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# Request for Quotation

## Request for Quotation (RFQ):

### ***Interpretation of features for Special Sites of Scientific Interest (SSSI) citations***

You are invited, to submit a quotation for the requirement described in the specification below.

Please confirm, by email, receipt of these documents and whether you intend to submit a quote as your 'Expression of Interest' (EoI) by 20<sup>th</sup> September (quotes will still be permitted from organisations who have not submitted an EoI).

Your quotation and supporting information should be returned to the following email address by the date and time shown below, ensuring you state 'SSSI Citations' and 'Final Submission' in the subject field to make it clear that it is your response:

**Email:** [jo.chesworth@naturalengland.org.uk](mailto:jo.chesworth@naturalengland.org.uk)

**Date:** 23<sup>rd</sup> September 2022

**Time:** 17:00 GMT

### **Contact Details and Timeline**

Jo Chesworth will be your contact for any questions linked to the content of the quote pack or the process. Please submit any questions by email and note that, unless commercially sensitive, both the question and the response will be circulated to all tenderers.

Action	Date
Date of issue of RFQ	Tuesday 13 <sup>th</sup> September 2022
Deadline for EoI	Tuesday 20 <sup>th</sup> September 2022
Deadline for clarifications questions	Tuesday 27 <sup>th</sup> September 2022
Deadline for receipt of Quotation	<b>17:00 – Friday 30<sup>th</sup> September 2022</b>
Intended date of Contract Award	Wednesday 5 <sup>th</sup> October 2022
Intended Contract Start Date	Friday 7 <sup>th</sup> October 2022
Intended Delivery Date / Contract Duration	Friday 11 <sup>th</sup> November 2022 (5 weeks)

### **Glossary**

Unless the context otherwise requires the following words and expressions used within this Request for Quotation shall have the following meanings (to be interpreted in the singular or plural as the context requires):

“Authority”	Means the Department for Environment, Food and Rural Affairs acting as part of Natural England
“RFQ”	Means this Request for Quotation and all related documents published by the Authority and made available to suppliers
“Contract”	Means the contract to be entered into by the Authority and the successful supplier.

## **Conditions applying to the RFQ**

You should examine your response to the RFQ and related documents ensuring it is complete prior to submitting your completed quotation.

Your quotation must contain sufficient information to enable the Authority to evaluate it fairly and effectively. You should ensure that you have prepared your quotation fully and accurately and that prices quoted are arithmetically correct for the units stated.

The supplier by submitting a quotation is deemed to accept the terms and conditions in the RFQ (Annex 1). Failure to comply with the instructions set out in the RFQ may result in the supplier's exclusion from this procurement.

## **Acceptance of Quotations**

By issuing this RFQ the Authority does not bind itself to accept any quotation and reserves the right not to award a contract to any supplier who submits a quotation.

## **Costs**

The Authority will not reimburse you for any costs and expenses which you incur preparing and submitting your quotation, even if the Authority amends or terminates the procurement process.

## **Mandatory Requirements**

The RFQ includes mandatory requirements and, if you do not comply with them, your quotation will not be evaluated.

## **Clarifications**

The Authority reserves the right to discuss, confidentially, any aspect of your quotation with you prior to any award of Contract to clarify matters.

## **Amendments**

The Authority may amend the RFQ at any time prior to the deadline for receipt. If it amends the RFQ the Authority will notify you in writing and may extend the deadline for receipt in order to give you a reasonable time in which to take the amendment into account.

## **Conditions of Contract**

The terms and conditions – General Terms & Conditions (Annex 1) will be included in any contract awarded as a result of this RFQ process. The Authority will not accept any material changes to these terms and conditions proposed by a supplier.

## Specification

The Authority is Natural England. The Authority's priorities are to secure a healthy natural environment; a sustainable, low-carbon economy; a thriving farming sector and a sustainable, healthy and secure food supply. Further information about the Authority can be found at: [Natural England](#)

### 1. Introduction

Natural England is the government's advisor for the natural environment in England, helping to protect England's nature and landscapes for people to enjoy and for the services they provide.

Natural England assesses the condition of Sites of Special Scientific Interest (SSSIs) for their notified features as part of its Common Standards Monitoring (CSM) programme. Getting SSSIs into favourable condition is a target in the 25 Year Environment Plan and will be essential for building the Nature Recovery Network. In order to do this effectively, legally sound, and accurate features need to be defined for each site.

The legal document stating the site features is the citation. As the citation is the only document that has actually been notified with respect to the interest features of the site, notified features can only be those specifically mentioned on or encompassed by the citation. Modern citations have a clearly identified 'reasons for notification,' detailing the 'features of interest,' before going on into a 'general description.' This is unlikely to be so clear cut for older sites.

This project focuses on reviewing the existing citation for 91 SSSI sites to clearly identify the features for which the site was originally notified. Specifically, this project will:

- Determine the legally notified features for each SSSI, expressed as a habitat, species, geological or geographical feature.

The outputs from this project will be published to Natural England's corporate protected sites monitoring system.

### 2. Requirement

#### Approach:

The project will involve undertaking a comprehensive analysis of the SSSI citations to correctly interpret and establish a legally sound list of notified features. Two worked examples are provided in Annex 2, the text in these examples is for reference only to depict how conclusions were made, it is anticipated that the outputs the contractor provides will be in a spreadsheet format. Please note, some citations will be easier and others more complex. Natural England will provide further guidance upon contract award to assist with the interpretation of the citations and ensure a consistent approach is taken across sites.

When listing the identified features of a site this should be expressed in simple and brief terms, as outlined in the examples provided in Annex 2. An audit trail explaining how each feature was identified should be provided.

A full list of SSSI citations to be reviewed will be provided to the successful tender. 91 sites will need to be assessed.

Natural England will take a 30% sample (approximately 25 SSSI's) of the tenderer's interpretation and assess the quality and provide feedback. It is envisioned that additional milestone will be set during the contract, agreed between Natural England and the tenderer.

### Outputs:

The project should include the following outputs:

- A searchable, user-friendly spreadsheet (or similar, but must be able to be uploaded into corporate systems), sorted into agreed categories for the following:
  - o A list of all the notified features for each SSSI
  - o A section which explains how each notified feature was identified for each site
- A report detailing any assumptions, issues and risks associated with the citation review.

### **Health and Safety**

As the scope of works does not comprise any site works, and purely desk based, there are no specific health and safety requirements, however all tenderers will be asked to provide their companies Health & Safety Policy.

### **Timescales**

It is anticipated that this contract will be awarded for a period of 5 weeks to end no later than 11<sup>th</sup> November 2022.

Key milestones (final dates to be agreed):

- **Start of week 1** initial meeting between Natural England and the project team to discuss approach, refine scope and answer any queries. Natural England will provide a full list of citations to be checked alongside guidance on interpretation of features upon contract award.
- **Fortnightly** progress meetings will be set-up, where the contractor can provide an update on progress, flag any delivery risks or limitations, etc.
- **QA checkpoints** to be agreed between Natural England and the project team to allow Natural England to QA interpretation outputs and provide feedback (for example, after first 5 sites complete, then when 30% are complete – as detailed above).
- **End of week 5** finalised spreadsheet and report to be sent via email to Natural England

## Prices

Prices must be submitted in £ sterling, with total cost at the bottom of the table being inclusive of VAT. Please provide a breakdown of the costs in the table below, add rows as needed, then return this page or table along with your submission, ensuring to cover the tender requirements listed below.

	Item of work	Day £ rate of staff	Number of days	Total Price £
1	Interpretation of Features			
	91 no. SSSI			
2	Other costs (please specify)			
3	Sub-total			
	Interpretation of Features			
	Other costs			
4	VAT at 20% if applicable			
5	<b>Total</b>			

## Quotation Submission

### Tender Requirements

Your tender should include the following information:

1. Pricing Template
2. Your proposal outlining how you will meet Natural England's Requirements including a proposed outline schedule or timetable of works, including a rationale for the estimate of the number of days required for interpretation of features for all 91 SSSI sites.
3. Your companies Health and Safety Policy
4. Acceptance of terms and conditions.
5. Valid certificates (if appropriate) to be made available on request:
  - Employers Liability Compulsory Insurance
  - Public Liability Insurance
  - Professional Indemnity Insurance

## Project Management

Key project milestones for interpretation of citations and final reports will be agreed at a project inception meeting between the supplier and the Project Officer in advance of work commencing. This meeting will take place via video conference / telephone.

The contractor will have regular contact with the Project Officer throughout the timescale of the project in order to advise over particular queries, comment on any more complex citations. Any unforeseen issues arising in the course of the contract must be raised with the Project Officer as early as possible to facilitate prompt resolution. Progress will be monitored by the Project Officer through contact by phone and email.

### Joanna Chesworth

Senior Advisor – Protected Sites

Tel: 02080262326 / Mob: 07768927856

Email: jo.chesworth@naturalengland.org.uk

## Evaluation Criteria

The contract will be awarded to the tender which best fits the profile of requirements. This will be assessed by the Project Officer in consultation with relevant colleagues using the evaluation criteria detailed below.

We will award this contract in line with the most economically advantageous tender as set out in the following award criteria:

- Price – 50%
- Quality – 50%

As part of the evaluation process a quality threshold will be placed on each scoring criterion identified below. If your tender falls below the threshold then your bid will not be considered. Your tender should include the following information and supporting evidence.

