



Centre for Environment  
Fisheries & Aquaculture  
Science



**Cefas**

# Short Form Contract

## Contract for Services

**Contract Reference:** CEFAS24-06 Contract for the provision to provide subtidal Sabellaria spp. monitoring surveys using an Adaptive Resolution Imaging Sonar (ARIS) camera at Sizewell, Suffolk UK



Our Ref: CEFAS24-06  
Date: 17.06.2024

Dear Ocean Ecology Limited,

**Award of contract for the provision to provide subtidal Sabellaria spp. monitoring surveys using an Adaptive Resolution Imaging Sonar (ARIS) camera at Sizewell, Suffolk UK (Services)**

Following your tender/proposal for the supply of the Services to **The Secretary of State for Environment, Food and Rural Affairs** acting as part of the Crown through the **Centre for Environment, Fisheries and Aquaculture Science** ("the Customer"), we are pleased to award this contract to you.

This letter (**Award Letter**) and its schedules set out the terms of the contract between the Customer and Ocean Ecology Limited (**Contractor**) for the provision of the Services.

Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions of contract attached to this Award Letter (**Conditions**).

If there is any conflict between this Award Letter and the Conditions, this Award Letter shall prevail. Please do not attach any Contractor terms and conditions to this Agreement as they will not be accepted by the Customer and may delay the process.

For the purposes of the Agreement, the Customer and the Contractor agree as follows:

The Services shall be performed at Sizewell, Suffolk, UK.

The charges for the Services shall be as set out in Schedule 3.

The specification of the Services to be supplied is as set out in Schedule 4.

The Term shall commence on 24th June 2024, or as soon as possible after award and the Expiry Date shall be 31<sup>st</sup> December 2024.

The address for notices of the Parties are:

Customer	Contractor
Cefas [REDACTED] [REDACTED] [REDACTED]	Ocean Ecology [REDACTED] [REDACTED] [REDACTED]

The following persons are Key Personnel for the purposes of the Agreement:

Name	Title
[REDACTED] [REDACTED]	[REDACTED] [REDACTED]

The Customer may require the Contractor to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Service check. The Contractor shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Services, relevant to the work of the Customer, or is of a type otherwise advised by the Customer (each such conviction a **"Relevant Conviction"**), or is found by the Contractor to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Services.

## Payment

All invoices must be sent, quoting a valid purchase order number (PO Number), to: [REDACTED] or Cefas, Pakefield Road, Lowestoft, Suffolk NR33 0HT. Within [10] working days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.

To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your customer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email to [REDACTED]

## Liaison

For general liaison your contact will continue to be [REDACTED]  
in their absence, [REDACTED]

We thank you for your co-operation to date, and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. Please confirm your acceptance of the award of this contract by signing and returning the enclosed copy of this letter withing 5 days from the date of this letter. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours faithfully,

[REDACTED]

[REDACTED]  
Pakefield Road,  
Lowestoft,  
Suffolk,  
NR33 0HT, UK

[REDACTED]

Signed for and on behalf of the <b>Supplier</b>	Signed for and on behalf of the <b>Authority</b>
Name: [REDACTED] [REDACTED]	Name: [REDACTED] [REDACTED]
Date: 17/06/2024	Date: 18.06.2024
Signature [REDACTED]	Signature [REDACTED]

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This Agreement is made as a deed on the 17th day of June 2024

BETWEEN:

- (1) The Secretary of State for Environment, Food and Rural Affairs of Seacole Building, 2 Marsham Street, London, SW1P 4DF acting through The Centre for Environment, Fisheries and Aquaculture Science of Pakefield Road, Lowestoft, Suffolk, NR33 0HT (the "Customer").

And

- (2) Ocean Ecology Limited [REDACTED]  
[REDACTED] (the "Contractor").

WHEREAS:

- (A) NNB GENERATION COMPANY (SZC) LIMITED (referred to herein as "NNB") has awarded a contract to the Customer to perform work (hereinafter the "Project") for NNB; and
- (B) The Customer now wishes to utilise the resources of the Contractor to perform the Services as more particularly specified in SCHEDULE 4 herein, all of which Services comprise a vital portion of the work, for the ultimate benefit of NNB.
- (C) The Contractor is a specialist Contractor and represents that s/he has the required knowledge, experience and capacity to execute specified works under the physical conditions pertaining to the Services and will perform the same in a professional manner in accordance with this Agreement and with accepted practice in the industry.

The Parties have undertaken to work in a spirit of close co-operation for the purpose of executing the Services.

THE PARTIES AGREE AS FOLLOWS:

## 1. Interpretation

- 1.1 In these terms and conditions:

Term	Description
“Agreement”	means the contract comprising the documents set out in clause 20.5, between (i) the Customer acting as part of the Crown and (ii) the Contractor constituted by the Contractor’s signature of the Agreement;
“Award Letter”	means the letter from the Customer to the Contractor printed above these terms and conditions;
“Delta”	means the Customer’s electronic contract management system
“Central Government Body”	<p>means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <p>Government Department;</p> <p>Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>Non-Ministerial Department; or</p> <p>Executive Agency;</p>
“Charges”	means the charges for the Services as specified in the Award Letter;
“Confidential Information”	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Contractor”	means the person named as Contractor in the Agreement;
“Controller”	has the meaning given in the GDPR;
“Customer”	means the person identified As the Customer in the Agreement;

