



# **Conditions of Contract**

## **Short Form Goods / Services**

**Project 30232- Survey of coastal lagoons  
within Hampshire and Isle of Wight including  
collection of key lagoonal species for  
development of DNA primers**

**October 2019**

THIS CONTRACT is dated 27<sup>th</sup> August 2020

BETWEEN

NATURAL ENGLAND

[REDACTED] (the "Authority"); and Hull Marine Laboratory,  
University of Hull [REDACTED] (the "Supplier")  
(each a "Party" and together the "Parties").

## BACKGROUND

- a) The Authority requires the services set out in Schedule 1 (the "Services").
- b) The Authority has awarded this contract for the Services to the Supplier and the Supplier agrees to provide the Services in accordance with the terms of the contract.

## AGREED TERMS

### 1. Definitions and Interpretation

1.1 In the Contract, unless the context requires otherwise, the following terms shall have the meanings given to them below:

'Approval': the prior written consent of the Authority.

'Authority Website': [www.naturalengland.org.uk](http://www.naturalengland.org.uk)

'Contract Term': the period from the Commencement Date to the Expiry Date.

'Contracting Authority': an organisation defined as a contracting authority in Regulation 2 of the Public Contracts Regulations 2015.

'Controller': has the meaning given in the GDPR.

'Data Loss Event': any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.

'Data Protection Impact Assessment': an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

'Data Protection Legislation': (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy.

'Data Protection Officer': has the meaning given in the GDPR.

‘Data Subject’: has the meaning given in the GDPR.

‘Data Subject Request’: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

‘Default’: a breach by the Supplier or Staff of its obligations under the Contract or any other default, negligence or negligent statement in connection with the Contract.

‘Dispute Resolution Procedure’: the dispute resolution procedure set out in Clause 20.

‘DPA 2018’: the Data Protection Act 2018.

‘Force Majeure’: any cause affecting the performance by a Party of its obligations under the Contract arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Supplier, its Staff or any other failure in the Supplier’s supply chain.

‘Fraud’: any offence under laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Authority or any other Contracting Authority.

‘GDPR’: the General Data Protection Regulation (Regulation (EU) 2016/679).

‘Good Industry Practice’: standards, practices, methods and procedures conforming to the law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under similar circumstances.

‘Goods’: all products, documents, and materials developed by the Supplier or its agents, Sub-contractors, consultants, suppliers and Staff in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

‘Intellectual Property Rights’: any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of any websites.

‘IP Materials’: all Intellectual Property Rights which are:

a) furnished to or made available to the Supplier by or on behalf of the Authority;  
or

b) created by the Supplier or Staff in the course of providing the Services or exclusively for the purpose of providing the Services.

‘Law’: any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the relevant Party is bound to comply.

‘LED’: Law Enforcement Directive (Directive (EU) 2016/680).

‘Personal Data’: has the meaning given in the GDPR.

‘Personal Data Breach’: has the meaning given in the GDPR.

‘Price’: the price for the Services set out in Schedule 2.

‘Processor’: has the meaning given in the GDPR.

‘Protective Measures’: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

‘Replacement Supplier’: any third party supplier of services appointed by the Authority to replace the Supplier.

‘Staff’: all employees, staff, other workers, agents and consultants of the Supplier and of any Sub-contractors who are engaged in providing the Services from time to time.

‘Sub-contract’: any contract between the Supplier and a third party pursuant to which the Supplier agrees to source the provision of any of the Services from that third party.

‘Sub-contractor’: third parties which enter into a Sub-contract with the Supplier.

‘Sub-processor’: any third party appointed to process Personal Data on behalf of the Supplier related to this Contract.

‘Valid Invoice’: an invoice containing the information set out in Clause 3.3.

‘VAT’: Value Added Tax.

'Working Day': Monday to Friday excluding any public holidays in England and Wales.

1.2 The interpretation and construction of the Contract is subject to the following provisions:

- a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- b) words importing the masculine include the feminine and the neuter;
- c) reference to any statutory provision, enactment, order, regulation or other similar instrument are construed as a reference to the statutory provision enactment, order regulation or instrument (including any instrument of the European Union) as amended, replaced, consolidated or re-enacted from time to time, and include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it;
- d) reference to any person includes natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- e) the headings are inserted for ease of reference only and do not affect the interpretation or construction of the Contract;
- f) references to the Services include references to the Goods;
- g) references to Clauses and Schedules are to clauses and schedules of the Contract; and
- h) the Schedules form part of the Contract and have affect as if set out in full in the body of the Contract and any reference to the Contract includes the Schedules.

## **2. Contract and Contract Term**

2.1 The Supplier shall provide the Authority with the services set out in Schedule 1 (the "Services") in accordance with the terms and conditions of the Contract.

2.2 The Contract is effective on 1<sup>st</sup> September 2020 (the "Commencement Date") and ends on 28<sup>th</sup> February 2021 (the "Expiry Date") unless terminated early or extended in accordance with the Contract.

## **3. Price and Payment**

3.1 In consideration of the Supplier providing the Services in accordance with the Contract, the Authority shall pay the fixed Price of £28,554 + VAT to the Supplier.

3.2 The Authority shall:

- a) provide the Supplier with a purchase order number ("PO Number"); and
- b) pay all undisputed sums due to the Supplier within 30 days of receipt of a Valid Invoice.