Quality Criteria	Weighting (%)	Threshold score out of 10	Tender Information
Technical knowledge	20%	5	Demonstrable expertise in environmental legislation/policy, with sufficient SSSI knowledge to be able to interpret citations and identify features of interest (can include CV of key contractors, evidence of similar work undertaken)
Technical experience	20%	5	Demonstration of experience in interpreting environmental legislation and its application. A proven ability to deliver technical advice to an agreed quality standard (can include CV of key contractors, evidence of similar work undertaken)
Proposed scope, risk management & delivery	10%	5	An outline of the scope that will be adopted and applied, along with risk management measures.

Score	Justification
For a score of hundred (100):	Excellent - Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full.
For a score of seventy (70):	Good - Response is relevant and good. The response demonstrates a good understanding and provides details on how the requirements will be fulfilled.
For a score of fifty (50):	Acceptable - Response is relevant and acceptable. The response provides sufficient evidence to fulfil basic requirements.
For a score of twenty (20):	Poor - Response is partially relevant and/or poor. The response addresses some elements of the requirements but contains insufficient / limited detail or explanation to demonstrate how the requirement will be fulfilled.
For a score of zero (0):	Unacceptable - Nil or inadequate response. Fails to demonstrate an ability to meet the requirement.

## Disclosure

All Central Government Departments, their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement, including ensuring value for money and related aspects of good procurement practice.

For these purposes, the Authority may disclose within Government any details contained in your quotation. The information will not be disclosed outside Government during the procurement.

In addition, the Authority is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, which provide a public right of access to information held by public bodies. In accordance with these two statutes, the Authority may be required to disclose information contained in your quotation to any person who submits a request for information pursuant to those statutes.

By submitting a quotation you consent to these terms as part of the procurement.

## Disclaimers

Whilst the information in this RFQ and any supporting information referred to herein or provided to you by the Authority have been prepared in good faith the Authority does not warrant that this information is comprehensive or that it has been independently verified.

The Authority does not:

- make any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the RFQ;

- accept any liability for the information contained in the RFQ or for the fairness, accuracy or completeness of that information; or
- accept any liability for any loss or damage (other than in respect of fraudulent misrepresentation or any other liability which cannot lawfully be excluded) arising as a result of reliance on such information or any subsequent communication.

Any supplier considering entering into contractual relationships with the Authority following receipt of the RFQ should make its own investigations and independent assessment of the Authority and its requirements for the goods and/or services and should seek its own professional financial and legal advice.

## Protection of Personal Data

In order to comply with the General Data Protection Regulations 2018 the contractor must agree to the following:

- You must only process any personal data in strict accordance with instructions from the Authority
- You must ensure that all the personal data that we disclose to you or you collect on our behalf under this agreement are kept confidential.
- You must take reasonable steps to ensure the reliability of employees who have access to personal data.
- Only employees who may be required to assist in meeting the obligations under this agreement may have access to the personal data.
- Any disclosure of personal data must be made in confidence and extend only so far as that which is specifically necessary for the purposes of this agreement.
- You must ensure that there are appropriate security measures in place to safeguard against any unauthorised access or unlawful processing or accidental loss, destruction or damage or disclosure of the personal data.
- On termination of this agreement, for whatever reason, the personal data must be returned to us promptly and safely, together with all copies in your possession or control.

## General Data Protection Regulations 2018

For the purposes of the Regulations the Authority is the data processor.

The personal information that we have asked you provide on individuals (data subjects) that will be working for you on this contract will be used in compiling the tender list and in assessing your offer. If you are unsuccessful the information will be **held and destroyed within two years** of the award of contracts. If you are awarded a contract it will be retained for the duration of the contract and destroyed within **seven years** of the contract's expiry.

We may monitor the performance of the individuals during the execution of the contract, and the results of our monitoring, together with the information that you have provided, will be used in determining what work is allocated under the contract, and in any renewal of the contract or in the award of future contracts of a similar nature. The information will not be disclosed to anyone outside the Authority without the consent of the data subject, unless the Authority is required by law to make such disclosures.

## **Annex 1 – Terms & Conditions**



## **GENERAL TERMS AND CONDITIONS**

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## NATURAL ENGLAND GENERAL TERMS AND CONDITIONS

### 1. INTERPRETATION

- 1.1 The terms and expressions as set out in Schedule 1 shall have the meanings ascribed therein.
- 1.2 Clause and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any Party shall include that party's personal representatives, successors or permitted assigns.
- 1.8 A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time, taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.9 A reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes faxes but not e-mail.
- 1.11 References to clauses are to the clauses of the Agreement.
- 1.12 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

### 2. PRECEDENCE

- 2.1 In the event of and only to the extent of any conflict between the Service Order, these terms and conditions or the Special Terms, the conflict shall (unless otherwise specified in the General Terms) be resolved in accordance with the following order of precedence:
  - 2.1.1 the Special Terms;
  - 2.1.2 these General Terms;
  - 2.1.3 the Service Order (which for the purposes of this clause 2 excludes any Special Terms which take precedence by virtue of 2.1.1);
  - 2.1.4 any other document referred to in the Agreement

Unless expressly agreed, a document varied pursuant to clause 8 shall not take higher precedence than specified here.

### **3. DURATION**

- 3.1 The Agreement shall commence on the date specified in the Service Order and, subject to earlier termination in accordance with the terms of the Agreement, end on the last date of the Contract Period.

### **4. CONTRACTOR'S OBLIGATIONS**

- 4.1 The Contractor shall perform its obligations under the Agreement in accordance with the terms and conditions set out in the Agreement and shall comply and co-operate with any reasonable instructions given by Natural England or the Project Officer.
- 4.2 The Contractor shall be responsible for compliance with and ensure that all obligations are performed in accordance with the Health and Safety Requirements.
- 4.3 The Contractor shall ensure that, as an enduring obligation throughout the Contract Period it shall use the latest versions of anti virus definitions available and check for and delete any malicious software.
- 4.4 The Contractor shall, in performance of the Services, comply with the requirements of the Cabinet Office report on Data Handling Procedures in Government and with any security policy notified by Natural England to the Contractor from time to time..
- 4.5 The Contractor is deemed to have satisfied himself as to the scope, extent and location of work to be carried out under the Agreement.
- 4.6 The Contractor will, unless the Service Order specifically states otherwise, be responsible at its own cost and expense for the provision of all necessary Staff, materials and equipment for the management and execution of any obligation under the Agreement.
- 4.7 The Contractor shall comply with Natural England's employment check policy in respect of all Staff employed or engaged in the provision of Services whose role involves the handling of information of a sensitive or confidential nature or information that is subject to any relevant security measures. The Contractor confirms that, where applicable in accordance with this clause 4.7, all Staff employed or engaged by the Contractor at the commencement of the Agreement underwent and recruited on a basis that is equivalent to and no less strict than Natural England's employment check policy.
- 4.8 The Contractor shall provide training on a continuing basis for all Staff employed or engaged in the provision of the Services in compliance with any security policy or plan in place.

### **5. INVOICES, PAYMENT, COSTS AND TAX**

- 5.1 Natural England shall endeavour to pay undisputed sums due to the Contractor in accordance with the Contract Price and the Payment Profile within 5 calendar days (and in any event within 30 calendar days) of receipt and agreement of invoices for work completed to the satisfaction of Natural England.
- 5.2 Any invoices submitted by the Contractor shall contain the purchase order number (provided by Natural England from time to time), all appropriate references, and a

detailed breakdown of Services and will be supported by any other documents required by Natural England to substantiate the invoice.

- 5.3 Invoices shall be submitted to SSCL Finance, Room 211, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX or such other address (including in electronic format where agreed with the Contractor) as Natural England may notify the Contractor from time to time.
- 5.4 Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.
- 5.5 Natural England may reduce payment in respect of any Services which the Contractor has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of Natural England.
- 5.6 The Contractor shall, within 14 days of receiving a request from Natural England provide a report on all costs and expenses which it has incurred and are recoverable from Natural England under the Agreement. The report shall contain sufficient information to identify the purpose of such cost and expense and the identity of the receiver of the same. For the avoidance of doubt the report shall include costs and expenses which have not yet been paid by the Contractor but which it is contractually liable to pay.
- 5.7 Notwithstanding the obligations to provide the reports set out in clause 5.6, the Contractor shall inform Natural England prior to it contractually incurring any significant costs or expenses in relation to this Agreement. Significant costs in this clause shall mean any single cost or expense which exceeds 25 percent of the total Contract Price.

## 6. **WARRANTIES AND REPRESENTATIONS**

- 6.1 The Contractor warrants and represents that:
  - 6.1.1 it has the full capacity and authority and all necessary consents to enter into and perform the Agreement and that the Agreement is executed by a duly authorised representative of the Contractor;
  - 6.1.2 all obligations of the Contractor hereunder shall be performed and rendered by appropriately experienced, qualified and trained Staff with all due skill, care, ability and diligence including but not limited to Good Industry Practice and in accordance with its own established internal procedures;
  - 6.1.3 all Staff used to provide the Services will be vetted in accordance with Good Industry Practice and, where applicable, will be subject to Natural England's employment check policy or equivalent and any security policy notified to the Contractor from time to time;
  - 6.1.4 the Services shall be to the reasonable satisfaction of Natural England and meet any requirements made known to the Contractor by Natural England;
  - 6.1.5 the Services shall correspond with the requirements of the Service Order and any other specification within the Agreement;
  - 6.1.6 the Services shall conform in all respects with the requirements of any applicable Law from time to time in force and that it has and will continue to hold all necessary (if any) regulatory approvals from any Regulatory Body necessary to perform the Contractor's obligations under the Agreement;

- 6.1.7 it has and will continue to have all necessary rights in and to any software or Intellectual Property Rights or any other materials made available by the Contractor to Natural England necessary to perform the obligations under this Agreement;
- 6.1.8 it is not in default in the payment of any due and payable taxes or in the filing, registration or recording of any document or under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under the Agreement.
- 6.1.9 it has not and its directors, partners or other senior Staff, have not committed any of the offences set out in Regulation 23 of the Public Contracts Regulations 2006.