“Data Loss Event”	means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;
“Data Protection Impact Assessment”	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
“Data Protection Legislation”	means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy;
“Data Protection Officer”	has the meaning given in the GDPR;
“Data Subject”	has the meaning given in the GDPR;
“Data Subject Request”	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
“DPA 2018”	means the Data Protection Act 2018;
“Expiry Date”	means the date for expiry of the Agreement as set out in the Award Letter;
“FOIA”	means the Freedom of Information Act 2000;
“GDPR”	means the General Data Protection Regulation (Regulation (EU) 2016/679);
“Information”	has the meaning given under section 84 of the FOIA;
“Key Personnel”	means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Contractor in writing;

“Law”	means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the relevant Party is bound to comply;
“LED”	means Law Enforcement Directive (Directive (EU) 2016/680);
“Party”	the Contractor or the Customer (as appropriate) and “Parties” shall mean both of them;
“Personal Data”	has the meaning given in the GDPR;
“Personal Data Breach”	has the meaning given in the GDPR;
“Processor”	has the meaning given in the GDPR;
“Protective Measures”	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;
“Purchase Order Number”	means the Customer’s unique number relating to the order for Goods to be supplied by the Contractor to the Customer in accordance with the terms of the Agreement;
“Request for Information”	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);
“Services”	means the services to be supplied by the Contractor to the Customer under the Agreement;
“Specification”	means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;

“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor of the Contractor engaged in the performance of the Contractor’s obligations under the Agreement;
“Staff Vetting Procedures”	means vetting procedures that accord with good industry practice or, where applicable, the Customer’s procedures for the vetting of personnel as provided to the Contractor from time to time;
“Sub-processor”	means any third party appointed to process Personal Data on behalf of the Contractor related to this Agreement;
“Term”	means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with Clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.5 the word ‘including’ shall be understood as meaning ‘including without limitation’.

## **2. Basis of Agreement**

- 2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.
- 2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Contractor on receipt by the Customer of the signed Agreement from the Contractor within 14 (fourteen) days of the date of the Award Letter.

## **3. Supply of Services**

- 3.1 In consideration of the Customer's agreement to pay the Charges, the Contractor shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.
- 3.2 In supplying the Services, the Contractor shall:
  - 3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;
  - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Contractor's industry, profession or trade;
  - 3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Contractor's obligations are fulfilled in accordance with the Agreement;
  - 3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
  - 3.2.5 comply with all applicable laws; and
  - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
- 3.3 The Customer may by written notice to the Contractor at any time request a variation to the scope of the Services. In the event that the Contractor agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Contractor.

## **4. Term**

- 4.1 The Agreement shall take effect on the date specified in Award Letter and shall expire on the Expiry Date, unless it is otherwise extended in accordance with

clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.

- 4.2 The Customer may extend the Agreement for a period of up to 6 months by giving not less than 10 Working Days' notice in writing to the Contractor prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

## **5. Charges, Payment and Recovery of Sums Due**

- 5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Contractor in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Contractor directly or indirectly incurred in connection with the performance of the Services.
- 5.2 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Contractor a sum equal to the VAT chargeable in respect of the Services.
- 5.3 The Contractor shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.4 In consideration of the supply of the Services by the Contractor, the Customer shall pay the Contractor the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 5.6 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Contractor interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.

- 5.7 Where the Contractor enters into a sub-contract, the Contractor shall include in that sub-contract:
- 5.7.1 provisions having the same effects as clauses 5.3 to 5.6 of this Agreement; and
  - 5.7.2 a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as 5.3 to 5.7 of this Agreement.
- 5.8 In this clause 5.8, “sub-contract” means a contract between two or more Contractors, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
- 5.9 If any sum of money is recoverable from or payable by the Contractor under the Agreement (including any sum which the Contractor is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Contractor under the Agreement or under any other agreement or contract with the Customer. The Contractor shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

## **6. Premises and equipment**

- 6.1 If necessary, the Customer shall provide the Contractor with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer’s premises by the Contractor or the Staff shall be at the Contractor’s risk.
- 6.2 If the Contractor supplies all or any of the Services at or from the Customer’s premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Contractor shall vacate the Customer’s premises, remove the Contractor’s plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer’s premises in a clean, safe and tidy condition. The Contractor shall be solely responsible for making good any damage to the Customer’s premises or any objects contained on the Customer’s premises which is caused by the Contractor or any Staff, other than fair wear and tear.
- 6.3 If the Contractor supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.

- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Contractor shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.
- 6.5 Where all or any of the Services are supplied from the Contractor's premises, the Contractor shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Contractor and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 The Contractor shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Contractor or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Contractor or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

## **7. Staff and Key Personnel**

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Contractor:
- 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
  - 7.1.2 direct the Contractor to end the involvement in the provision of the Services of the relevant person(s); and/or
  - 7.1.3 require that the Contractor replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,
- and the Contractor shall comply with any such notice.
- 7.2 The Contractor shall:
- 7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
  - 7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and

- 7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.
- 7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.
- 7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

## **8. Assignment and sub-contracting**

- 8.1 The Contractor shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Contractor shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 Where the Customer has consented to the placing of sub-contracts, the Contractor shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.3 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Contractor provided that such assignment, novation or disposal shall not increase the burden of the Contractor's obligations under the Agreement.

## **9. Intellectual Property Rights**

- 9.1 All intellectual property rights (including copyright) in any materials provided by the Customer to the Contractor for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Contractor a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Contractor to perform its obligations under the Agreement.

- 9.2 All intellectual property rights (including copyright) in any materials created or developed by the Contractor pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Customer and the Contractor hereby assigns to the Customer by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).
- 9.3 The Customer hereby grants the Contractor a perpetual, royalty-free, irrevocable, non-exclusive licence to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services for the purposes of its business operations provided that no data shall be made available publicly without the prior written permission of the Customer.
- 9.4 The Contractor shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Contractor or any Staff.

