

SCHEDULE 3

CHANGE CONTROL SCHEDULE

CHANGE CONTROL NOTE

CCN number: C7715/6
Contract title and reference: C7715 Contract for the provision of statutory shellfish monitoring services for Scotland – Lot 1 Sample Collection between HMMH (Scotland) Ltd and Cefas
Variation title: Extension and annual price increase
Number of pages attached: 7

WHEREAS HMMH (Scotland) Ltd and Cefas entered into a contract for the supply of the provision of statutory shellfish monitoring services for Scotland - Sample collection dated 19.03.2018 (the "**Original Contract**") and now wish to amend the Original Contract.

IT IS AGREED as follows

1. With effect from 01.04.23 the Original Contract shall be amended as set out in this Change Control Note: C7715/6

Change requestor/originator:	[REDACTED] Cefas
Summary and reason for change:	Contract extension to 31/03/2024, new unit rate for FY2324, amendment to Contractor's reporting requirements and contract conditions.
Revised Contract Price:	Yes, see below for details
Revised payment schedule:	N/A
Revised Specification:	<p>1) <u>Schedule 1 Specification Pg 53 Section 4 Reporting and Publication.</u></p> <p>a. Para 4.1. Delete: "and Guide to Official Control sampling DVD, which will be made available on request."</p> <p>b. Para 4.4. Add a new Para 4.4, 4.5 and 4.6 as follows:</p> <p>"4.4 From 1st April 2023 , it is FSS' intention that current Shellfish Hygiene System (SHS2) database used to record sample testing and results, will be replaced by the FSS Shellfish Monitoring & Classification (SMC) system which is currently under development. The implementation date will be notified by Cefas. Full training and user instructions will be given to the Contractor and Laboratory teams, prior to implementation. The Contractor is required to attend online training which will be via Microsoft Teams. This will be arranged at a mutually agreeable time.</p> <p>4.5 From implementation, the Contractor is required to load all weekly sampling schedules and updates directly onto the SMC system. The weekly sampling Schedule is to be loaded no later than 15:00 hours each Friday for sampling scheduled the following week. Sample schedule updates are to be loaded on a daily basis as changes arise. Laboratories will have access to view the sampling schedule.</p>

4.6. The Contractor will also be required to confirm the status of each scheduled sample directly on the SMC system daily."

2) Schedule 2 Pricing schedule Pg 66 Section 3, the following table will be added:

Area	Unit	Estimated volume	FY21/22 Unit Price	FY 22/23 Unit Price	FY 23/24 Unit Price
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

1 To be invoiced monthly based upon the total number of visits undertaken in the previous calendar month.

On p66 of the Contract – Schedule 2, section 4, the following text will be added at the end of the first sentence, following "between 1 April 2018 and 31 March 2019, 1 April 2019 and 31 March 2020, 1 April 2020 and 31 March 2021, 1 April 2021 and 31 March 2022, 1 April 2022 and 31 March 2023:

"and 1 April 2023 and 31 March 2024 respectively"

Revised Contract Period: 1 April 2023 to 31 March 2024

Revised programme of work: N/A

Change in Contract Manager(s): N/A

Other change:

Section 2 General Terms and Conditions of Contract.

Definitions and Page 10. Clause B10 Employment provisions

Amend to clauses at Annex A attached.

2. Save as herein amended all other terms and Conditions of the Original Contract shall remain in full force and effect.

Signed for and on behalf of HMMH:

[REDACTED]

Signed for and on behalf of Cefas:

By:

Name

Title

(Author)

Date

[REDACTED]

The Definitions shall be amended as follows:

Definitions

“Authority” means the Secretary of State for Environment, Food and Rural Affairs of Nobel House, 17 Smith Square, London, SW1P 3JR.

“Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and “Crown Body” is an emanation of the foregoing.

“Contracting Authority” means any contracting authority (other than the Authority) as defined in regulation 3 of the Public Contracts Regulations 2006 (SI 2006/5).

“Replacement Contractor” means any third party service provider appointed by the Authority and/or any Crown Body/Contracting Authority to supply any services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract or whether the Authority or the Crown Body/Contracting Authority is providing such replacement services for its own account, the Authority or the Crown Body/Contracting Authority, as appropriate.

“Returning Employees” means those persons listed in a schedule to be agreed by the Parties prior to the end of the Contract Period who it is agreed were employed by the Contractor (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Contract Period.

“Service Transfer Date” means the date any of the Services (or any part thereof) transfer from the Contractor or a Sub-Contractor to a Replacement Contractor or a sub-contractor of a Replacement Contractor.