## **7. INTELLECTUAL PROPERTY RIGHTS**

- 7.1 All Intellectual Property Rights in any information or material introduced by one Party to the other Party pursuant to this Agreement shall remain the property of the Party that owned such Intellectual Property Rights prior to such introduction.
- 7.2 The Contractor grants Natural England a non-exclusive licence to the Existing Intellectual Property Rights solely in order for Natural England to make use and allow others to make use of the Services and the Resulting Intellectual Property Rights.
- 7.3 The Contractor undertakes that it has identified and declared to Natural England any data, documentation or know how which the Contractor or its sub contractors owns, or has rights to, immediately prior to the commencement of the Agreement which could be reasonably judged necessary for the Services to be used. The contractor further undertakes to take, on Natural England's request, all such reasonable steps that are necessary to provide access to such data and documentation as required to enable Natural England to make use of the Services.
- 7.4 The Contractor hereby assigns to Natural England all Resulting Intellectual Property Rights and all materials embodying such rights to the fullest extent permitted by law and shall complete any such documentation and do all such things as Natural England may require to evidence such assignment.
- 7.5 The Contractor undertakes:
- 7.5.1 to notify to Natural England in writing full details of any Resulting Intellectual Property Rights promptly on their creation, together with full details of the following;
- (a) any data, methods or information created by the Contractor (that will not be described, or otherwise included, in the Services);
  - (b) improved ways of processing or analysing data or information (that will not be described, or otherwise included, in the Services);
  - (c) any errors or mistakes identified in any information or data supplied by Natural England;

In the event that the Contractor believes there is nothing to notify this should be confirmed in writing before submission of the final invoice.

- 7.5.2 whenever requested to do so by Natural England and in any event on the termination of an Engagement, promptly to deliver to Natural England all Confidential Information received from Natural England under the terms of this Agreement which are in its possession, custody or power.
- 7.5.3 that it has identified and declared to Natural England any Intellectual Property Rights that the Contractor or its sub contractors owns, or has rights to, immediately prior to the commencement of the Contract that could be enhanced by or developed under the Agreement, in sufficient detail to ensure that they can be differentiated from those created during the performance of this Agreement.
- 7.6 The Contractor shall not, and shall procure that the Contractor's Staff and suppliers shall not (except when necessary for the implementation of the Agreement) without prior consent from Natural England, use or disclose Intellectual Property Rights, or any other information (whether or not relevant to the Agreement) which the Contractor may obtain in performing the Agreement except information which is in the public domain.
- 7.7 The Contractor waives, or shall procure the waiver, of any moral rights in the Resulting Intellectual Property Rights, to which it is now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, including (but without limitation) the right to be identified, the right of integrity and the right against false attribution, and agrees not to institute, support or maintain or permit any action or claim to the effect that any treatment, exploitation or use of such Intellectual Property Rights or other materials, infringes the Contractors moral rights.
- 7.8 The Contractor warrants and represents that any materials, products, information or service supplied or licensed by the Contractor under this Agreement will not infringe any Intellectual Property Rights of any third party and the Contractor shall during and after the Contract Period on written demand indemnify and shall keep indemnified Natural England against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which Natural England may suffer or incur as a result of or in connection with any breach of this clause, except where any such claim refers to designs furnished by Natural England or the use of data supplied by Natural England which is not required to be verified by the Contractor under any provision of the Agreement.
- 7.9 The cover of all reports or drawings forming part of the Service will include a statement © Natural England and the date of creation.

## **8. ALTERATION OF REQUIREMENT**

- 8.1 No variation of the Agreement or of any document referred to in it by the Contractor shall be effective unless the costs of the variation shall be agreed and details of the variation are agreed in writing and signed by the Parties.

## **9. CONFLICT OF INTEREST**

- 9.1 The Contractor confirms that at the date of the Agreement, neither the Contractor nor any of its Staff or suppliers are placed in a position where there is or may be any actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor or such persons and the duties owed to Natural England under the provisions of the Agreement and that it shall take appropriate steps to ensure that

there is no such conflict throughout the Contract Period. The Contractor will disclose to Natural England full particulars of any such conflict of interest which may arise.

9.2 The provisions of this clause 9 shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.

## 10. **CORRUPT GIFTS AND PAYMENTS**

10.1 The Contractor shall not offer or give, or agree to give, to any employee, agent, servant or representative of Natural England any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, any act in relation to the obtaining or execution of the Agreement or any other contract with Natural England, or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement or any such contract. The attention of the Contractor is drawn to the criminal offences under the Prevention of Corruption Acts 1889 to 1916.

10.2 The Contractor shall not enter into the Agreement if in connection with it commission has been paid or is agreed to be paid to any employee or representative of Natural England by the Contractor or on the Contractor's behalf, unless, before the Agreement is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to Natural England.

## 11. **EQUALITY AND EQUAL OPPORTUNITIES**

11.1 The Contractor shall not, and shall ensure that its Staff shall not, unlawfully discriminate (whether directly or indirectly) against any person.

11.2 The Contractor shall, and shall ensure that its Staff involved in the provision of the Services shall, comply with the Equalities Act 2010 and adhere to Natural England's policy on equal opportunities (as amended from time to time).

11.3 In the event of any finding of unlawful discrimination being made against the Contractor or any of its Staff engaged by the Contractor during the term of the Agreement by any Court or tribunal, or of any adverse finding in any formal investigation by an official body over the same period, the Contractor must immediately inform Natural England of this in writing and must immediately take all necessary steps to prevent repetition of the unlawful discrimination. The Contractor must on request, provide Natural England with written details of all steps taken under this clause.

## 12. **NATURAL ENGLAND DATA**

12.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to any Natural England Data.

12.2 The Contractor shall not store, copy or disclose or use the Natural England Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by Natural England.

12.3 To the extent that the Natural England Data is held and/or processed by the Contractor, the Contractor shall supply that Natural England Data to Natural England as requested by Natural England in the format specified in the request.

12.4 The Contractor shall take responsibility for preserving the integrity of Natural England Data and preventing the corruption or loss of Natural England Data.

- 12.5 The Contractor shall perform secure back-ups of all Natural England Data and shall ensure that up to date back-ups are stored off-site and in accordance with any business continuity and disaster recover plan Natural England have in place or requires the Contractor to have in place. The Contractor shall ensure that such back-ups are available to Natural England at all times upon request and are delivered to Natural England at no less than 3 monthly intervals or as requested by Natural England.
- 12.6 The Contractor shall ensure that any system on which the Contractor holds any Natural England Data, including back-up data, is a secure system that complies with any security policy of Natural England and that it has in place appropriate technical and organisational measures to ensure the security of the same.
- 12.7 If the Natural England Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, Natural England may:
- 12.7.1 require the Contractor (at the Contractor's expense) to restore or procure the restoration of Natural England Data to the extent and in accordance with the requirements specified by Natural England; and/or
- 12.7.2 itself restore or procure the restoration of Natural England Data and shall be repaid by the Contractor any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified by Natural England.
- 12.8 If at any time the Contractor suspects or has reason to believe that Natural England Data has or may become corrupted, lost or sufficiently degraded in any way for any reason then the Contractor shall notify Natural England immediately and inform Natural England of the remedial action the Contractor proposes to take.

### 13. **DATA PROTECTION ACT**

- 13.1 With respect to the Parties rights and obligations under this Agreement the Parties agree that Natural England is the data controller and that the Contractor is the data processor.
- 13.2 Where the Contractor is processing personal data (as defined by the Data Protection Act 1998 ("DPA")) as a data processor for Natural England the Contractor shall ensure that it has implemented appropriate technical and organisational measures to ensure the security of the personal data and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of or damage to the personal data and having regard to the nature of the personal data to be protected.
- 13.3 Notwithstanding the generality of clause 13.2, the Contractor will:
- 13.3.1 process the personal data only in accordance with instructions from Natural England;
- 13.3.2 process the personal data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;
- 13.3.3 obtain prior written consent from Natural England in order to transfer the personal data to any Staff for the provision of the Services;

- 13.3.4 ensure that any Staff required to access the personal data are informed of the confidential nature of the personal data and comply with the obligations set out in this clause 13 and take reasonable steps to ensure the reliability of any Staff who have access to personal data;
- 13.3.5 ensure that none of the Contractor's personnel publish, disclose or divulge any of the personal data to any third party unless directed in writing to do so by Natural England;
- 13.3.6 notify Natural England (within five (5) Working Days) if it receives:
  - (a) a request from a data subject to have access to that person's personal data; or
  - (b) a complaint or request relating to Natural England's obligations under the DPA;

and provide Natural England with full cooperation and assistance in relation to any complaint or request made including by:

- (c) providing Natural England with full details of the complaint or request;
  - (d) complying with any data access request within the relevant time scales in the DPA and in accordance with Natural England's instructions;
  - (e) providing Natural England with any personal data it holds in relation to a data subject (within the timescales required by Natural England); and
  - (f) provide Natural England with any information requested by Natural England.
- 13.3.7 permit Natural England or its representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Contractor's data processing activities (and/or those of its agents, subsidiaries and sub-contractors) and comply with all reasonable requests or directions by Natural England to enable Natural England to verify and/or procure that the Contractor is in full compliance with its obligations under this Agreement;
- 13.3.8 provide a written description of the technical and organisational methods employed by the Contractor for processing personal data (within the timescales specified by Natural England);
- 13.3.9 not process personal data outside the European Economic Area without the prior written consent of Natural England and, where Natural England consents to a transfer, to comply with any reasonable instructions notified to it by Natural England and ensure compliance with the obligations of a data controller under the eight data protection principle as set out in Schedule 1 of the DPA by providing an adequate level of protection to any personal data transferred;
- 13.3.10 provide Natural England with such information as Natural England may reasonably require to satisfy itself that the Contractor is complying with its obligations under the DPA;

13.3.11 promptly notify Natural England of any breach of security measures; and

13.3.12 ensure that it does nothing knowingly or negligently which places Natural England in breach of Natural England's obligations under the DPA.