## **10. Governance and Records**

- 10.1. The Contractor shall:
- 10.1.1. attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and
  - 10.1.2. submit progress reports to the Customer at the times and in the format specified by the Customer.
- 10.2. The Contractor shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Contractor shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

# 11. Confidentiality, Transparency and Publicity

11.1. Subject to clause 11.2, each Party shall:

11.1.1. treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2. not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

11.2. Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1. where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2. to its auditors or for the purposes of regulatory requirements;

11.2.3. on a confidential basis, to its professional advisers;

11.2.4. to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

11.2.5. where the receiving Party is the Contractor, to the Staff on a need to know basis to enable performance of the Contractor's obligations under the Agreement provided that the Contractor shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Contractor's confidentiality obligations under the Agreement; and

11.2.6. where the receiving Party is the Customer:

- a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
- b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
- c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

- 11.3. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Contractor hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Contractor to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 11.4. The Contractor shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

## **12. Freedom of Information**

- 12.1 The Contractor acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:
  - 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
  - 12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
  - 12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
  - 12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 12.2 The Contractor acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Contractor or the Services (including commercially sensitive information) without consulting or obtaining consent from the Contractor. In these

circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Contractor advance notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

- 12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Contractor or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

## **13. Protection of Personal Data and Security of Data**

- 13.1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor unless otherwise specified in Schedule 1. The only processing that the Contractor is authorised to do is listed in Schedule 1 by the Customer and may not be determined by the Contractor.
- 13.2. The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 13.3. The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- a. a systematic description of the envisaged processing operations and the purpose of the processing;
  - b. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - c. an assessment of the risks to the rights and freedoms of Data Subjects; and
  - d. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 13.4. The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- a. process that Personal Data only in accordance with Schedule 1 unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;

- b. ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Customer may reasonably reject (but failure to reject shall not amount to approval by the Customer of the adequacy of the Protective Measures), having taken account of the:
  - i. nature of the data to be protected;
  - ii. harm that might result from a Data Loss Event;
  - iii. state of technological development; and
  - iv. cost of implementing any measures;
- c. ensure that :
  - i. the Staff do not process Personal Data except in accordance with this Agreement (and in particular Schedule 1);
  - ii. it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
    - 1. are aware of and comply with the Contractor's duties under this clause;
    - 2. are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
    - 3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement; and
    - 4. have undergone adequate training in the use, care, protection and handling of Personal Data; and
- d. not transfer Personal Data outside of the European Union unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
  - i. the Customer or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or LED Article 37) as determined by the Customer;
  - ii. the Data Subject has enforceable rights and effective legal remedies;
  - iii. the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal

Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and

- iv. the Contractor complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
  - e. at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Agreement unless the Contractor is required by Law to retain the Personal Data.
- 13.5. Subject to clause 13.6 the Contractor shall notify the Customer immediately if, in relation to any Personal Data processed in connection with its obligations under this Agreement, it:
- a. receives a Data Subject Request (or purported Data Subject Request);
  - b. receives a request to rectify, block or erase any Personal Data;
  - c. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - d. receives any communication from the Information Commissioner or any other regulatory authority;
  - e. receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - f. becomes aware of a Data Loss Event.
- 13.6. The Contractor's obligation to notify under clause 13.5 shall include the provision of further information to the Customer in phases, as details become available.
- 13.7. Taking into account the nature of the processing, the Contractor shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Agreement and any complaint, communication or request made under Clause 13.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:
- a. the Customer with full details and copies of the complaint, communication or request;
  - b. such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

- c. the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
  - d. assistance as requested by the Customer following any Data Loss Event;
  - e. assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- 13.8. The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 13. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:
- a. the Customer determines that the processing is not occasional;
  - b. the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
  - c. the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 13.9. The Contractor shall allow for audits of its Personal Data processing activity by the Customer or the Customer's designated auditor.
- 13.10. Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- 13.11. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:
- a. notify the Customer in writing of the intended Sub-processor and processing;
  - b. obtain the written consent of the Customer;
  - c. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 13 such that they apply to the Sub-processor; and
  - d. provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- 13.12. The Contractor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 13.13. The Customer may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

- 13.14. The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- 13.15. When handling Customer data (whether or not Personal Data), the Contractor shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Contractor from time to time.
- 13.16. This clause 13 shall apply during the Term and indefinitely after its expiry.

## **14. Liability**

- 14.1 The Contractor shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.
- 14.2 Subject always to clauses 14.3 and 14.4:
- 14.2.1 the aggregate liability of the Contractor in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed £300,000; and
- 14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Contractor be liable to the Customer for any:
- a) loss of profits;
  - b) loss of business;
  - c) loss of revenue;
  - d) loss of or damage to goodwill;
  - e) loss of savings (whether anticipated or otherwise); and/or
  - f) any indirect, special or consequential loss or damage.
- 14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:
- 14.3.1 death or personal injury caused by its negligence or that of its Staff;

- 14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff;
- 14.3.3 any other matter which, by law, may not be excluded or limited; or
- 14.3.4 loss of or damage to third party property
- 14.4 The Contractor's liability under the indemnity in clause 9.4 and 18.3 shall be unlimited.