3.3 A Valid Invoice shall:

- a) contain the correct PO Number;
- b) express the sum invoiced in sterling; and
- c) include VAT at the prevailing rate as a separate sum or a statement that the Supplier is not registered for VAT.



3.5 The Supplier acknowledges that:

- a) if the Supplier does not include VAT on an invoice or does not include VAT at the correct rate, the Authority will not be liable to pay the Supplier any additional VAT;
- b) invoices which do not include the information set out in Clause 3.3 will be rejected.

3.6 Any late payment of an undisputed amount is not made by the Authority by the due date, then the Authority shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.

3.7 The Supplier shall not suspend provision of the Services if any payment is overdue.

3.8 The Supplier indemnifies the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract.

#### **4. Extension of the Contract**

4.1 The Authority may, by written notice to the Supplier, extend the Contract for a further period to end no later than 31 March 2020, subject to business need and by agreement from both parties.

#### **5. Warranties and Representations**

5.1 The Supplier warrants and represents for the Contract Term that:

- a) it has full capacity and authority and all necessary consents and regulatory approvals to enter into the Contract and to provide the Services;
- b) the Contract is executed by a duly authorised representative of the Supplier;
- c) in entering the Contract it has not committed any Fraud;
- d) as at the Commencement Date, all information contained in its tender or other offer made by the Supplier to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information false or misleading;
- e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- f) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to provide the Services;
- g) no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar in relation to any of the Supplier's assets or revenue;
- h) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary to provide the Services; and
- i) Staff shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- j) it will comply with its obligations under the Immigration, Asylum and Nationality Act 2006.

5.2 The Supplier warrants and represents that in the 3 years prior to the date of the Contract:

- a) it has conducted all financial accounting and reporting activities in compliance with generally accepted accounting principles and has complied with relevant securities;
- b) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as a going concern or its ability to provide the Services; and

c) it has complied with all relevant tax laws and regulations and no tax return submitted to a relevant tax authority has been found to be incorrect under any anti-abuse rules.

## **6. Service Standards**

6.1 The Supplier shall provide the Services or procure that they are provided with reasonable skill and care, in accordance with Good Industry Practice prevailing from time to time and with Staff who are appropriately trained and qualified.

6.2 If the Services do not meet the Specification, the Supplier shall at its own expense re-schedule and carry out the Services in accordance with the Specification within such reasonable time as may be specified by the Authority.

6.3 The Authority may by written notice to the Supplier reject any of the Goods which fail to conform to the approved sample or fail to meet the Specification. Such notice shall be given within a reasonable time after delivery to the Authority of the Goods. If the Authority rejects any of the Goods it may (without prejudice to its other rights and remedies) either:

a) have the Goods promptly either repaired by the Supplier or replaced by the Supplier with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until the repair or replacement has occurred;  
or

b) treat the Contract as discharged by the Supplier's breach and obtain a refund (if the Goods have already been paid for) from the Supplier in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Authority in obtaining replacements.

6.4 The Authority will be deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with Clause 6.3.

6.5 If the Authority issues a receipt note for delivery of the Goods it shall not constitute any acknowledgement of the condition, quantity or nature of those Goods or the Authority's acceptance of them.

6.6 The Supplier hereby guarantees the Goods against faulty materials or workmanship for such period as may be specified in the Specification or, if no period is so specified, for 3 years from the date of acceptance. If the Authority shall within such guarantee period or within 30 Working Days thereafter give notice in writing to the Supplier of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use, the Supplier shall (without prejudice to any other rights and remedies which the Authority may have) promptly remedy such defects (whether by repair or replacement as the Authority shall choose) free of charge.

6.7 Any Goods rejected or returned by the Authority pursuant to this Clause 6 shall be returned to the Supplier at the Supplier's risk and expense.



## **7. Termination**

7.1 The Authority may terminate the Contract at any time by giving 30 days written notice to the Supplier.

7.2 The Authority may terminate the Contract in whole or in part by notice to the Supplier with immediate effect and without compensation to the Supplier if:

- a) being an individual, the Supplier is the subject of a bankruptcy order; has made a composition or arrangement with his creditors; dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983;
- b) being a company, the Supplier goes into compulsory winding up, or passes a resolution for voluntary winding up, or suffers an administrator, administrative receiver or receiver and manager to be appointed or to take possession over the whole or any part of its assets, is dissolved; or has entered into a voluntary arrangement with its creditors under the Insolvency Act 1986, or has proposed or entered into any scheme of arrangement or composition with its creditors under section 425 of the Companies Act 1985; or has been dissolved;
- c) being a partnership, limited liability partnership or unregistered company, the Supplier or an individual member of it goes into compulsory winding up; is dissolved; suffers an administrator or receiver or manager to be appointed over the whole or any part of its assets; or has entered into a composition or voluntary arrangement with its creditors;
- d) the Supplier is in any case affected by any similar occurrence to any of the above in any jurisdiction;
- e) subject to Clause 7.3, the Supplier commits a Default;
- f) there is a change of control of the Supplier; or
- g) the Supplier or Staff commits Fraud in relation to the Contract or any other contract with the Crown (including the Authority).

7.3 If the Supplier commits a Default which is capable of being remedied, the Authority may terminate the Contract pursuant to Clause 7.2(e) only if the Supplier has failed to remedy the Default within 20 Working Days of being notified of the Default by the Authority.