13.4 The Contractor shall comply at all times with the DPA and shall not perform its obligations under this Agreement in such a way as to cause Natural England to breach any of its applicable obligations under the DPA.

13.5 The provisions of this clause shall apply during the Contract Period and indefinitely after its expiry or termination.

#### 14. **RIGHT TO PUBLISH**

14.1 The Contractor acknowledges that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement is not Confidential Information. Natural England shall be responsible for determining in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for Natural England to publish the Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including from time to time agreed changes to the Agreement, to the general public.

14.2 Natural England may consult with the Contractor to inform its decision regarding any exemptions but Natural England shall have the final decision in its absolute discretion.

14.3 The Contractor shall assist and cooperate with Natural England to enable Natural England to publish this Agreement.

#### 15. **CONFIDENTIALITY**

15.1 Each Party:

15.1.1 shall treat all Confidential Information belonging to the other as confidential and safeguard it accordingly; and

15.1.2 shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Agreement or except where disclosure is otherwise expressly permitted by the provisions of the Agreement.

15.2 The Contractor shall take all necessary precautions to ensure that all Confidential Information obtained from Natural England under or in connection with the Agreement:

15.2.1 is given only to such of the Staff and professional advisors or consultants engaged to advise it in connection with the Agreement as is strictly necessary for the performance of the Agreement and only to the extent necessary for the performance of the Agreement;

15.2.2 is treated as confidential and not disclosed (without the prior written consent of Natural England) or used by any Staff or such professional

advisors or consultants otherwise than for the purposes of the Agreement;  
and

- 15.2.3 that its Staff or professional advisors or consultants are aware of the Contractor's confidentiality obligations under the Agreement and shall sign a confidentiality undertaking on the same terms before commencing work in connection with the Agreement.
- 15.3 This clause 15 shall not apply to Confidential Information which:
- 15.3.1 is or becomes publicly available (otherwise than by a breach of any obligation of confidentiality); or
  - 15.3.2 was known to a Party, without restriction as to its disclosure, before the information was disclosed to it by the other Party; or
  - 15.3.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - 15.3.4 is required to be disclosed by Law including any requirement for disclosure under the DPA, FOIA or EIR; or
  - 15.3.5 is independently developed by a Party without direct or indirect access to, or use or knowledge of, the information disclosed to it by the other Party.
- 15.4 Nothing in this Agreement shall prevent Natural England from disclosing the Contractors Confidential Information, including the Management Information:
- 15.4.1 to any crown body or any other Contracting Authority who shall be entitled to further disclose the Confidential Information to other crown bodies or Contracting Authorities on the basis it is confidential and not to be disclosed to a non crown body or non-Contracting Authority third party;
  - 15.4.2 to any consultant, contractor or other person engaged by Natural England or any person for the purposes of an OGC gateway review;
  - 15.4.3 for the purpose of examination and certification of Natural England's accounts; or
  - 15.4.4 for the examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which Natural England has used its resources.
- Natural England shall use all reasonable endeavours to ensure that if it discloses any Confidential Information under this clause that party is made aware of Natural England's obligations of confidentiality.
- 15.5 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in the Agreement are granted to the other Party, or to be implied from this Agreement.
- 15.6 Nothing in this clause 15 shall prevent either Party from using techniques, ideas or know how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of Intellectual Property Rights.

- 15.7 On termination of this Agreement, each Party shall:
- 15.7.1 return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information;
  - 15.7.2 erase all the other Party's Confidential Information from its computer systems (to the extent possible); and
  - 15.7.3 certify in writing to the other Party that it has complied with the requirements of this clause, provided that a recipient Party may retain documents and materials containing, reflecting, incorporating or based on the other Party's Confidential Information to the extent required by Law. The provisions of this clause 15 shall continue to apply to any such documents and materials retained by a recipient Party.

Provided that this clause 15.7 shall not apply to any Confidential Information provided by the Contractor to Natural England in performing its obligations under this Agreement and which is necessary for Natural England to benefit from the Services following termination.

- 15.8 Except as expressly stated in this Agreement, no Party makes any express or implied warranty or representation concerning its Confidential Information.
- 15.9 The provisions of this clause shall continue to apply after termination of this Agreement.

## 16. **MONITORING AND MANAGEMENT INFORMATION**

- 16.1 Where requested by Natural England, the Contractor shall supply the Management Information to Natural England and/or to GPS (Government Procurement Services formerly OGC) during the Contract Period.
- 16.2 The Contractor acknowledges and agrees that Natural England may provide GPS with information relating to the Services and any payments made under the Agreement.
- 16.3 Upon receipt of the Management Information supplied by the Contractor under 16.1 or receipt of information provided by Natural England to GPS under 16.2, Natural England and the Contractor hereby consent to GPS:
- 16.3.1 Storing and analysing the Management Information and producing statistics; and
  - 16.3.2 Sharing the Management Information or any statistics produced using the Management Information with any other Contracting Authority.
- 16.4 In the event that GPS shares the Management Information or information provided under clause 16.2 in accordance with 16.3.2, any Contracting Authority receiving the Management Information shall be informed of the confidential nature of that information and shall be requested not to disclose it to any body who is not a Contracting Authority (unless required by Law).
- 16.5 Natural England may make changes to the Management Information which the Contractor is required to supply and shall give the Contractor at least one (1) months written notice of any changes.

## 17. **FREEDOM OF INFORMATION AND ENVIRONMENTAL REGULATIONS**

- 17.1 The Contractor acknowledges that Natural England is subject to the requirements of the Code of Practice on Government Information, Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR") and shall assist and co-operate with Natural England (at the Contractor's expense) to enable Natural England to comply with these requirements.
- 17.2 The Contractor shall and shall ensure that all Staff shall:
- 17.2.1 transfer to Natural England all requests for information that it receives as soon as practicable and in any event within 2 working days of receiving a request for information;
  - 17.2.2 provide Natural England with a copy of all information in its possession or power in the form that Natural England requires within 5 working days (or such other period as Natural England may specify) of Natural England's request; and
  - 17.2.3 provide all necessary assistance as reasonably requested by Natural England to enable Natural England to respond to a request for information within the time for compliance set out in section 10 of FOIA or regulation 5 of EIR.
- 17.3 Natural England shall be responsible for determining at its absolute discretion whether any information, whether commercially sensitive information or otherwise, is exempt from disclosure in accordance with the provisions of the Code of Practice on Governmental Information, FOIA or the EIR or is to be disclosed in response to a request for information and in no event shall the Contractor respond directly to a request for information unless expressly authorised to do so by Natural England.
- 17.4 In responding to a request for information, including information in connection with the Agreement (including but not limited to tender documents, subsequent contractual information or information classified as confidential or sensitive) Natural England will, where in its absolute discretion it deems necessary, use reasonable endeavours to consult the Contractor. Notwithstanding this the Contractor acknowledges that Natural England may, in accordance with the Code, disclose information concerning the Contractor or the Services without consulting the Contractor, or following consultation with the Contractor having taken its views into account provided that Natural England shall 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.
- 17.5 The Contractor shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall provide all necessary assistance as reasonably requested by Natural England to enable Natural England to respond to a request for information within the time for compliance and shall permit Natural England to inspect such records as requested from time to time.
- 17.6 The Contractor acknowledges that any commercially sensitive information identified by the Contractor is of indicative value only and that Natural England may be obliged to disclose it in accordance with clause 17.4.

## 18. SECURITY

- 18.1 The Contractor acknowledges that Natural England places great emphasis on confidentiality, integrity and availability of information and consequently on the security of Premises and the security of any of the Contractor's systems. The Contractor also acknowledges the confidentiality of Natural England's Data.
- 18.2 The Contractor shall be responsible for the security of any of its systems and shall at all times provide a level of security which:
- 18.2.1 is in accordance with Good Industry Practice and Law;
  - 18.2.2 complies with any security policy of Natural England or any policy Natural England require the Contractor to develop, implement and maintain;
  - 18.2.3 meets any specific security threats to any of the Contractor's systems;
  - 18.2.4 complies with ISO/IEC27002 and ISO/IEC27001;
  - 18.2.5 the minimum set of security measures and standards required where the system will be handling "protectively marked" or sensitive information (as determined by the Cabinet Office Manual of Protective Security or equivalent); and
  - 18.2.6 any other extent national information security requirements and guidance issued from time to time.
- 18.3 The Contractor should avoid the use of removable media to store Natural England Data or information wherever possible. In the event that removable media is used the Contractor shall ensure:
- 18.3.1 the Natural England Data or information transferred to the removable media is the absolute minimum necessary to carry out the Services, both in terms of the number of people covered by the information and the scope of information held; and
  - 18.3.2 the removable media should be encrypted to a standard of at least FIPS 140-2 or equivalent and must be protected by an authentication mechanism;
  - 18.3.3 user rights to transfer Natural England Data to removable media should be strictly limited to staff for whom it is absolutely necessary.
- 18.4 The Contractor shall as an enduring obligation throughout the Contract Period use the latest versions of anti-virus definitions available to check for and delete any malicious software from its systems or the operating environment.
- 18.5 Without limiting clause 18.2 and 18.3, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to maintain the following at acceptable risk levels (in accordance with Good Industry Practice for the UK public sector):
- 18.5.1 loss of integrity of Natural England Data;
  - 18.5.2 loss of confidentiality of Natural England Data;