## **15. Force Majeure**

- 15.1 Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

## **16. Termination**

- 16.1 The Customer may terminate the Agreement at any time by notice in writing to the Contractor to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.
- 16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Contractor with immediate effect if the Contractor:
  - 16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
  - 16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
  - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Contractor receiving notice specifying the breach and requiring it to be remedied;
  - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;

- 16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17;
- 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Contractor (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Contractor's assets or business, or if the Contractor makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction;
- 16.2.7 fails to comply with legal obligations in the fields of environmental, social or labour law, or
- 16.2.8 where a vessel is to be provided as part of the Agreement, and (where applicable) it fails the Vessel Safety Assessment and Inspection Document (VSAID) conducted by the Customer and this, in the reasonable opinion of the Customer, cannot be rectified in a reasonable timescale.
- 16.3 The Contractor shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.
- 16.4 The Contractor may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 16.6 Upon termination or expiry of the Agreement, the Contractor shall:
  - 16.6.1 give all reasonable assistance to the Customer and any incoming Contractor of the Services; and
  - 16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

## **17. Compliance**

- 17.1 The Contractor shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Contractor of any health and

safety hazards which may exist or arise at the Customer's premises and which may affect the Contractor in the performance of its obligations under the Agreement.

17.2 The Contractor shall:

17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and

17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

17.3 The Contractor shall:

17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Contractor from time to time; and

17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.

17.4 The Contractor shall supply the Services in accordance with the Customer's environmental policy as provided to the Contractor from time to time.

17.5 The Contractor shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

17.5.1 the Official Secrets Acts 1911 to 1989; and

17.5.2 section 182 of the Finance Act 1989.

## **18. Prevention of Fraud and Corruption**

18.1 The Contractor shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Contractor shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Contractor (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

- 18.3 If the Contractor or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:
- 18.3.1 terminate the Agreement and recover from the Contractor the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or
- 18.3.2 recover in full from the Contractor any other loss sustained by the Customer in consequence of any breach of this clause.

## **19. Dispute Resolution**

- 19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.
- 19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “Mediator”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

## **20. General**

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.

- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 The documents forming this Agreement shall take precedence in the order listed below:
- a) The Award Letter
  - b) Schedule 2 – SPECIAL CONDITIONS
  - c) These Conditions
  - d) Schedule 1 - PROCESSING, PERSONAL DATA AND DATA SUBJECTS
  - e) Schedule 3 - PRICING
  - f) Schedule 4 - SPECIFICATION OF REQUIREMENTS
- 20.6 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.7 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.8 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.9 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

## **21. Notices**

- 21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 21.3, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:
- 21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.
- 21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

## **22. Governing Law and Jurisdiction**

- 22.1 The validity, construction and performance of the Agreement, and all contractual and non contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

# SCHEDULE 1 - PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. This Schedule shall be completed by the Customer, who may take account of the view of the Contractor, however the final decision as to the content of this Schedule shall be with the Customer at its absolute discretion.
2. The contact details of the Customer Data Protection Officer are:
3. The contact details of the Contractor Data Protection Officer are:
4. The Contractor shall comply with any further written instructions with respect to processing by the Customer.
5. Any such further instructions shall be incorporated into this Schedule.

Data Processing descriptor	Narrative
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor in accordance with Clause 13.1.
Subject matter of the processing	The processing relates to the provision of engineering and project management services as more particularly described in this Agreement. The processor party will support the controller by providing such services.
Duration of the processing	The processing of Personal Data will continue for as long as is necessary to meet the particular Purpose or purpose for which it is provided.
Nature and purposes of the processing	Processing required to ensure the engineering and project management services as more particularly described in this Agreement are all carried out in accordance with this Agreement. The processing will relate to the services provided by the Contractor, including design, construction / execution of works, rectification during the defects rectification period (or equivalent) and rectification during any extended latent defects rectification period.
Type of Personal Data	Name, date of birth, address, salary information, details of next of kin, national insurance number, health and medical information, location information, information on entry and exit from the project site and other places of work.

Categories of Data Subject	Persons engaged by NNB, the Customer, any subcontractor, any other contractor of NNB, any next of kin of the aforementioned, family including spouse and partner, children, employees, agents and any business contacts, and third party visitors (whether invited or not) to the project site and/or place of manufacture and/or performance of service.
Plan for return and destruction of the data once the processing is complete  UNLESS requirement under union or member state law to preserve that type of data	On termination or expiry of the relevant permitted processing or this Agreement, the Contractor ceases all use of the Personal Data and, at the Customer's election and either destroys all Personal Data or transfers all Personal Data to the Customer or a nominated third party (in a mutually agreed format and by a mutually agreed method).

# **SCHEDULE 2 – SPECIAL CONDITIONS**

## **1. Policies and Procedures**

- 1.1 The Contractor shall at all times during the term of the Agreement comply with any and all of the policies and procedures reasonably notified to the Contractor by the Customer.

## **2. Early Warning**

- 2.1 The Contractor shall give an early warning by notifying the Customer as soon as the Contractor becomes aware of any matter which could:
  - 2.1.1 increase the total Charges;
  - 2.1.2 delay completion of the Services or the Project;
  - 2.1.3 impair the usefulness of the Services to the Customer or NNB; or
  - 2.1.4 affect the work of the Customer, NNB or another NNB contractor.

## **3. Warranty**

- 3.1 The Contractor warrants and undertakes to the Customer that:
  - 3.1.1 the Contractor has all requisite powers to enter into this Agreement and to execute, deliver and perform this Agreement and to be bound hereby; and
  - 3.1.2 the Services and the deliverables shall conform in all material respects to the requirements of this Agreement.
- 3.2 If notified by the Customer in writing, the Contractor shall remedy, re-perform or refund the Charges for any Services that do not comply with Clause 3.1.2 above at the cost of the Contractor.