## **8. Consequences of Expiry or Termination**

8.1 If the Authority terminates the Contract under Clause 7.2:

- a) and then makes other arrangements for the supply of the Services, the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Term; and

b) no further payments shall be payable by the Authority to the Supplier (for the Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under Clause 8.1(a).

8.2 On expiry or termination of the Contract the Supplier shall:

a) co-operate fully with the Authority to ensure an orderly migration of the Services to the Authority or, at the Authority's request, a Replacement Supplier; and

b) procure that all data and other material belonging to the Authority (and all media of any nature containing information and data belonging to the Authority or relating to the Services) shall be delivered promptly to the Authority.

8.3 Save as otherwise expressly provided in the Contract:

a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and

b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Supplier under Clauses 3, 8 to 13, 17, 26 and 28.

## **9. Liability, Indemnity and Insurance**

9.1 Notwithstanding any other provision in the Contract, neither Party excludes or limits liability to the other Party for:

a) death or personal injury caused by its negligence;

b) Fraud or fraudulent misrepresentation; or

c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or Parts I and II of the Supply of Goods and Services Act 1982.

9.2 The Supplier shall indemnify and keep indemnified the Authority against all claims, proceedings, demands, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which arise in tort (including negligence) default or breach of the Contract to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or Fraud of itself or of Staff or Sub-contractors save to the extent that the same is directly caused by the negligence, breach of the Contract or applicable law by the Authority.

9.3 The Supplier shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct Default of the Supplier.

9.4 Subject to Clause 9.1:

a) neither Party is liable to the other for any:

- (i) loss of profits, business, revenue or goodwill;
- (ii) loss of savings (whether anticipated or otherwise); and/or
- (iii) indirect or consequential loss or damage

b) each Party's total aggregate liability in respect of all claims, losses damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with the Contract, shall not exceed £70,000 (seventy thousand pounds).

9.5 The Supplier shall, with effect from the Commencement Date and for such period as necessary to enable the Supplier to comply with its obligations under the Contract, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under the Contract, including employer's liability, death or personal injury, loss of or damage to property or any other loss, including financial loss arising from any advice given or omitted to be given by the Supplier. Such insurance shall be maintained for the Contract Term and for a minimum of 6 years following the end of the Contract.

9.6 The Supplier shall give the Authority, on request, copies of all insurance policies referred to in this Clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

9.7 If the Supplier fails to comply with Clauses 9.5 and 9.6 the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.

9.8 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.

9.9 The Supplier shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Supplier, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Supplier is an insured, a co-insured or additional insured person.

## **10. Confidentiality and Data Protection**

10.1. Subject to Clause 10.2, unless agreed otherwise in writing, the Supplier shall, and shall procure that Staff shall, keep confidential all matters relating to the Contract.

10.2. Clause 10.1 shall not apply to any disclosure of information:

- a) required by any applicable law;
- b) that is reasonably required by persons engaged by the Supplier in performing the Supplier's obligations under the Contract;
- c) where the Supplier can demonstrate that such information is already generally available and in the public domain other than as a result of a breach of Clause 10.1; or
- d) which is already lawfully in the Supplier's possession prior to its disclosure by the Authority.

10.3. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor unless otherwise specified in Schedule 3. The only processing that the Supplier is authorised to do is listed in Schedule 3 by the Authority and may not be determined by the Supplier.

10.4. The Supplier shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.

10.5. The Supplier shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:

- a. a systematic description of the envisaged processing operations and the purpose of the processing;
- b. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- c. an assessment of the risks to the rights and freedoms of Data Subjects; and
- d. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

10.6. The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

- a. process that Personal Data only in accordance with Schedule 3 unless the Supplier is required to do otherwise by Law. If it is so required, the Supplier shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
- b. ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the Protective Measures), having taken account of the:

- (i) nature of the data to be protected;
  - (ii) harm that might result from a Data Loss Event;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- c. ensure that:
- (i) the Staff do not process Personal Data except in accordance with this Contract (and in particular Schedule 3);
  - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
    - A. are aware of and comply with the Supplier's duties under this clause;
    - B. are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
    - C. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract; and
    - D. have undergone adequate training in the use, care, protection and handling of Personal Data; and
- d. not transfer Personal Data outside of the European Union unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
- (i) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or LED Article 37) as determined by the Authority;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
  - (iv) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- e. at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Supplier is required by Law to retain the Personal Data.

10.7. Subject to clause 10.8 the Supplier shall notify the Authority immediately if, in relation to any Personal Data processed in connection with its obligations under this Contract, it:

- a. receives a Data Subject Request (or purported Data Subject Request);
- b. receives a request to rectify, block or erase any Personal Data;
- c. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- d. receives any communication from the Information Commissioner or any other regulatory authority;
- e. receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- f. becomes aware of a Data Loss Event.

10.8. The Supplier's obligation to notify under clause 10.7 shall include the provision of further information to the Authority in phases, as details become available.

10.9. Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Contract and any complaint, communication or request made under Clause 10.7 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- a. the Authority with full details and copies of the complaint, communication or request;
- b. such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
- c. the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
- d. assistance as requested by the Authority following any Data Loss Event;
- e. assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

10.10. The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause 10. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:

- a. the Authority determines that the processing is not occasional;
- b. the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
- c. the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

10.11. The Supplier shall allow for audits of its Personal Data processing activity by the Authority or the Authority's designated auditor.