- 18.5.3 unauthorised access to, use of, or interference with Natural England Data by any person or organisation;
  - 18.5.4 unauthorised access to network elements, Premises and tools used by the Contractor in the provision of the Services;
  - 18.5.5 use of the Contractor's systems or Services by any third party in order to gain unauthorised access to any computer resource or Natural England Data; and
  - 18.5.6 loss of availability of Natural England Data due to any failure or compromise of the Services.
- 18.6 Either Party shall notify the other immediately upon becoming aware of any malicious software or breach of security including, but not limited to, an actual, potential or attempted breach, or threat to any security plan that Natural England have in place or may require the Contractor to develop and put in place.
- 18.7 Upon becoming aware of any circumstances referred to in 18.5 the Contractor shall immediately take all reasonable steps necessary to:
- 18.7.1 remedy such breach or protect the Contractors systems against any such potential or attempted breach or threat; and
  - 18.7.2 prevent an equivalent breach in the future

Such steps shall include any action or changes reasonably required by Natural England.

- 18.8 In the event of any circumstances referred to in 18.5 the Contractor shall as soon as reasonably practicable provide to Natural England full details (using such reporting mechanism as may be specified by Natural England from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof.

## 19. **TERMINATION**

- 19.1 Without prejudice to any other rights or remedies which Natural England may have, Natural England may terminate this Agreement by giving one months' written notice to the Contractor.
- 19.2 Natural England may terminate the Agreement by notice in writing with immediate effect with no liability to make any further payment to the Contractor (other than in respect of amounts accrued in accordance with clause 20.1) where the Contractor:
- 19.2.1 undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988, which impacts adversely and materially on the performance of the Agreement; or
  - 19.2.2 becomes insolvent, bankrupt, enters into liquidation, enters into a voluntary arrangement, appoints a receiver or such similar event in any jurisdiction save for the purposes of a solvent reconstruction or amalgamation; or
  - 19.2.3 commits, or any of its directors, partners or senior Staff commit, an offence as set out in Regulation 23 of the Public Contract Regulations 2006 (as amended) or is guilty of any fraud or dishonesty or acts in any manner which in the opinion of Natural England brings or is likely to bring the

Contractor or Natural England into disrepute or is materially adverse to the interests of Natural England; or

19.2.4 suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Contractor ceases to trade; or

19.2.5 commits any serious or repeated breach of non-observance of any of the provisions of the Agreement or refuses or neglects to comply with any reasonable and lawful directions of Natural England; or

19.2.6 fails to comply with the requirements of clause 28, in accordance with clause 28.5.

19.3 Natural England may only exercise its right under clause 19.2.1 within six months of the date a change of control occurs and shall not be permitted to do so where it has agreed in writing in advance to the particular change of control that occurs. The Contractor shall notify the Project Officer immediately when any change of control occurs.

19.4 Either Party may terminate the Agreement, or terminate the provision of any part of the Agreement by written notice to the other Party with immediate effect if that other Party commits a Default and if:

19.4.1 the Default is not remedied within 30 days, or such other period as may be agreed between the Parties, after issue of a written notice specifying the Default and requesting it to be remedied; or

19.4.2 the Default is not capable of remedy; or

19.4.3 the Default is a fundamental breach of the Agreement.

## 20. **CONSEQUENCES OF TERMINATION**

20.1 On termination of the Agreement pursuant to clause 19.1, 19.2.1, 19.2.2, 19.2.4 or 19.2.6 or 30.1 Natural England shall:

20.1.1 pay to the Contractor sums due and reasonably incurred up to the date of termination where Natural England has received Goods or Services to the equivalent value;

20.1.2 pay to the Contractor sums due for expenditure incurred after the date of termination only in so far as it is a result of commitments entered into by the Contractor in good faith before the date on which notice of termination was given and which cannot be voided on or before the termination date. The Contractor shall submit a fully itemised and costed list of such loss, with supporting evidence of losses reasonably and actually incurred by the Contractor as a result of termination within 5 days of receiving the notice of termination.

provided that any such sum payable in accordance with this clause 20.1 shall only be payable by Natural England if it would have been payable in accordance with this Agreement if it had not been terminated

20.2 Natural England shall not be liable under clause 20.1.2 to pay any sum which was claimable under insurance held by the Contractor, or when added to any sum paid

or due to the Contractor under the Agreement, exceeds the total sum that would have been payable to the Contractor if the Agreement had not been terminated prior to the expiry of the Contract Period.

## **21. EMPLOYMENT REGULATIONS**

21.1 In the event that the termination of this Agreement could constitute a "relevant transfer" within the meaning of the Employment Regulations, the Contractor undertakes to Natural England:

21.1.1 to comply with any of its obligations under the Employment Regulations and to co-operate with Natural England and or any Replacement Contractor in the event of a relevant transfer;

21.1.2 that it has not made any amendment or change to the terms and conditions of its Staff in the 6 months preceding termination of this Agreement;

21.1.3 to indemnify and keep Natural England indemnified against all liabilities, costs, losses, claims, charges, demands or expenses which are attributable to any act or omission by the Contractor prior to or arising from the termination of the Agreement in respect of any of the Contractor's obligations or duties (whether arising under common law, statute, custom or otherwise) to or in relation to any of its Staff or former staff (including but not limited to any liability arising out of the termination or dismissal of any employee or former employee or out of a failure by the Contractor to comply with its obligations under the Employment Regulations);

21.1.4 that all amounts payable to or in relation to its Staff engaged in the performance of this Agreement (including wages and salaries, overtime, bonus or commission (earned but unpaid), accrued holiday pay, income tax, national insurance contributions, pension contributions and insurance premiums) in respect of the period prior to the termination of this Agreement shall be discharged by the Contractor and the Contractor undertakes to indemnify Natural England against any and all costs, charges and expenses arising out of or in connection with such amounts; and

21.1.5 to indemnify Natural England and any Replacement Contractor in respect of any claims arising from any act or omission of the Contractor in relation to any other of the Contractor's Staff who are not employed, assigned or engaged in providing the Services under the Agreement.

21.2 The Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to this clause 21 to the extent necessary to ensure that any Replacement Contractor shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Contractor by the Contractor in its own right pursuant to section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

## **22. LIABILITY AND INSURANCE**

22.1 Neither Party excludes or limits liability to the other for death or personal injury caused by its negligence or for any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or any such liability which it is not permissible to exclude by Law.

22.2 The Contractor shall indemnify and keep indemnified Natural England fully against all claims, proceedings, actions, damages, legal costs, expenses and any other

liabilities whatsoever arising out of, in respect of, or in connection with the Agreement including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by an act or omission of the Contractor. This clause 22.2 shall not apply to the extent that the Contractor is able to demonstrate that such death or personal injury, or loss or damage was not caused or contributed to by its negligence or default, or the negligence or default of its Staff or by any circumstances within its or their control.

- 22.3 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover and other terms of insurance in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of the Agreement, including death or personal injury, loss of or damage to property, employers liability or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor and shall be subject to the minimum cover levels as set out in clause 23.
- 22.4 The Contractor shall on request supply to Natural England copies of such insurance certificates and evidence that the relevant premiums have been paid.
- 22.5 The Contractor shall notify Natural England as soon as possible and in any event within 48 hours of any incident that may lead to any claim, demand or proceedings and shall supply such particulars or details thereof as Natural England shall reasonably require.
- 22.6 The Contractor shall fully and promptly indemnify Natural England in respect of any damage whatsoever caused by any Staff of the Contractor, whether such damage be caused by negligence or in any other way whatsoever to any land, building or chattel in the ownership, occupation or possession of Natural England arising out of or in consequence of the performance of the Agreement or the performance of the Services.

### 23. **LIMITATION OF LIABILITY**

- 23.1 Subject to clause 22.1, Natural England's total liability arising under, or in connection with, this Agreement, whether in tort (including negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, shall be limited as follows:
- 23.1.1 for non-payment of invoices for Services purchased, to the amount unpaid;  
or
- 23.1.2 for any other type of liability, to the amount paid for the Services under the Agreement.
- 23.2 Subject to clause 22.1, the Contractor's total liability arising under, or in connection with, this Agreement, whether in tort (including negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, shall be limited to five (5) million pounds or one hundred and twenty five percent (125%) of the total Contract Price whichever is the greater.
- 23.3 Subject to clause 22.1, neither Party will be liable to the other Party for:
- 23.3.1 any indirect, special or consequential loss or damage; or

- 23.3.2 any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).
- 23.4 Subject to clause 23.2 Natural England may, amongst other things, recover as a direct loss:
  - 23.4.1 any additional operational and/or administrative costs and expenses arising from the Contractor's Default;
  - 23.4.2 any wasted expenditure or charges rendered unnecessary and/or incurred by Natural England arising from the Contractor's Default;
  - 23.4.3 the additional cost of procuring replacement Services for the remainder of the Contract Period; and
  - 23.4.4 any anticipated savings.