## 4. Intellectual Property

- 4.1 The Customer may allow NNB and other third parties to copy, adapt, modify and use the Services and/or the deliverables (as applicable), whether by granting sub-licences or assigning the benefit of this Clause 4.1.
- 4.2 The Contractor shall not, without the prior written consent of the Customer, use or include in the Services and/or the deliverables any documents, calculations, computer programs, software, drawings, manuals, models, test reports, quality assurance information and other similar documents the intellectual property rights in which are owned by any third party ("**Third Party IP**") unless the Contractor is able to grant or procure the grant to the Customer of a licence of such Third Party IP on the full terms set out in Clause 9.3.
- 4.3 The licences granted to the Customer pursuant to this Clause 4 shall continue notwithstanding completion or earlier termination of the Contractor's obligation to provide the Services.
- 4.4 The Contractor irrevocably waives, and shall procure that its sub-contractor and lower tier sub-contractor of every tier irrevocably waives any rights they may have pursuant to Chapter IV (Moral Rights) of Part 1 of the Copyright Designs and Patents Act 1988 and any other rights of a similar nature that may accrue in any applicable jurisdiction in relation to the Services and/or the Deliverables.

## 5. Limit of Liability

- 5.1 The Contractor's liability to the Customer shall not be limited or excluded in respect of the indemnities referred to in the following Clauses of this Agreement:
  - 5.1.1 Clause 7 of these Special Conditions, Confidential Information of the Customer;
  - 5.1.2 Clause 13, Protection of Personal Data and Data Security

## 6. Insurance

- 6.1 The Contractor warrants to the Customer that it has, or shall take out, and shall maintain for the duration of the Agreement and for a period of 6 (six) years following expiry of the Agreement Professional Indemnity insurance with a limit of indemnity not less than £5,000,000 each and every occurrence.
- 6.2 The Contractor shall take out and maintain for the duration of the Services the following insurance policies:

- 6.2.1 Employers Liability insurance covering the Contractors employees and other persons for whom the Contractor is liable as employer pursuant to applicable law;
- 6.2.2 Public Liability insurance with a minimum limit of £5,000,000 per occurrence;
- 6.2.3 Where applicable Public liability insurance covering itself, and its employees in relation to the use of drones; and
- 6.2.4 Where using a vessel for perform the Services, a Protection and Indemnity or marine liability policy equivalent to the cover provided by members of the International Group Protection and Indemnity Associations with a limit of no less than £1,000,000.

## 7. Confidential information of the Customer

- 7.1 The Contractor shall treat all information obtained under, arising from or in connection with this Agreement, the Project or the Services as confidential. The Contractor does not without the prior written consent of the Customer (which may be granted or withheld in his sole and absolute discretion):
  - 7.1.1 disclose to any person classified information, defined as information which bears the UK protective markings, 'Top Secret', 'Secret', and 'Official Sensitive' or documents with the legacy markings 'Confidential' or 'Restricted' including information judged by the ONR (CNS) to be Sensitive Nuclear Information, or information which bears a non-UK protective marking equivalent to those listed above as agreed by the UK Government and the government of the country where the information will be held ("**Classified Information**");
  - 7.1.2 disclose to any person any information or documents concerning this Agreement, the Project or the Services; or
  - 7.1.3 disclose to any person any information or document obtained by the Contractor concerning the Customer, NNB or others retained or engaged by the Customer, NNB or any NNB Group Company in relation to the Services or the Project.
- 7.2 The Customer may require as a precondition to the granting of any consent required under this Clause 7, that any person to whom the Contractor proposes to disclose any information or document referred to in Clause 7.1 above (each such person being a "**Recipient**") provides a confidentiality undertaking to the Customer in terms satisfactory to the Customer (in its sole and absolute discretion).
- 7.3 Clauses 7.1 and 7.2 shall not apply to the disclosure of:

- 7.3.1 any information other than Classified Information which is already in the public domain at the time of its disclosure other than by breach of these provisions; or
- any information which is required to be disclosed by any Applicable Law including the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, or any information other than Classified Information which is required to be disclosed by the regulations of any stock exchange
- 7.4 The Contractor shall procure that each Recipient observes the restrictions on disclosure applicable to the Contractor under this Clause 7 as if the same restrictions were applicable to such Recipient, and the Contractor shall be responsible and liable to the Customer for any loss or damage suffered by the Customer in consequence of any failure by any Recipient to observe such restrictions.
- 7.5 The Contractor shall notify the Customer promptly if the Contractor becomes aware of and indemnifies and holds harmless the Customer, the Customer's personnel and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of any breach by the Contractor of his obligations under this Clause 7 or of any breach by any Recipient of any confidentiality undertaking provided by such Recipient pursuant to Clause 7.2 or any failure by any Recipient to observe the restrictions referred to in Clause 7.4. The Contractor shall give the Customer all assistance the Customer may reasonably require in connection with any proceedings the Customer may bring or other steps the Customer may take against any Recipient in respect of any such breach or failure or against any other person in respect of a breach of confidence.
- 7.6 Without prejudice to any other rights or remedies that the Customer may have, the Parties acknowledge and agree that damages alone would not be an adequate remedy for any breach by the Contractor of this Clause 7 and that the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Clause 7 by the Contractor would be more appropriate remedies.
- 7.7 Scientists or academics working for or on behalf of the Contractor may wish to have the right to publish in specific journals the outputs from the Services and the deliverables (the 'Results') The Results will be treated as confidential in accordance with Clause 7.1, but the Contractor may apply to the Customer for permission for the Results to be used for publication in this way. Permission shall be granted at the sole discretion of the Customer.