10.12. Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.

10.13. Before allowing any Sub-processor to process any Personal Data related to this Contract, the Supplier must:

- a. notify the Authority in writing of the intended Sub-processor and processing;
- b. obtain the written consent of the Authority; and
- c. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 10 such that they apply to the Sub-processor; and.
- d. provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.

10.14. The Supplier shall remain fully liable for all acts or omissions of any of its Sub-processors.

10.15. The Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

10.16. The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.

10.17. This clause 10 shall apply during the Contract Term and indefinitely after its expiry.

## **11. Freedom of Information**

11.1. The Supplier acknowledges that the Authority is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (the "Information Acts") and may be required to disclose certain information to third parties including information relating to this Contract pursuant to the Information Acts.

11.2. If the Authority receives a request for information relating to the Contract pursuant to either of the Information Acts, the Authority may disclose such information as necessary in order to comply with its duties under the Information Acts.

## **12. Intellectual Property Rights**

12.1 The IP Materials shall vest in the Authority and the Supplier shall not, and shall procure that Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for the Supplier to provide the Services.

12.2 The Supplier shall indemnify and keep indemnified the Authority and the Crown against all actions, claims, demands, losses, damages, costs and expenses and other liabilities which the Authority or the Crown may suffer or incur arising from any infringement or alleged infringement of any Intellectual Property Rights by the availability of the Services except to the extent that they have been caused by or contributed to by the Authority's acts or omissions.

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

13.1. The Supplier shall act within the provisions of the Bribery Act 2010.

13.2. The Supplier shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Supplier (including its shareholders, members and directors) in connection with the receipt of money from the Authority.

13.3. The Supplier shall notify the Authority immediately if it has reason to suspect that Fraud has occurred, is occurring or is likely to occur.

## **14. Discrimination**

14.1 The Supplier shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment.

14.2 The Supplier shall notify the Authority immediately in writing as soon as it becomes aware of any legal proceedings threatened or issued against it by Staff on the grounds of discrimination arising in connection with the Services.



## **15. Environmental and Ethical Policies**

15.1 The Supplier shall provide the Services in accordance with the Authority's policies on the environment, sustainable and ethical procurement and timber and wood derived products, details of which are available on the Authority Website.

## **16. Health and Safety**

16.1 Each Party will promptly notify the other Party of any health and safety hazards which may arise in connection with the Services.

16.2 While on the Authority's premises, the Supplier shall comply with the Authority's health and safety policies.

16.3 The Supplier shall notify the Authority immediately if any incident occurs in providing the Services on the Authority's premises which causes or may cause personal injury.

16.4 The Supplier shall comply with the requirements of the Health and Safety at Work etc Act 1974, and with any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Authority's premises when providing the Services.

16.5 The Supplier's health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) shall be made available to the Authority on request.

## **17. Monitoring and Audit**

17.1 The Authority may monitor the provision of the Services and the Supplier shall co-operate and shall procure that Staff and any Sub-contractors co-operate, with the Authority in carrying out the monitoring at no additional charge to the Authority.

17.2 The Supplier shall keep and maintain until 6 years after the end of the Contract Term full and accurate records of the Contract including the Services supplied under it and all payments made by the Authority. The Supplier shall allow the Authority, the National Audit Office and the Comptroller and Auditor General reasonable access to those records and on such terms as they may request.

17.3 The Supplier agrees to provide, free of charge, whenever requested, copies of audit reports obtained by the Supplier in relation to the Services.

## **18. Transfer and Sub-Contracting**

18.1 The Supplier shall not transfer, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval.

18.2 If the Supplier enters into any Sub-contract in connection with the Contract it shall:

- a) remain responsible to the Authority for the performance of its obligations under the Contract;
- b) be responsible for the acts and/or omissions of its Sub-contractors as though they are its own;
- c) impose obligations on its Sub-contractors in the same terms as those imposed on it pursuant to the Contract and shall procure that the Sub-Supplier complies with such terms;
- d) pay its Sub-contractors' undisputed invoices within 30 days of receipt.

18.3 The Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

- a) any Contracting Authority or any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- b) any private sector body which performs substantially any of the functions of the Authority.

18.4 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not affect the validity of the Contract. In such circumstances the Contract shall bind and inure to the benefit of any successor body to the Authority.

## **19. Variation**

19.1 Subject to the provisions of this Clause 19, the Authority may change the Specification provided that such change is not a material change to the Specification (a "Variation").

19.2 The Authority may request a Variation by notifying the Supplier with sufficient information to assess the extent of the Variation and consider whether any change to the Price is required in order to implement it. Variations agreed by the Parties shall be made in writing.

19.3 If the Supplier is unable to accept the Variation or where the Parties are unable to agree a change to the Price, the Authority may:

- a) allow the Supplier to fulfil its obligations under the Contract without the Variation; or
- b) refer the request to be dealt with under the Dispute Resolution Procedure.

## **20. Dispute Resolution**

20.1 The Parties shall attempt in good faith to resolve any dispute between them arising out of the Contract within 10 Working Days of either Party notifying the other of the dispute and such efforts shall include the escalation of the dispute to the Supplier's representative and the Authority's commercial director or equivalent.