## 24. **ASSIGNMENT, SUB-CONTRACTORS AND SUPPLIERS**

- 24.1 The Contractor shall not assign, sub-contract or in any other way dispose of the Agreement or any part of it without the prior written consent of Natural England. Sub-contracting any part of the Agreement shall not relieve the Contractor of any obligation or duty attributable to the Contractor under the Agreement.
- 24.2 The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- 24.3 Natural England may at any time novate, assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Agreement and may sub-contract or delegate in any manner any or all of its obligations under the Agreement to any third party or agent.
- 24.4 The Contractor shall ensure that a term is included in any sub-contract permitted under this Agreement which requires the Contractor to pay any undisputed sums due to the relevant sub-contractor within a specified period that does not exceed 30 days from the date the Contractor receives the sub-contractor's invoice.

## 25. **ENVIRONMENTAL OBLIGATIONS**

- 25.1 The Contractor shall provide the Services with due consideration of the Environmental Targets.
- 25.2 In provision of the Services the Contractor will use reasonable endeavours to contribute to the Environmental Targets.
- 25.3 The Contractor shall in all its own operations, including purchase of materials and services, adopt a sound proactive environmental approach, designed to minimise harm to the environment and be able to provide proof of so doing to the Project Officer on demand.
- 25.4 The Contractor confirms that:
  - 25.4.1 the process used in the manufacture of Goods and the provision of Services minimises the use of ozone depleting substances, toxic chemicals and other pollutants including lead, methyl chloroform and formaldehyde;

25.4.2 alternatives to non-renewable natural resources have been sought and used as a preference wherever possible;

25.4.3 in the manufacture of Goods and in the choice of any associated packaging and the provision of Services, it has given preference to materials that contain maximum recycled content and capacity for recycling or, where cost-effective recycling is impracticable, maximum biodegradability.

## 26. **PRECAUTIONARY PRINCIPLE**

26.1 Where there is good reason to believe there is a potential health or environmental risk in connection with the use of materials, even if the data remains unconfirmed or scientifically unproven, uncertain or the use of the material remains legally permitted, the Contractor should:

26.1.1 notify Natural England of the risk and identify the source of the information or scientific data in which the risk is identified; and

26.1.2 strive to identify any alternative materials that could be used as a substitute for the material. Any alternative materials should have a low environmental or health impact and continue to meet any requirements in relation to quality.

26.2 Prior to substitution of any material under this provision the Contractor will provide Natural England with details of:

26.2.1 any cost or quality implications of the use of any other alternative material; and

26.2.2 any other relevant information in relation to alternative materials.

26.3 Following receipt of the information above, Natural England shall decide, at its absolute discretion, if it wishes the Contractor to substitute the current material with any alternative materials proposed by the Contractor or otherwise identified by Natural England itself.

## 27. **AUDIT**

27.1 The Contractor shall allow Natural England, its agents, representatives and auditors, and/or a Regulatory Body access at all times to:

27.1.1 records and other materials and assets used in the Contractor's provision of the Services;

27.1.2 the Contractor's Staff involved in the provision of the Services;

27.1.3 reasonable access to any sites or premises controlled by the Contractor and to any equipment or systems used (whether exclusively or non-exclusively) in the performance of the Services; and

27.1.4 witness, conduct of access results of any tests of security processes and counter-measures required to be in place in accordance with clause 18 and 6.1.3.

27.2 The Contractor shall co-operate with any audit carried out pursuant to this clause and shall make available all such information and records as are reasonably required by the auditing party to conduct the audit free of charge and on a timely

basis and shall allow the auditing party to take copies of all such information and records.

- 27.3 Without prejudice to any other rights or remedies Natural England may have, if an audit identifies that the Contractor has failed to perform its obligations under this Agreement in any material manner, the Parties shall agree and implement a remedial plan.

## 28. **TAX ASSURANCE**

- 28.1 Where the Contractor is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.

- 28.2 Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.

- 28.3 Natural England may, at any time during the term of this contract, request the Contractor to provide information which demonstrates how the Contractor complies with Clauses 28.1 and 28.2 above or why those Clauses do not apply to it.

- 28.4 A request under Clause 28.3 above may specify the information which the Contractor must provide and the period within which that information must be provided.

- 28.5 The Contractor acknowledges that all information it provides pursuant to Clauses 28.3 and 28.4 above will be provided to Natural England.

- 28.6 Natural England may terminate this contract if-

28.6.1 in the case of a request mentioned in Clause 28.3 above-

28.6.1.1 the Contractor fails to provide information in response to the request within a reasonable time, or

28.6.1.2 in the opinion of Natural England, the Contractor provides information which is inadequate to demonstrate either how the Contractor complies with Clauses 28.1 and 28.2 above or why those Clauses do not apply to it;

28.6.2 in the case of a request mentioned in Clause 28.4 above, the Contractor fails to provide the specified information within the specified period, or

28.6.3 it receives information which demonstrates that, at any time when Clauses 28.1 and 28.2 apply to the Contractor, the Contractor is not complying with those Clauses.

- 28.7 The Contractor acknowledges that Natural England may supply any information which it receives under Clause 28.3 and 28.4 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible."

**29. WAIVER**

- 29.1 Failure to exercise, or any delay in exercising, any right or remedy provided under the Agreement or by Law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.
- 29.2 No single or partial exercise of any right or remedy provided under the Agreement or by Law shall preclude or restrict the further exercise of any such right or remedy.
- 29.3 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 29.4 A waiver (which may be given subject to conditions) of any right or remedy provided under the Agreement or by Law shall only be effective if it is in writing and shall apply only to the Party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the Party who has given the waiver from subsequently relying on the right or remedy in other circumstances.

**30. SEVERABILITY**

- 30.1 If any provision (or part of a provision) of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, such provision shall be severed and the other provisions will remain in force and effect as if the Agreement had been executed with such invalid, illegal or unenforceable provision eliminated.

**31. FORCE MAJEURE**

- 31.1 Neither Party shall be liable to the other for any delay in or failure to perform its obligations under the Agreement if such delay or failure results from a Force Majeure event. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Agreement. If a Party is unable to perform its obligations under the Agreement as a result of a Force Majeure event for a period in excess of 6 months (commencing on the date of the notice provided in accordance with clause 31.2), the other Party may terminate the Agreement by notice in writing with immediate effect.
- 31.2 If either Party becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall notify the other as soon as reasonably possible and shall estimate the period such failure or delay shall continue.

**32. FRAUD**

- 32.1 The Contractor shall safeguard Natural England's funding of the Agreement against fraud generally and, in particular, fraud on the part of its Staff, or the Contractor's directors and suppliers. The Contractor shall notify Natural England immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

**33. RECOVERY OF SUMS DUE**

- 33.1 Wherever under the Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to Natural

England in respect of any breach of the Agreement), Natural England may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or under any other agreement or contract with Natural England.

#### **34. ANNOUNCEMENTS**

34.1 No Party shall make, or permit any person to make, any public announcement concerning the Agreement (whether before, at or after completion) except as required by Law or with the prior written consent of the other Party (such consent not to be unreasonably withheld, delayed or conditioned).

#### **35. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

35.1 Subject to clause 21.2, a person who is not a Party to the Agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

#### **36. DISPUTE RESOLUTION**

36.1 Any disputes arising in connection with this Agreement will normally be resolved amicably at working level. In the event of failure to reach consensus between the Parties then such failure shall be handled in the following manner:

36.1.1 the dispute shall in the first instance be referred to Natural England's Project Officer or manager in the organisation of similar standing and the Contractor's nominated equivalent officer for resolution at a meeting to be arranged as soon as practicable after the failure to reach consensus arises, but in any event within ten Business Days;

36.1.2 if the dispute cannot be resolved in accordance with 36.1.1 above within ten Business Days after such referral, or within any other period agreed between the Parties then the dispute shall be referred to Natural England's Head of Legal at 7<sup>th</sup> Floor, Hercules House, Hercules Road, London SE1 7DU and to the Contractor's nominated equivalent officer for resolution at a meeting to be arranged as soon as practicable after such referral, but in any event within ten Business Days;

36.1.3 if the dispute has not been resolved following a referral in accordance with 36.1.2 the Parties shall seek to settle the dispute by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator will be nominated by CEDR.

#### **37. ENTIRE AGREEMENT**

37.1 The Agreement and any documents referred to in it constitute the whole agreement between the Parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

37.2 Each Party warrants to the other Parties that, in entering into the Agreement and the documents referred to in it, it does not rely on any statement, representation, assurance or warranty of any person (whether a Party to this Agreement or not) other than as expressly set out in the Agreement or those documents.

37.3 Nothing in this clause shall limit or exclude any liability for fraud or fraudulent misrepresentation.

**38. SCOPE OF AGREEMENT**

38.1 Nothing in the Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between the Parties, nor constitute any Party the agent of the other Party for any purpose. No Party shall have authority to act as agent for, or to bind, the other Party in any way.

**39. NOTICE**

39.1 Any notice required to be given under the Agreement shall be in writing and shall be delivered personally, or by commercial courier, to each Party required to receive the notice at its address as set out in the Service Order or at such other address as the relevant Party may specify by notice in writing to the other.

39.2 Any notice shall be deemed to have been duly given:

39.2.1 if delivered personally, when left at the address referred to in the Service Order; or

39.2.2 if delivered by commercial courier, on the date of signature of the courier's receipt.

39.3 The provisions of this clause shall not apply to the service of any process in any legal action or proceedings where the normal legal rules as to delivery will apply.

**40. LAW AND JURISDICTION**

40.1 The Agreement and all disputes or claims arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England.

40.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle all disputes or claims that arise out of or in connection with the Agreement or its subject matter.