## 8. Prohibited Acts

8.1 In this Clause 8:

8.1.1 "associated with" has the meaning set out in section 8 of the Bribery Act 2010, and

8.1.2 "Prohibited Act" means:

- a) engaging in any activity, practice or conduct which could constitute, facilitate or cause (in whole or in part) the commission (whether on the part of the Customer, any Customer's personnel, any Customer's group company or the Contractor or any third party) of an offence under the Bribery Act 2010; or
- b) offering, promising or giving any person connected with this Agreement (including the Customer, any Customer's personnel, any Customer's group company, any Statutory Authority and any officer, employee, agent or representative of any Statutory Authority) any financial or other advantage, which is intended either to induce that person to "improperly perform a relevant function or activity" (within the meaning set out in the Bribery Act 2010) or to reward that person for any such improper performance.

8.2 The Contractor warrants and undertakes that it has not committed and shall not commit (and that each person associated with the Contractor including any sub-contractor of any tier and any supplier has not committed and shall not commit) any Prohibited Act.

8.3 The Contractor, at all times during performance of this Agreement, shall maintain adequate procedures to prevent the commission of any Prohibited Act by the Contractor or any person associated with the Contractor, shall properly enforce such procedures and shall carry out periodic monitoring of its compliance with such procedures on an annual or more frequent basis.

8.4 The Contractor, at the Customer's request, shall promptly provide to the Customer all such procedures and sufficient evidence so as to satisfy the Customer (acting reasonably) that such procedures are properly enforced and such periodic compliance monitoring is taking place and shall provide such records for a period of 6 (six) years after completion of the Services under this Agreement.

8.5 The Contractor shall procure that provisions equivalent to the preceding paragraphs of this Clause 8 are included within each sub-contract and shall use reasonable endeavours to ensure that if applicable sub-contractors of lower tiers similarly include such provisions in their sub-contracts.

- 8.6 Without affecting any other right of termination under this Agreement or at law, if the Contractor or any person associated with the Contractor commits any Prohibited Act, this entitles the Customer to withdraw its acceptance of the appointment of any relevant sub-contractor and/or entitles the Customer to terminate the Contractor's appointment under this Agreement in whole or in part with immediate effect.

## **9. Publicity**

- 9.1 The Contractor shall not without the prior written approval of the Customer at any time for any reason disclose to any person or publish or make any statement concerning the Customer, NNB and/or others connected with this Agreement, the Project or the Services.

## SCHEDULE 3 – PRICING

It is estimated that the survey will take 4 days, and thus the costs provided below are based on this. Actual costs are to be charged by the Supplier on a time and materials basis. Any expenses, such as hotel, subsistence, equipment hire will be reimbursed only if valid receipts are submitted alongside the claim.

Goods or Services Required	Unit	Qty	Total Cost (ex VAT)	VAT (if applicable)
[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]
		[REDACTED]	[REDACTED]	[REDACTED]

### Additional Pricing:

Below rates assume vessel will remain mobilised with equipment in both instances.

Goods or Services Required	Unit	Qty	Total Cost (ex VAT)	VAT (if applicable)
[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]

[REDACTED]				
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

### Payment Schedule:

Payments will be made only on delivery and sign-off of agreed Deliverables.

Deliverable	Delivery Date	Invoice (ex VAT)
1. Completion of the survey and submission of the basic field report and preliminary findings (within 7 days of survey completion).	Expected late-Summer 2024, though dates to be mutually agreed between Cefas and Ocean Ecology.	[REDACTED]
2. Submission of full processed data outputs and incorporation of Cefas comments into finalised reports	Expected 6-8 weeks following completion of the survey, however dependant on survey date and agreement of scope being met.	[REDACTED]

# SCHEDULE 4 – SPECIFICATION OF REQUIREMENTS

The Sizewell BEEMS (British EDF Estuarine and Marine Studies) programme is funded by Sizewell C Limited (SZC). Through this programme, Cefas provide authoritative scientific information on the marine and transitional waters in the vicinity of the consented SZC new build nuclear power station and require the supplier to deliver the element described below.

## Overview of Requirement:

Cefas require the supplier to conduct a subtidal Adaptive Resolution Imaging Sonar (ARIS) camera survey for the Sizewell C (SZC) Nuclear New Build project to prepare for construction activities. At SZC there are known offshore areas of the reef forming polychaete *Sabellaria spp.* The turbid waters in the Greater Sizewell Bay preclude the use of traditional underwater camera, however the seabed in the region has previously been successfully imaged with an ARIS camera (Sound Metrics ARIS Explorer 3000). Previous survey work, including ARIS camera imagery acquired at Sizewell is detailed in the [SZC Environmental Statement Appendix 22C](#) for further background context.

The objective of the proposed survey is to ground-truth an area of the seabed with an ARIS camera (Sound Metrics ARIS Explorer 3000) to confirm the seabed type and the presence or absence of *Sabellaria spp.* tube aggregations. The specified 'Sound Metrics ARIS Explorer 3000' is required to ensure quality and data consistency with the previous survey, and therefore it is a requirement for the supplier to either own, or be able to hire, the equipment for the survey. The exact survey area will be derived from a preceding (separate) side scan sonar and bathymetry survey (anticipated Spring 2024), and therefore the exact survey area is not known, however the expectation is that it will be in the region of the offshore infrastructure (Figure 1), approximately 3 km offshore off Sizewell, in approximately 10-20m of water. The survey area is likely to be approximately 1.5 km x 1 km (1.5 km<sup>2</sup>) and is expected to cover a range of habitats including subtidal sand, subtidal rock (Coralline Crag) and subtidal biogenic reefs (*Sabellaria*). The survey is required in the Summer of 2024.