20.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

20.3 If the dispute cannot be resolved by the Parties pursuant to Clause 20.1 the Parties shall refer it to mediation pursuant to the procedure set out in Clauses 20.5 to 20.10.

20.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation and the Supplier and Staff shall comply fully with the requirements of the Contract at all times.

20.5 A neutral adviser or mediator (the "Mediator") shall be chosen by agreement between the Parties or, if they are unable to agree a Mediator within 10 Working Days after a request by one Party or if the chosen Mediator is unable to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator.

20.6 The Parties shall, within 10 Working Days of the appointment of the Mediator, meet the Mediator to agree a programme for the disclosure of information and the structure to be adopted for negotiations. The Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure.

20.7 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

20.8 If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.

20.9 Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.

20.10 If the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then the dispute may be referred to the Courts.

20.11 Subject to Clause 20.2, the Parties shall not institute court proceedings until the procedures set out in Clauses 20.1 and 20.5 to 20.10 have been completed.

## **21. Supplier's Status**

21.1 Nothing in the Contract shall be construed as constituting a partnership between the Parties or as constituting either Party as the agent for the other for any purposes except as specified by the terms of the Contract.

21.2 The Supplier shall not (and shall ensure that Staff shall not) say or do anything that might lead any person to believe that the Supplier is acting as the agent, partner or employee of the Authority.

## **22. Notices**

22.1 Notices shall be in writing and in English and shall be deemed given if signed by or on behalf of a duly authorised officer of the Party giving the notice and if left at, or sent by first class mail to the address of the receiving Party as specified in the Contract (or as amended from time to time by notice in writing to the other Party).

## **23. Entire Agreement**

23.1 The Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes all prior negotiations, representations, arrangements and undertakings.

## **24. Third Party Rights**

24.1 No term of the Contract is intended to confer a benefit on, or be enforceable by, any person who is not a Party other than the Crown.

## **25. Waiver**

25.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.

25.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing.

25.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

## **26. Publicity**

26.1 The Supplier shall not without Approval:

- a) make any press announcements or publicise the Contract or its contents in any way; or
- b) use the Authority's name or logo in any promotion or marketing or announcement.

26.2 The Authority may publish the Contract on the Authority Website or another website at its discretion.

## **27. Force Majeure**

27.1 Except to the extent that the Supplier has not complied with any business continuity plan agreed with the Authority, neither Party shall be liable for any failure to perform its obligations under the Contract if, and to the extent, that the failure is caused by act of God, war, riots, acts of terrorism, fire, flood, storm or earthquake and any disaster but excluding any industrial dispute relating to the Supplier, Staff or Sub-contractors.

27.2 If there is an event of Force Majeure, the affected Party shall use all reasonable endeavours to mitigate the effect of the event of Force Majeure on the performance of its obligations.

## **28. Governing Law and Jurisdiction**

28.1 The Contract shall be governed by and interpreted in accordance with English law and shall be subject to the jurisdiction of the Courts of England and Wales.

28.2 The submission to such jurisdiction shall not limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction and the taking of proceedings in any other court of competent jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

## **29. Electronic Signature**

29.1 Acceptance of the award of this contract will be made by electronic signature carried out in accordance with the 1999 EU Directive 99/93 (Community framework for electronic signatures) and the UK Electronic Communications Act 2000.

29.2 The Contract is formed on the date on which the Supplier communicates acceptance on the Authority's electronic contract management system.

29.3 No other form of acknowledgement will be accepted.

## **30. Precedence**

In the event of and only to the extent of any conflict between the terms and conditions or the special terms below, the conflict shall be resolved in accordance with the following order of precedence:

- a) the special terms below;
- b) the main terms of the Contract (pages 1 to 15);
- c) any other document referred to in the Agreement

Unless expressly agreed, a document varied pursuant to clause 19 shall not take higher precedence than specified here.

## SCHEDULE 1 - SPECIFICATION OF SERVICES

### Aims

Natural England wishes to commission a repeat condition monitoring survey, following the surveys conducted in 2013 by Bamber et al. (2013), of twenty coastal lagoons within the Solent and Isle of Wight region, to be conducted during summer/autumn 2020. Survey data will inform the update to the condition assessment for the Solent & Isle of Wight Lagoons SAC and Solent Maritime SAC planned for Spring 2021.

In addition to the condition monitoring survey Natural England may wish the successful Contractor to collect water and species samples to be sent to a specified environmental DNA laboratory for the development and testing of single species assays. Details of the laboratory to provide these samples to will be given to the successful contractor.

The survey should:

- Continue with a statistically rigorous and repeatable programme of monitoring across the site which in future years can be repeated in order to quantify and assess community changes and inform assessments of feature condition.
- As previous data is available data acquired must seek to enable assessment of change in community and sub-feature extent and thereby inform an assessment of feature condition against those attributes listed in 4.2.1.

### 4. Objectives

#### 4.1 The general objectives of this survey are:

- A. Provide an assessment of the direction of ecological change by the integration of previously obtained relevant data.
- B. Repeat the previously used survey design to ensure the data are statistically robust enough to enable the collection of compatible future data and comparison with previous surveys of the site permitting quantitative long-term trend analysis.
- C. Identify anthropogenic influences, impacting on the ability of the sub-feature to achieve Favourable Condition, and where possible quantify them.
- D. Ensure that newly collected data is compatible (analytically) with historical survey data, and will make reference to and utilise such historical data.