## SCHEDULE 1

### DEFINITIONS

**Agreement:** means the agreement between Natural England and the Contractor consisting of these General Terms, the Service Order, the Special Terms and any other documents (or parts thereof) specified by Natural England.

**Business Day:** a day when the clearing banks are open for business other than a Saturday, Sunday or public holiday in England or Wales.

**Capacity:** means as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity.

**CDM Regulations:** means the Construction (Design and Management) Regulations 2007 and any amendments, consolidation or re-enactment of the same.

**Code:** means the Department for Constitutional Affairs Code of Practice on the Discharge of Functions of Public Authorities under Part 1 of FOIA.

**Confidential Information:** means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including the Management Information, information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either Party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998.

**Contract Period:** means the period of duration of the Agreement from the commencement date in accordance with the Service Order.

**Contract Price:** means the price exclusive of any applicable tax, payable to the Contractor by Natural England under the Agreement, as set out in the Service Order, for the full and proper performance by the Contractor of its part of the Agreement as determined under the conditions of the Agreement.

**Contracting Authority:** has the meaning given to it in Regulation 3 of the Public Contracts Regulations 2006.

**Contractor:** means the person, firm or company with whom Natural England enters into the Agreement the details of which are set out in the Service Order.

**Default:** means any breach of the obligations of either Party (including but not limited to fundamental or persistent breach or breach of a fundamental term) or any default, act, omission, negligence or statement of either Party, its employees, agents or sub-contractors in connection with or in relation to the subject matter of the Agreement and in respect of which such Party is liable to the other.

**Delivery Location:** means, unless otherwise agreed in writing by Natural England, the location set out for delivery in the Service Order.

**Employment Regulations:** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**Engagement:** means the engagement of the Contractor by Natural England to provide the Services on the terms of the Agreement.

**Environmental Targets:** means cross governmental environmental objectives, including an obligation to:

- (a) conserve energy, water and other resources; and
- (b) reduce waste and minimise the release of greenhouse gases, acid rain precursors, volatile organic compounds and other substances damaging to health and the environment as a result of activity on, or related to the government estate.

**Existing Intellectual Property Rights:** means any Intellectual Property Rights of the Contractor used in the provision of the Services that was in existence prior to the Commencement Date which was not specifically created for use or intended use in relation to the performance of the obligations under this Agreement.

**Force Majeure:** means any event or occurrence which is outside the reasonable control of the Party concerned, and which is not attributable to any act or failure to take preventative action by the Party concerned, including (but not limited to) mandatory compliance with any governmental regulations, acts of God (including fire, flood, earthquake or other natural disaster), war or terrorist attack. For the avoidance of doubt, it does not include any strikes, lock outs or other industrial action occurring within the Contractor's organisation or within any sub-contractor's organisation or any non performance by the Contractor's suppliers and sub-contractors.

**General Terms:** these terms and conditions.

**Good Industry Practice:** means using standards, practice, methods and procedures and exercising that degree of skill and care, diligence, prudence and foresight which one would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances.

**Goods:** means any goods agreed in the Service Order to be supplied to Natural England by the Contractor (including any part or parts of them).

**Health and Safety Requirements:** all applicable health and safety legislation, rules, policies and regulations and other reasonable security requirements that Natural England has in force from time to time.

**Intellectual Property Rights:** means patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

**Law:** means applicable law, statute, bye-law, regulations, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.

**Management Information:** means the information required from the Contractor pursuant to the OGC procurement policy note (Action Note 06/10 05March 2010), taking into account the category of spend of the Agreement and as further described in the Service Order.

**Natural England:** means Natural England of 4<sup>th</sup> Floor, Foss House, Kings Pool, 1-2 Peasholme Green, York YO1 7PX.

**Natural England Data:** means:

the data text drawings diagrams images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media and which are:

- (c) supplied to the Contractor by or on behalf of Natural England; or
- (d) which the Contractor is required to generate, process, store or transmit pursuant to the Agreement; or
- (e) any personal data for which Natural England is the data controller.

**OGC:** means the Office of Government Commerce.

**Party:** means any party to this Agreement individually and "**Parties**" refers to all of the parties to this Agreement collectively. A Party shall include all permitted assigns of the Party in question.

**Payment Profile:** means the payment profile and any milestones for payment identified in the Service Order.

**Premises:** means the location at which the Services are to be provided as specified in the Service Order.

**Project Officer:** means the person for the time being appointed by Natural England as being authorised to administer the Agreement on behalf of Natural England or such person as may be nominated by the Project Officer to act on its behalf.

**Regulatory Body:** means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Agreement or any other affairs of Natural England.

**Replacement Contractor:** means a firm, company or organisation with which Natural England contracts to provide the Services or service which is substantially the same type of services (in whole or in part) after termination of the Agreement.

**Resulting Intellectual Property:** means individually and collectively all inventions, improvements and/or discoveries which are conceived and/or made and any Intellectual Property Rights created by one or more members of Staff of the Contractor or its sub contractors acting either on their own or jointly with one or more employees of Natural England in performance of the Services.

**Service Order:** the order form (being either in the form of the engagement letter, service order form or framework agreement and work package order) from Natural England to the Contractor setting out the specification and requirements.

**Services:** means any such Goods or services as are to be supplied by the Contractor under the Agreement more particularly described in the Service Order.

**Special Terms:** the special terms of Natural England applicable to the type of Services to be provided by the Contractor, including the additional terms agreed and included in the "special terms" section of the Service Order.

**Staff:** means all persons employed by the Contractor to perform the Agreement together with the Contractor's servants, agents and sub-contractors used in the performance of the Agreement.

**Staff Vetting:** Natural England procedures and departmental policy for the vetting of personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures, including, but not limited to, the provisions of the Official Secrets Act 1911 to 1989. For the avoidance of doubt, unless otherwise notified by Natural England, only Staff members involved in handling confidential or sensitive information as part of the Services or who will be required to have unsupervised access to Natural England's Premises will need to be subject to the full Staff Vetting Procedures.

**Timetable:** the timetable for the provision and completion of the Services as specified in the Service Order for the Services.

## **Annex 2 – Worked Examples**

## Worked Example 1: Medina Estuary SSSI

File ref:

**County:** Isle of Wight

**Site Name:** Medina Estuary SSSI

**Status:** Site of Special Scientific Interest (SSSI) notified under Section 28 of the Wildlife and Countryside Act, 1981

**Local Planning Authority:** Isle of Wight County Council

**National Grid Reference:** SZ 508924

**Area:** 100.5 (ha)

**Ordnance Survey Sheet 1:50,000:** 196

**1:10,000:** SZ 59 SW, SZ 58 NW

**Date Notified (Under 1949 Act):** 1977

**Date Notified (Under 1981 Act):** 1985

**Date of Last Revision:** 16 March 1995

**Date Confirmed:** 6 December 1995

### Other Information:

The site includes the Werrar Marshes (Dodnor Creek) Local Nature Reserve (8.7 ha), declared under section 21 of the National Parks and Access to the Countryside Act 1949, owned and managed by the Isle of Wight County Council. The site also includes land which has been proposed for designation under the Ramsar Convention on Wetlands of International Importance, and as a Special Protection Area under EC Directive 79/409 on the Conservation of Wild Birds.

### Reasons for Notification:

The Medina Estuary SSSI comprises a relatively narrow tidal channel, 4.5 kilometres long, flanked by intertidal mudflats and saltmarsh in close association with a variety of brackish, freshwater and terrestrial habitats. The Medina is an important component of the Solent estuarine system which supports internationally important over-wintering migratory populations of wildfowl and wading birds, and important breeding populations of waders, gulls and terns.

The intertidal mudflats of the Medina possess a rich invertebrate fauna dominated by the gastropod *Hydrobia ulva*, amphipods *Corophium volutator* and the polychaete worm *Nereis diversicolor*. The invertebrate community present within the estuary is one more commonly associated with marine rather than estuarine situations and presumably reflects the relatively small freshwater volume of the Medina river. The mudflat surfaces are largely unvegetated except for mats of green algae, mainly *Enteromorpha* species and *Ulva lactuca*, which form during late spring and summer.

The intertidal areas provide important feeding grounds for a variety of wading birds and wildfowl. These include dunlin *Calidris alpina*, redshank *Tringa totanus*, curlew *Numenius arquata*, black-tailed godwit *Limosa limosa*, dark-bellied brent geese *Brenta bernicla*, shelduck *Tadorna tadorna*, wigeon *Anas penelope* and teal *A. crecca*. The estuary regularly supports more than half the resident oystercatcher *Haematopus ostralegus* population on the Isle of Wight and the upper reaches are particularly important feeding areas for the Island's population of m u t e s w a n

The numerous fragments of saltmarsh that occur along both sides of the estuary are considered relict features of more extensive marshes which originally formed when the physical character of the river was markedly different from that of today. The largest and best preserved of these is the Werrar saltmarsh which

fringes the mid-western edge of the estuary. It exhibits a clear zonation of vegetation reflecting classic stages in saltmarsh development. The lower marsh is dominated by sea purslane *Halimione portulacoides* with some cord-grass *Spartina anglica*. This grades to higher, mixed marsh community with a richer flora dominated by sea lavender *Limonium vulgare*, sea plantain *Plantago maritima* and sea blite *Suaeda maritima*, with glasswort *Salicornia* species occupying low 'pans'. The highest levels of the marsh grade to sea couch-grass *Elymus pycnanthus*, commonly with sea club-rush *Scirpus maritimus*, sea aster *Aster tripolium* and, at the margins, two nationally scarce species, divided sedge *Carex divisa* and golden samphire *Inula crithmoides*.