Clause B10 will be amended as follows:

B10 Employment Provisions

B10.1 Not later than six (6) Months prior to the end of the Contract Period, the Contractor shall fully and accurately disclose to the Authority all information that the Authority may reasonably request in relation to the Staff including the following:

- (a) the total number of Staff whose employment/engagement shall terminate at the end of the Contract Period, save for any operation of Law; and
- (b) the age, gender, salary or other remuneration, future pay settlements, location and redundancy and pensions entitlement of the Staff referred to in (a) above; and
- (c) the terms and conditions of employment/engagement of the Staff referred to in (a) above, their job titles and qualifications; and
- (d) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and
- (e) details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union.

B10.2 At intervals to be stipulated by the Authority (which shall not be more frequent than every thirty (30) days) immediately prior to the end of the Contract Period the Contractor shall

deliver to the Authority a complete update of all such information which shall be disclosable pursuant to clause B10.1.

- B10.3 At the time of providing the information disclosed pursuant to clauses B10.1 and B10.2, the Contractor shall warrant the completeness and accuracy of all such information and the Authority may assign the benefit of this warranty to the Crown Body/Contracting Authority and /or any Replacement Contractor.
- B10.4 The Authority and the Crown Body/Contracting Authority may use the information it, the Authority, receives from the Contractor pursuant to clause B10.1 and B10.2 for the purposes of TUPE and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Contract Period. The Contractor shall provide any Crown Body/Contracting Authority notified to it by the Authority and/or the Replacement Contractor with such assistance as it shall reasonably request.
- B10.5. The Authority and the Contractor acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or partial termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Contractor. Such change in the identity of the supplier of such services may constitute a transfer for the purposes of TUPE.
- B 10.6 The Contractor shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of Returning Employees arising under TUPE in respect of the period up to (but excluding) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Returning Employees arising in respect of the period up to (but excluding) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (but excluding) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Contractor and/or Replacement sub-contractor.
- B10.7 Where TUPE applies to the transfer of the Services on expiry or termination of the Contract, the Contractor shall indemnify and keep indemnified and hold the Authority and the Crown / Contracting Authority (both for themselves and any Replacement Contractor) harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown/ Contracting Authority or any Replacement Contractor may suffer or incur as a result of or in connection with:
- (a) the provision of information pursuant to clause B10.1; and
 - (b) any act or omission of the Contractor or any Sub-Contractor in respect of any Returning Employee or any appropriate employee representative (as defined in TUPE) of any Returning Employee whether occurring before, on or after the Service Transfer Date;
 - (c) the breach or non-observance by the Contractor or any Sub-Contractor occurring before but excluding the Service Transfer Date of:
 - (i) any collective agreement applicable to the Returning Employees; and/or

- (ii) any other custom or practice with a trade union or staff association in respect of any Returning Employees which the Contractor or any Sub-Contractor is contractually bound to honour;
- (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Returning Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date; and
 - (ii) in relation to any employee who is not identified as a Returning Employee, and in respect of whom it is later alleged or determined that TUPE applied so as to transfer his/her employment from the Contractor to the Authority and/or Replacement Contractor and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;
- (e) a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Returning Employees in respect of the period up to (but excluding) the Service Transfer Date);
- (f) any claim or demand by any Returning Employee (whether in contract, tort, under statute, pursuant to EU Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Contractor or any Sub-Contractor in respect of any Returning Employee on or before the end of the Contract Period; and
- (g) any failure by the Contractor or any Sub-Contractor to comply with its obligations under Regulation 13 or 14 of TUPE or any award of compensation under Regulation 15 of TUPE save where such failure arises from the failure of the Authority or a Replacement Contractor to comply with its duties under Regulation 13(4) of TUPE; and
- (h) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning Employees arising from or connected with any failure by the Contractor or any Sub-Contractor to comply with any legal obligation to such trade union, body or person; and
- (i) any claim by any person who is transferred by the Contractor to the Authority and/or a Replacement Contractor whose name is not included in the list of Returning Employees.

B10.8 If the Contractor becomes aware that the information it provided pursuant to clause B10.1 has become untrue, inaccurate or misleading, it shall notify the Authority and provide the Authority with up to date information.

B10.9 This clause applies during the Contract Period and indefinitely thereafter.

B10.10 The Contractor undertakes to the Authority that, during the twelve (12) Months prior to the end of the Contract Period the Contractor shall not (and shall procure that any Sub-Contractor shall not) without prior Approval (such Approval not to be unreasonably withheld or delayed):

- (a) amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Staff (other than where such amendment or variation has previously been agreed between the Contractor and the Staff in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
- (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
- (c) transfer away, remove, reduce or vary the involvement of any other Staff from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Contractor, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
- (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.