In addition, the successful contractor may be asked to:

- E. Collect water samples and species specimens during the survey and after laboratory identification for DNA sequencing and primer development. Please note that the DNA sequencing and primer development and testing will form a separate contract, to be let at a later date. Further details are provided in Section 5.8

7 This survey work and subsequent analysis will contribute to Natural England's statutory duty to monitor and report on a range of features and attributes for designated sites.

#### 4.2 The specific objectives of this survey are:

To repeat a cost effective sampling strategy, established by Bamber et al. (2014), to allow the condition of the Solent and Isle of Wight lagoons to be assessed against relevant attributes, using the Common Standards Monitoring Guidance and attributes used in the condition assessment of coastal lagoons (available from Solent and Isle of Wight Lagoons

SAC condition assessment). Ideally this will match earlier sampling programs to allow comparison with historic data, however discussions around approaches are welcomed if you consider an improvement can be made. As a good baseline exists for the lagoons to be surveyed it is anticipated that this previous data will be utilised to reduce time in the field and reporting.

These attributes are:

- i (i) Extent of basin
- ii (ii) Isolating barrier – presence, nature and integrity
- iii (iii) Salinity regime
- iv (iv) Biotic composition of lagoon
- v (v) Distribution of biotopes
- vi (vi) Extent of representative or notable biotopes
- vii (vii) Extent of water
- viii (viii) Species composition of component communities
- ix (ix) Water depth
- x (x) pH
- xi (xi) Signs of macroalgal blooms / nutrient enrichment
- xii (xii) Sediment composition and distribution
- xiii (xiii) Structure integrity of lagoon banks • **Extent of basin.** This should be measured using recent aerial photographs of the site and estimated in situ where feasible.
- xiv • **Isolating barrier.** Lagoons fall into different physiographic types, largely based on the nature of the barrier separating them from the sea, e.g. percolation lagoon separated by shingle. The type of lagoon and the condition of the separating barrier, e.g. of sluices, should be noted.
- xv

4.2.1 Under Common Standards Monitoring the attributes for which baseline data need to be provided, through this contract, are identified as being:

• **Salinity regime.** Salinity must be recorded (with the accuracy of the recording device noted if possible) at as many points within the lagoon as required to describe spatial variation, and at different depths to detect stratification. Record salinity of adjacent source of saline water input.

• **Biotic composition of lagoon:** Sufficient biological samples should be taken to cover the main habitats/sub-habitats within the site. Detailed methods for measuring the biotope composition can be found in the Marine Monitoring Handbook (Davies et al. 2001).



- **Extent of sub-feature or representative/notable biotopes\*^**
- Distribution of biotopes\*^
- **Species composition of component communities\***
- **Species population measures\*** (may include population structure of a species and/or presence or absence of a named species)
- Water depth\*
- pH
- Sediment composition and distribution

Those attributes marked: (\*) are discretionary attributes under Common Standards Guidance, however, Natural England considers that they will be relevant for monitoring of most features, at least within SACs. Please note that attributes may vary from site to site. Coastal lagoons may be features of a European Marine Site; guidance can be found in the Conservation Advice Package for each site available from <https://designatedsites.naturalengland.org.uk/>.

^The distribution and extent of biotopes within the lagoon pools is likely to be difficult to determine. It would however be expected that as part of the detailed site descriptions the contractor identifies areas of different habitats wherever possible.

**Water inputs:** All sources of fresh and saline water should be identified and described. Note recent rainfall history.

**Water quality parameters:** Other aspects of water chemistry other than salinity may be recorded (to be advised), e.g. temperature, nitrate levels, pH. Record same parameters from adjacent sources of water input for comparison.

**Habitats:** The main habitats and substrata should be described. As a minimum, the latter should include an estimate of relative mud/sand/gravel content. Fringing habitats, e.g. reed beds, should also be described.

**Human activities:** Note human activities around and on the site, particularly those that may influence or impact the site, e.g. agricultural activity, litter etc.

**Invasive Non-Native Species (INNS):** Specific note should be made of any non-native species recorded during the survey.

Information in the Annexes provided with this invitation to tender and the Marine Monitoring Handbook (Davies et al., 2001) <http://jncc.defra.gov.uk/page-2430> should be used to provide a basis for sampling procedures in the field.

A. Collect standardised samples for infaunal and possibly PSA analysis, across a series of sampling areas

B. Analyse infaunal and possibly PSA samples. All sampling methodologies should conform to the North East Atlantic Marine Biological Analytical Quality Control (NMBACQ), Common Standards Monitoring (CSM) and Water Framework Directive (WFD) standards.

C. Undertake appropriate statistical analyses of data to enable the hypotheses set out above to be tested in addition to the quantitative characterisation of the condition of benthic communities and to describe the range of intertidal habitats and associated fauna that exist within the area surveyed.

This survey work and subsequent analysis will contribute to Natural England's statutory duty to monitor and report on a range of features and attributes for designated sites.

## **5. Methods**

### **5.1 Pre-survey deskwork**

Before the survey is carried out the successful Contractor will discuss any pre-survey work with the Natural England project officer, including checking information about the site and identifying sources of relevant information.