The approach for the survey requires the following:

1. A survey utilising a Sound Metrics ARIS camera as a ground truthing technique. The aim is to capture acoustic images/video footage to identify the presence or absence of *Sabellaria spp.* formations on the seabed, and to identify other seabed habitat types. Data should be of sufficient quality so that if formations are observed, data can be used to measure the elevation and spatial distribution of formation on the seabed.
2. A survey report including analysis of the seabed imagery providing indicative seabed types. High level interpretation of the acquired ARIS images is required using a standardised marine seabed classification system (e.g. EUNIS classification level 3 or 4). Detailed reef characterisation ('reefiness' assessment) is not required as this will be conducted by Cefas.

3. Delivery of all data (including raw data/video footage) to Cefas as well as a survey report and fuel / emissions report. Acquired imagery and metadata are to be delivered to Cefas on completion of the survey work via hard drive or a shared server space which will be made available for data delivery by Cefas.

Cefas requires the supplier's survey team to manage the planning (including access), notifications (including Notice to Mariners), and safe execution of the surveys. Should licences or consents be required (e.g. a Marine Licence) these will be obtained by Cefas and provided to the supplier's survey team prior to the survey.

It is expected that the acoustic camera survey will be completed in 3-4 days (although it is noted additional time may be required for mobilisation and demobilisation). The supplier should advise an indication of weather limits. The supplier will be responsible for scheduling the survey to meet forecast and predicted weather and tidal conditions (it is expected that neap tides would be targeted for minimum current speeds). However, costs supplied should include any charges payable by Cefas in the event of poor weather affecting operations.

The survey window is to be defined by Cefas and final dates will be agreed by both parties when the survey window is confirmed. It is anticipated that the survey will be undertaken in Summer 2024.

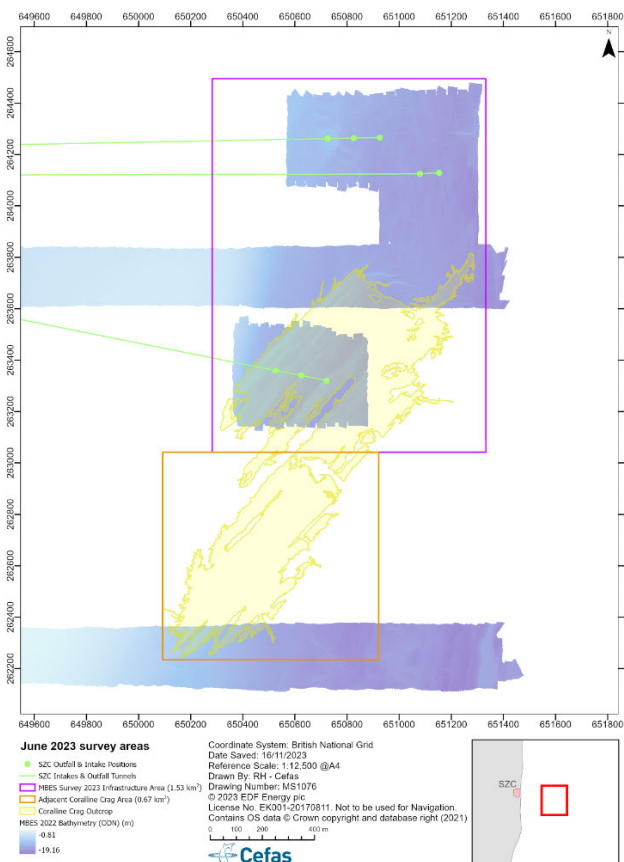


Figure 1: SZC offshore infrastructure showing broad scale survey region (note the precise survey area is yet to be determined however is likely to be located within the 2023 MBES (purple line) survey area.

### **Vessel specification:**

Cefas require a vessel, crew, survey team, and suitable equipment to undertake an ARIS camera survey. Cefas require that the vessel be, as a minimum, MCA (MISW "small workboat" class) Category 2 or 3 and of minimum 10m length. Cefas expect only daytime operations from a local port. The vessel should have a weatherproof cabin and 220-240v AC UK mains as standard, for operation of the chosen camera system. The supplier should allow for a Cefas client representative to attend the survey if requested.

### **Equipment specification:**

The supplier should provide an ARIS Explorer 3000 sonar imaging system alongside an AR3 rotator with joystick control. The expectation is that Cefas will supply a drop-down frame to house the ARIS camera which measures 1m<sup>3</sup> and weighs 100kg (to ensure comparability with previously collected data), which will require an A frame or davit for launch and recovery, however the supplier should provide an option to supply a load tested drop-down frame and provide the specifications of said frame.

### **Positioning:**

Horizontal control (with a minimum accuracy of <5m) should be achieved by an Real-Time Kinematic GNSS system (either dual antenna or incorporating a gyro compass for heading). Cefas' preference for the positioning of the deployments is to use an ultra-short baseline (USBL) or equivalent water-linked GPS system, using a beacon on the ARIS frame, which will give between 2-5m spatial accuracy depending on the system and depth of the site. Other positioning systems (such as cable counting and layback calculation) are acceptable, but the layback will have to be estimated using an industry standard survey acquisition software package, and all offsets measured and reported). A full description of the positioning system will be expected. Survey metadata must be provided in a MEDIN compliant outputs<sup>1</sup>.

### **Survey Strategy:**

The quantity of ARIS camera drop down locations will be based on the features observed in the side-scan sonar data (collected separately). Target locations for ARIS camera drops will be provided by Cefas and agreed with the survey team. The survey is expected to be 3 to 4 days, with between 50 to 80 stations depending on the homogeneity of the seabed. Part of the survey area is expected to have outcropping Coralline Crag with the potential for *Sabellaria* reef features. At these locations, stations will be clustered in close proximity (within several meters) and/or a transect of sub-stations may be required to adequately characterise the patchiness of the seabed. The supplier should describe any operational limitations which may limit the ability to obtain stations/sub-stations very close together (for

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<sup>1</sup> MEDIN compliant metadata outputs: [MEDIN discovery metadata standard | Marine Environmental Data and Information Network](#).

example repositioning the vessel with the equipment in the water may be required to 'hop' several meters along the seabed).

