, or anyone directly or indirectly employed by Charterer, or anyone for whose acts Charterer may be liable ("Indemnifying Parties"); (ii) any bodily injury, death of any person, or damage to real or tangible property (including without limitation the Vessel and Owner's special equipment) caused by the negligent or willfully intentional acts or omissions of one or more of the Indemnifying Parties; or (iii) any failure by one or more of the Indemnifying Parties to comply with applicable federal, state, or local laws, regulations, or ordinances, including without limitation any violations of the ITAR, EAR, or other export control regulations.
- b. Without limiting the foregoing subparagraph (a) and unless otherwise expressly stated in this Charter Contract, the Indemnified Parties shall not be responsible for any loss or damage, or delay or failure in performing under this Charter Contract arising or resulting from: (i) any act, neglect, default, or barratry of Owner's Crew in the navigation of the Vessel; (ii) fire, unless caused by the negligent or willfully intentional acts or omissions of the Indemnified Parties; (iii) collision, stranding or peril, danger or accident of the sea or other navigable waters; (iv) saving or attempting to save life or property; (v) any loss or damage arising from inherent defect, quality, or vice of any cargo or special equipment; (vi) explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, equipment, or machinery, unless caused by the negligent or willfully intentional acts or omissions of the Indemnified Parties; (vii) unseaworthiness of the Vessel unless caused by want of due diligence on the part of Owner to make the Vessel seaworthy or to have it properly manned, equipped, and supplied pursuant to the terms of this Charter Contract; or (viii) from any other cause of whatsoever kind arising without the negligent or willfully intentional acts or omissions of the Indemnified Parties.
- c. Without limiting the foregoing subparagraphs (a) and (b) and unless otherwise expressly stated in this Charter Contract, neither the Indemnified Parties nor the Indemnifying Parties shall be responsible to the other for any loss or damage or delay or failure in performing under this Charter Contract arising or resulting from any Act of God; act of war; perils of the sea; act of public enemies, pirates or assailing thieves; arrest or restraint of princes, rulers or people; or seizure under legal process provided bond is promptly furnished to release the Vessel or cargo; strike or lockout or stoppage or restraint of labor from whatever cause, either partial or general; or riot or civil commotion.
- d. In no event shall Indemnified Parties be liable to the Indemnifying Parties for indirect, incidental, consequential, special, speculative, remote, or punitive damages (including, but not limited to, loss of profits or revenue, cost of capital, and down time cost) whether in an action in contract, tort, strict liability, or otherwise, arising from, relating to, or connected with this Charter Contract. Any provision of this Charter Contract to the contrary notwithstanding, the Indemnified Parties shall have the benefit of all limitation of, and exemptions from, liability accorded to owners of vessels by any applicable statute or rule.
- e. EXCEPT AS OTHERWISE PROVIDED HEREIN, EACH PARTY DISCLAIMS ALL OTHER WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, ANY IMPLIED WARRANTY ARISING FROM TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE OR ANY OTHER WARRANTIES, CONDITIONS, GUARANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN LAW OR IN FACT, ORAL OR IN WRITING.

#### 10. Suspension or Termination of Hire.

- a. Loss of Hire. In the event of the Charterer's loss of use of the Vessel as a result of a breach of this Charter Contract by Owner, hire shall be deemed to have ceased at the time the loss of use started until such breach is cured by Owner. Should the Vessel be lost, or if missing and presumed lost, during the Term, hire shall be deemed to have ceased at the time of her loss, or if such time is unknown at the time the Vessel was last heard from. If the Vessel should become a constructive total loss, hire shall be deemed to have ceased at the time of the casualty resulting in such loss. Should the Vessel be seized during the Term, hire shall be deemed to have

ceased from the time of seizure until the Vessel is again ready to perform in accordance with this Charter Contract.