Natural England's preferred choice is a repeat survey using the method used by Bamber et al. (2014). However, if an alternative methodology is proposed the survey design will need to be developed and agreed to allow comparative analysis with the historical data while adding greatest statistical robustness to the outputs. The successful Contractor will also agree with the Natural England project lead exactly how the information to be obtained will fulfil the future requirements of JNCC Common Standards Monitoring.

Under Section 28E of the Wildlife and Countryside Act 1981 (as amended) SSSI consent must be acquired. Under Regulation 21 of the Conservation of Habitats and Species Regulations 2010 a Habitats Regulations Assessment (HRA) will need to be completed for the project. As species listed on Schedules 5 and 8 of the Wildlife & Countryside Act 1981 may be encountered within the lagoons an appropriate license must be obtained. The successful Contractor will liaise with the Natural England project lead to ensure all such permissions are acquired prior to survey.

### **5.2 Sampling Design**

Natural England's preferred choice is a repeat survey using the method used by Bamber et al. (2014). However, if you consider improvements can be made to this sampling design in order to meet the aims of the project outlined above and to enable temporal comparisons to be made with previous datasets, please provide this information in the appropriate technical question response. The full detail of this design will be provided to, and subsequently owned by Natural England. Below are the critical criteria it will need to deliver on:

The survey design should consider how information to address all biological attributes under Common Standards Guidance can be obtained. In developing the sampling design, careful consideration should be given to the statistical power that repeat sampling and subsequent analysis will provide. This needs to be considered in relation to: 10

a. Enabling comparisons with previous data sets where available. b. Where necessary improving upon previous sampling designs to provide more robust temporal statistical comparisons when repeated in future and enable the specific hypotheses to be tested. c. The relative importance associated with the particular hypothesis being tested, for example greater statistical power may be desirable at the level of the whole feature where a survey is targeted at identifying the effects of a particular pressure. d. The overall level of resources available to Natural England to deliver monitoring and survey work. The suggested alternative methodology should seek opportunities, where necessary, to implement an improved approach which enables a comparison with existing data but at the same time delivers Natural England's requirements for a statistically robust approach outlined above. Natural England will be able to provide the following GIS datasets under licence to the successful Contractor for use in this contract:

- Base map data from Ordnance Survey
- Imagery from Next Perspectives
- Environmental data from Environment Agency
- Site specific datasets

Before commencing the survey, the successful Contractor will produce a project plan. In addition, before the survey is carried out the successful Contractor will:

A) Discuss any pre-survey work with the Natural England Project Officer, including checking information about the site and identifying sources of relevant information.

B) Review existing information provided by Natural England or any datasets known to the successful Contractor.

C) Obtain the most up to date aerial photography and mastermap tiles for the site from Natural England  
(<http://www.naturalengland.org.uk/publications/data/gifforcontractorspartners.aspx>).

D) Finalise the sampling strategy in conjunction with the Natural England Project Officer, including the strategy for specimen and water sample collection, preservation and courier to the DNA contractor for DNA sequencing, assay development and testing.

### **5.3 Site access**

Survey work will not be able to begin until access permissions have been obtained.

The successful contractor may be expected to obtain permission from owners and occupiers for access to the land. Information on ownership and tenancy can be supplied by the Natural England Project Officer. Verbal authority for entry onto privately owned land from the relevant owner/occupier may suffice but should be fully documented and made available to the Natural England project officer. Each member of the survey team must carry a letter from Natural England to confirm that they are doing this work on the behalf of Natural England. The land surrounding a lagoon will often be under private ownership and therefore it will be necessary to seek the landowner's permission to gain access to the water. Where boat access is required, it may be necessary to seek permission to use a private pier or jetty. 11

The successful contractor may also be required to obtain permission from owners and occupiers of the seabed or any seabed installation with the survey area for access / permission to undertake the sampling required. Where this is necessary, information on ownership and tenancy can be supplied by the Natural England Project Officer. Verbal authority for entry onto privately owned land from the relevant owner\occupier may suffice, but should be fully documented and made available to the Natural England project officer. The Natural England project officer should be contacted on commencement of any fieldwork.

#### **5.4 Protected Species Licencing**

The successful Contractor should ensure that all appropriate marine and protected species licences and legal requirements (such as a Habitats Regulations Assessment) for the survey have been attained and are valid before the survey commences. The Natural England Project Officer can support this process.

#### **5.5 Field Survey – Methodology**

Surveys should be carried out in accordance with the technical specifications provided in Annex 1 and 2. This has been directed by techniques from the Common Standards Monitoring and Water Framework Directive Guidance.

To enable comparison with existing baseline data, survey techniques should maintain consistency with those used previously. The condition monitoring surveys of the Solent & Isle of Wight lagoons conducted in 2013 (see section 3) utilised four main techniques:

A) Quantitative benthic sampling was undertaken using a 0.005 m<sup>2</sup> hand-coring-tube, pushed into the sediment to a depth of 10 cm (where possible). Ten core samples were collected at each sampling site (total sample area 0.05 m<sup>2</sup>), bulked, and sieved through a 0.5 mm mesh sieve *in situ*. Position-fixing was by GPS ( $\pm 2$  m). Infaunal samples should be taken back to the laboratory for analysis.

B) Qualitative assessment of nektonic species was undertaken by sweeping the lagoon with a 0.5 mm mesh hand net in appropriate habitats. Species collected were identified *in situ* and returned to the lagoon.