Cefas will provide a standard operating procedure (SOP) detailing the data capture process, however in brief; ARIS video is to be recorded at each location starting at a fixed camera orientation (pan, tilt and roll). Once settled into position, and once the image settings are optimised, the operator will pan the camera 90° in each direction and tilt the camera 10-20° to provide a wide field of view and depth context.

### **Survey window:**

The survey window is to be defined by the Cefas and final dates will be agreed by both parties. The expectation is that the survey will be between 3 and 4 days in duration. The supplier should emphasise flexibility in mobilisation to achieve the highest data quality; for example, adapting the survey (e.g. into two phases due to weather) to ensure the highest possible data quality.

### **Quality control:**

The supplier's survey team will be expected to inspect the ARIS imagery in the field, or immediately after (at the end of each working day), to ensure that high quality data are acquired suitable for determination of *Sabellaria spinulosa* presence. The supplier shall ensure integrity of data at all times, on a system that is secure and regularly backed up. Acquired imagery and metadata are to be delivered to Cefas on completion of the survey work via hard drive or a shared server space which will be made available for data delivery by Cefas.

### **Communication / deliverables:**

Daily progress reports, alongside representative samples of the still images, are to be sent to the Cefas representative via email upon commencement of the survey work. These progress reports should detail any weather or equipment related down-time.

A full survey report will be required (including sampling methods used, issues encountered and a summary of results) as well as raw ARIS footages (see deliverables section below).

Cefas also require the supplier to provide a fuel / carbon equivalent emissions report to include the vessel engine capacity, distance travelled and fuel used. This is to be used by the Cefas Environmental Team to calculate environmental footprint.

Cefas require the supplier to deliver all requirements, *i.e.* the provision to supply all services required including vessel, staff/technicians, equipment plus insurance, data processing and reports. Experience with ARIS camera is **essential**, and the supplier must have experience in the application of this technology, both with the deployment and data capture, and interpretation of ARIS images to categorise seabed habitats.

Please note that the survey area may be amended (within the same board area).

### **HS&E and documentation:**

- A Risk Assessment and Method Statement (RAMS) document will be required, which will require sign off from Cefas and SZC Ltd. prior to the survey. Typical review periods are around two weeks, therefore RAMS should be made available at least two weeks before the planned survey date.
  - Cefas will provide a template for the supplier to complete. It is expected that the supplier complies with the review and administrative processes imposed by Cefas and SZC Ltd. Please note there may be several rounds of review and update required prior to sign off;
- A completed Vessel Safety Assessment and Inspection Document (VSAID) and vessel inspection will be required prior to survey commencement. Please note this can take up to one month to complete. This may not be required if the vessel has an in date CMID inspection. Please note that the VSAID also includes information on lifting operations in line with Lifting Operations and Lifting Equipment Regulations (LOLER). This is examined for the deployment of the drop-down frame to house the ARIS camera regardless of whether a CMID or VSAID is currently in place.

Cefas require that a minimum of 2 personnel are aboard the survey vessel, and that all seagoing staff, have in date STCW PST (Personal Survival Techniques Training) or equivalent certification, an ENG1 Medical certificate and wear appropriate auto-inflate lifejackets fitted with a Personal Locator Beacon (PLB); and either emergency first aid, or first aid at work.

### **Deliverables:**

1. **Risk Assessment and Method Statement (RAMS):** prior to the survey a detailed RAMS must be provided to Cefas and agreed by Cefas and SZC Ltd. as outlined in 'HS&E and documentation' above.
2. **ARIS imagery in the field:** The supplier's survey team will be expected to inspect the ARIS imagery in the field after to ensure high quality footage/images.
  - a. To be delivered in situ.
3. **Daily progress report:** Short report detailing the days activities.
  - a. To be delivered each day from the mobilisation date.
4. **ARIS imagery:** The supplier shall ensure integrity of data at all times on a system that is secure and regularly backed up. Any processing of data must comply with the principles of the Data Protection Act 2018. Data will be delivered either via secure portal (e.g. MS SharePoint) or on a hard drive delivered to Cefas.
  - a. To be delivered: Preliminary findings within 7 days of survey completion, full datasets and outputs within 1 month of survey completion.
5. **Survey logs:** Excel format (including station code, target location, GPS fix, distance from target, comments).

- a. To be delivered: Emailed to the Cefas Project Manager as soon as possible but within 48 hours of demobilisation.

**6. Reporting:** Survey report - giving an overview of the methods used, procedures followed, data collection achieved, problems encountered and data summary. High level interpretation of the acquired ARIS images is required using a standardised marine seabed classification system (e.g. EUNIS classification level 3 or 4). Survey logs to be included as an appendix. One round of review and comment responses should be factored in. Please note, Cefas require a finalised report, factoring in Cefas comments, from the supplier prior to payment of the final invoice.

Fuel / Carbon equivalent Emissions Report – the supplier is responsible for providing Cefas with a brief report which includes; the vessel engine capacity, distance travelled and fuel used. This is to be used by the Cefas Environmental Team to calculate environmental footprint.

- a. To be delivered: Within 1 month of survey completion.

*Final coordinates in the logs and survey report should be in projected Easting and Northings based on the Ordnance Survey Great Britain 1936 / British National Grid (EPSG: 27700) map projection. Details of any geodetic conversions must be provided in the survey report.*

**TENDER SUBMISSION**