The sea couch-grass zone persists along much of the length of the estuary, often, on the eastern bank, grading landward into neutral grassland and scrub habitats. This zone is particularly important for large populations of orthopteran invertebrates, including the short-winged conehead *Conocephalus dorsalis* and the long-winged conehead *C. discolor*; both species are highly characteristic of estuary margins, although the latter is restricted in its distribution to the central southern coast of England.

Transitions from upper saltmarsh to oak woodland with coppiced hazel understorey occur at intervals along the estuary, particularly on the western bank north of Pinkmead.

Two relatively small areas of freshwater marsh occur inland of the western shore of the estuary, both being relicts of former re-entrant creeks from which tidal water has been excluded by the construction of the (now disused) railway. Here, stands of common reed *Phragmites australis*, sedges *Carex* and reedmace *Typha* have developed which are particularly valuable at high-tide roosting areas for waterfowl and which support breeding populations of reed warbler *Acrocephalus scirpaceus*, sedge warbler *A. schoenobaenus*, willow warbler *Phylloscopus trochilus*, reed bunting *Emberiza schoeniclus*, and occasional Cetti's warblers *Cettia cetti*. The marshes at Dodnor Creek – a former mill pond – is particularly valuable ecologically for its natural transition from fen vegetation through marginal scrub to ancient woodland.

Dicksons Copse comprises predominantly oak high forest, thought to have developed from old hazel coppice-with-standards woodland. It supports at least 28 ancient woodland indicator species (those normally associated with woodlands more than 400 years old), including wood anemone *Anemone nemorosa*, butcher's broom *Ruscus aculeatus*, sanicle *Sanicula europaea* and the nationally scarce narrow-leaved lungwort *Pulmonaria longifolia*, and a notable community of woodland pteridophytes including hart's-tongue *Phyllitis scolopendrium*, polypody *Polypodium vulgare* and the soft shield fern *Polystichum setiferum*.

## Explanation of the citation and identification of notified features:

Potential SSSI notified features	Yes/ No	Explanation
Mudflats with a rich invertebrate fauna	Yes	This habitat is described in the introductory paragraph and given prominence in the main text (i.e. the 2nd paragraph provides a detailed description of the habitat and the invertebrate communities present).
Over-wintering migratory populations of wildfowl & wading birds assemblage (which include dunlin, redshank, curlew, black-tailed godwit, dark-bellied brent geese, shelduck, wigeon & teal):	Yes	The introductory paragraph describes the site as being important for over-wintering and migratory populations of wildfowl & wading birds and the 3 <sup>rd</sup> paragraph provides further information of how the intertidal area of the site provides important feeding ground for a variety of species. The terminology 'includes' suggests the birds are important as an 'assemblage' rather than each species being individually notified in their own right.
Salt Marsh (including all zones/transition areas):	Yes	Similarly, a combination of the introductory paragraph mentioning saltmarsh, as well the prominence given to this habitat in the main text suggests it's reasonable to treat saltmarsh as a notified feature.
Fens with natural transition though marginal scrub to ancient woodland	Yes	Reference to freshwater and terrestrial habitats in the introductory paragraph, as well as the importance inferred to this feature in the 6th paragraph (ie. 'particularly valuable ecologically') makes it reasonable to treat this as a notified feature.
Oak Woodland	Yes	A combination of the introductory paragraph mentioning terrestrial habitats, as well as the detailed paragraph describing the woodland and associated species it is reasonable to treat this habitat as a notified feature.
Short-winged conehead <i>Conocephalus dorsalis</i>	Yes	As orthopteran assemblage. The 5 <sup>th</sup> paragraph of the citation describes zones of the site being important for orthopteran invertebrates.
Long-winged conehead <i>C. discolor</i> ;	Yes	
Dunlin <i>Calidris alpina</i> ,	No	Part of the assemblage
Redshank <i>Tringa totanus</i> ,	No	Part of the assemblage
Curlew <i>Numenius arquata</i> ,	No	Part of the assemblage
Black-tailed godwit <i>Limosa limosa</i> ,	No	Part of the assemblage
Dark-bellied brent geese <i>Brenta bernicla</i> ,	No	Part of the assemblage
Shelduck <i>Tadorna tadorna</i> ,	No	Part of the assemblage
Wigeon <i>Anas penelope</i>	No	Part of the assemblage
Teal <i>A. crecca</i>	No	Part of the assemblage
Oystercatcher <i>Haematopus ostralegus</i>	No	No context as to the number (eg no mention of nationally important numbers)
Mute swan <i>Cygnus olor</i> .	No	Part of the assemblage
Narrow-leaved lungwort <i>Pulmonaria longifolia</i>	No	Add as a feature of local distinctiveness to the woodland

**Final list of notified features:**

- Mudflats with a rich invertebrate fauna
- Over-wintering migratory populations of wildfowl & wading birds assemblage (which include dunlin, redshank, curlew, black-tailed godwit, dark-bellied brent geese, shelduck, wigeon & teal)
- Salt Marsh - including all zones/transition areas
- Fens with natural transition through marginal scrub to ancient woodland
- Oak Woodland
- Orthopteran assemblage - large population of orthopteran invertebrates, including the short-winged conehead and the long-winged conehead

## Worked Example 2 - River Idle Washlands

Note: comments intended to be included

**COUNTY:** NOTTINGHAMSHIRE/SOUTH YORKSHIRE **SITE NAME:** RIVER IDLE WASHLANDS

**DISTRICT:** BASSETLAW/DONCASTER

**Status:** Site of Special Scientific Interest (SSSI) notified under Section 28 of the Wildlife and Countryside Act 1981.

**Local Planning Authority:** BASSETLAW DISTRICT COUNCIL, Doncaster Metropolitan Borough Council

<b>National Grid Reference:</b>	(Area 1) SK 662 936	(Area 1) 50 (ha.) 123.6 (ac.)
	(Area 2) SK 685 937	(Area 2) 10.6 (ha.) 26.2 (ac.)
	(Area 3) SK 706 945	(Area 3) 5.1 (ha.) 12.7 (ac.)
	(Area 4) SK 720 963	(Area 4) 22.8 (ha.) 56.6 (ac.)
	Total – Notts 51.9 (ha.) 128.4 (ac.)	
	Total – S. Yorks 36.7 (ha.) 90.6 (ac.)	

**Ordnance Survey Sheet 1:50,000:** 111, 112      **1:10,000:** SK 69 SE, SK 79 SW, SK 79

**Date Notified (Under 1949 Act):** 1972      **Date of Last Revision:** 1981

**Date Notified (Under 1981 Act):** 1983      **Date of Last Revision:** –

### Other Information:

The site boundary has been amended. Parts of the site are managed as nature reserves.

### Reasons for Notification:

The site comprises good examples of wet grassland plant communities, and attracts large numbers of wintering and passage waterfowl.

### Biology

The site combines the best remaining washland grasslands along the River Idle floodplain.

Characteristically the grassland swards are dominated by marsh foxtail *Alopecurus geniculatus* in a community which contains such wet meadow herbs as lady's smock *Cardamine pratensis* and great burnet *Sanguisorba officinalis*. In wetter areas the vegetation is dominated by stands of reed sweet-grass *Glyceria maxima* which has also colonised the internal drains although, locally, a more varied wetland plant community occurs which includes such plant species as meadow rue *Thalictrum flavum*. There are occasional stands of common reed *Phragmites australis* notably between an artificial scrape and the River Idle in Area 3.

The washlands are important as feeding and roosting sites for populations of wintering and passage waterfowl including Bewick's, whooper and mute swans, wigeon, teal, pochard, snipe and a variety of other wildfowl and wading birds. Additional interest is provided by the breeding bird community which includes snipe and redshank.

**Commented [FB1]:** This sentence under the explicit heading 'reasons for notification' appears to be a summary of the notified features, namely 'wet grassland plant communities' and 'wintering and passage waterfowl'.

**Commented [FB2]:** This paragraph describes the wet grassland plant communities (although it goes on to describe other wetland vegetation types that would not normally be described as grasslands).

**Commented [FB3]:** This sentence describes the 'wintering and passage waterfowl feature'. The named species are presented as examples rather than the totality of the assemblage, as indicated by the term 'including' and the reference to 'a variety of other wildfowl and wading birds'.

**Commented [FB4]:** This is worded in a manner that implies lower importance and breeding birds are not mentioned in the initial 'reasons for notification' paragraph, so this does not appear to be a notified feature.

**Explanation of the citation and identification of notified features:**

Potential SSSI notified features	Yes/No	Explanation
Wet grassland plant communities	Yes	Specified under 'reasons for notification' as 'good examples' and elaborated in the main body of the citation. Best described as 'wet grassland'.
Wintering and passage waterfowl	Yes	Specified under 'reasons for notification' as attracting 'large numbers' and elaborated in the main body of the citation with example species listed. These species are not notified individually and they are not the totality of the wintering and passage waterfowl interest. This is clear from the use of the word 'including' (rather than 'comprising') and because of the reference to 'a variety of other wildfowl and wading birds.' Best described as an assemblage of wintering and passage waterfowl including (but not limited to) the named species.
Breeding bird community	No	No mentioned under 'reasons for notification' and the terms used ('additional interest') implies a lower level of importance.
narrow- leaved lungwort <i>Pulmonaria longifolia</i>	No	Add as a feature of local distinctiveness to the woodland if the woodland is notified.

**Final list of notified features:**

- Wet grassland
- Assemblage of wintering and passage waterfowl, including (but not limited to) Bewick's, whooper and mute swans, wigeon, teal, pochard and snipe.