- b. Suspension or Termination. In the event of a loss of use of the Vessel for a period of time in excess of 24 consecutive hours as a result of a breach, Vessel loss, or seizure pursuant to the foregoing subparagraph (a), Charterer may, at Charterer's option, suspend or terminate this Charter Contract by written notice to Owner. In the event of suspension, Hire Cost shall not be payable during the period of suspension and the Parties shall negotiate in good faith to reschedule the Term of the Charter Contract to such time when the Vessel is again in sufficient state to resume service; provided, however, that upon mutual agreement of the Parties, Charterer may occupy the Vessel and pay the Hire Cost during any period of suspension. In the event of termination, Owner shall reimburse to Charterer a pro rata portion of the Hire Cost, and this Charter Contract shall terminate without further liability of Owner to Charterer and of Charterer to Owner, provided that the Parties shall not be released from any payment or other obligations arising under this Charter Contract prior to such termination.

11. Salvage. All derelicts and salvage shall be for Owner's and Charterer's equal benefit after deducting Owner's and Charterer's expenses and Owner's Crew's share.

12. Releases of Information. Owner agrees that proprietary information disclosed and identified in writing by Charterer to Owner as proprietary information shall be held in strict confidence and used only in the performance of this Charter Contract. The standard of care for protecting such information is the same degree of care that Charterer uses to prevent disclosure, publication, or dissemination of its own proprietary or confidential information.

13. Miscellaneous Provisions.

- a. Rights and Remedies. Duties and obligations imposed by this Charter Contract, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.
- b. Waiver. No waiver by any party of any of the provisions of this Charter Contract shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Charter Contract, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Charter Contract shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- c. Assignment. Owner's and Charterer's rights and obligations arising as a result of this Charter Contract are not transferable without the other party's prior written consent, which may be withheld for any reason.
- d. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Charter Contract shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.
- e. Written Notice. All notices by either party relating to this Charter Contract shall be given in writing. Written notice shall be deemed to have been duly served if delivered in person to the party or party's designee; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.
- f. Severability. If any term or provision of this Charter Contract is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Charter Contract or invalidate or render unenforceable such term or provision in any other jurisdiction.
- g. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Signatures of the Parties transmitted by facsimile or .PDF shall be deemed to be their original signatures for all purposes.

- h. Governing Law. This Charter Contract shall be governed by U.S. maritime law or, if this Charter Contract is not a maritime contract under U.S. law, by the laws of the State of Maine.
- i. Dispute Resolution. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Charter Contract (a "Dispute") within 30 days after the date that a Party gives written notice of a Dispute to the other Party. If, after such negotiation, the Dispute remains unresolved, the Dispute shall be finally resolved by binding arbitration administered by the American Arbitration Association Commercial Arbitration Rules in effect as of the Effective Date. Unless otherwise agreed in writing by the Parties, any Dispute proceeding shall be held in Cumberland County, Maine. Any such decision rendered by the arbitrator shall be final, binding, and non-appealable. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing Party in any dispute arising out of this Charter Contract shall be entitled to reasonable attorneys' fees and costs.

14. Not a Bareboat Charter or Vessel Demise. Nothing herein stated is to be construed as a bareboat voyage or other demise of the Vessel to Charterer. Owner remains responsible for the safety and navigation of the Vessel, insurance, crew, and all other matters in the same fashion as when operating for its own account.

IN WITNESS WHEREOF, each of the undersigned Parties has caused its duly authorized representative to execute this Charter Contract as of the date first above written.

OWNER: BIGELOW LABORATORY FOR OCEAN SCIENCES

By \_\_\_\_\_

Name:

Title:

CHARTERER:

By \_\_\_\_\_

Name:

Title:

# VOYAGE CHARTER CONTRACT

## Exhibit A

### Description of Vessel

The R/V BOWDITCH is a twin screw, multi-purpose research vessel with catamaran hulls of welded aluminum construction. The vessel is so configured as to have a raised foredeck with center deck house and open deck aft. Above the main deck is the enclosed bridge deck with access to the upper deck level atop the deckhouse. Each hull is separated into five watertight compartments being the fore peak, cabin space, engine space, fuel tanks and the lazarette. Each exterior compartment is accessed by means of a flush deck hatch on the main or fore decks. At the transoms are extended platforms with retractable boarding ladders.

VOYAGE CHARTER CONTRACT

Exhibit B

Cruise Plan (submitted by Charterer and approved by Owner pursuant to paragraph 5(b) of this Charter Contract),  
attached hereto.