C) Qualitative assessment of the community associated with submerged plants was undertaken by collecting approximately 1 litre of weed, rinsing it in a bucket of water, then sieving the residual water (0.5 mm mesh).

D) Hard substrata (stones, reed-stems, etc.) were examined *in situ* for bryozoans and hydroids.

E) Salinity of each lagoon sampling point was measured using a refractometer ( $\pm 0.5\text{‰}$ ), including investigation of any stratification and of any variation around the lagoons. The salinity of the adjacent sea-water was also measured where applicable (i.e. there was a direct source of saline water to the lagoon). pH was measured using a field pH-meter ( $\pm 0.01$  units).

12

Please note that in this survey, some lagoon species specimens may be collected and sent to a DNA lab under a separate contract for sequencing, assay development and testing, see Section 5.8 for further details.

The information gathered must be of sufficient quality to provide a comparison with previous surveys relating to the condition of coastal lagoons according to methodologies outlined in JNCC common standards guidance

**Biota:** Sufficient biological samples should be taken to cover the main habitats/sub-habitats within the site. Unnecessary over-sampling should be avoided, given the rarity of saline lagoon habitat, the small size of many sites, and the presence of a variety of scheduled species and/or small populations of some species. Whenever possible, specimens should be returned to their habitat alive.

Brief recommendations for management or other action should be stated where there are concerns regarding current condition. Note should be made of any indicators of adverse impacts or perceived threats.

Proposed dates for survey work under the contract to be scheduled and completed and contingency dates should be included in the quotation response e.g. in case of weather downtime.

### **5.6 Laboratory Analysis**

To enable comparison with existing baseline data, sample analysis should maintain consistency with those used previously. Faunal samples should be washed over a 0.5 mm sieve and then all taxa should be identified to the lowest possible practicable taxonomic level using the appropriate taxonomic literature. Faunal samples that will be sent for DNA sequencing should be preserved in Industrial Denatured Alcohol and then transferred to 70% ethanol as soon as identification confirmed.

The NMBAQC Scheme has produced a Taxonomic Discrimination Protocol (TDP) (Worsfold & Hall 2010) which gives guidance on the most appropriate level to which different marine taxa should be identified, and this guidance should be adhered to for laboratory analysis. The only exception to this is for lagoonal specialist species where identification to species is expected, for example, the lagoonal specialist nemertean cf. *Myoisophagus sanguineus*. Full details of laboratory processing techniques and Quality Assurance processes should be provided with your tender submission.

### **5.7 Particle Size Analysis (PSA)**

To enable comparison with existing baseline data, Particle Size Analysis should be performed in accordance with NMBAQC Best Practice Guidance (Mason, 2011). In your tender submission you should confirm the methodology that would be used. 13

1. All sample data (e.g faunal analysis, PSA analysis) need to be entered into Marine Recorder and delivered with the final reports. Natural England will provide licence keys for Marine

### **5.8 Samples for DNA Analysis**

Please note, Natural England will provide small sample pots containing 70% ethanol for the collection of specimens during field survey and after infaunal identification in the laboratory. Sampling kits will also be provided for water samples. These can be couriered to the DNA contractor using the standard courier services. Please note, the cost for couriating / storing samples does not need to be included in your tender bid as this will be arranged by Natural England as part of the DNA contract. Natural England will provide the details to the successful Contractor.

After field identification / infaunal identification in the laboratory, lagoon species specimens will be placed in sample pots containing 70% ethanol and sent to the DNA lab for sequencing and assay development. A list of target species will be provided by Natural England.

Water samples will also be collected from the lagoons, with the sampling effort focused around the specimen collection and sampling sites. Collecting a water sample takes c. 10 minutes. Ideally, water samples should be taken from the supernatant water from the cores to enable direct comparison with the specimens used for DNA assay development. Similarly, water samples should be collected close to the sweep net locations where specimens were collected for DNA processing. The exact methodology will be decided upon after the contract is awarded.

Natural England will provide sample pots (containing 70% ethanol) and water sampling kits for eDNA sample collection. Natural England will also provide details for where the collected specimens and water samples will be sent.

### **5.9 Data Analysis**

Natural England expect that robust and appropriate statistical analysis is employed as required, and the results presented and briefly discussed with the Natural England project officer. An explanation of why certain methods has been chosen should be appended, and a brief justification of any relevant assumptions supplied. GIS should be used to present any geographical information and data gathered or created during the project. Base mapping including OS tiles and aerial photographs can be provided by Natural England under licence if required.

The results should be compared to those previous surveys and other relevant papers (including appropriate statistical analysis) and any changes set into context using other existing information. Where possible, conclusions should be drawn as to the relative status of the condition of features as well as the status of the sub-features (using Natural England Guidance).

### **5.10 Data Outputs and Management**

All project outputs should be delivered to agreed deadlines.

Data must be interpreted, analysed and presented in light of the overarching hypotheses stated above. Tenderers should pay particular consideration to the data and GIS required formats for information compatibility including MEDIN metadata standards and Marine Recorder provision: 14

Recorder to the successful Contractor for use in this contract. A Snapshot file of the data should also be provided. <https://www.esdm.co.uk/marine-recorder>. Guidance 'Marine Recorder Evidence for Contractors' will be provided to the successful Contractor.

2. All GIS datasets need to be provided in ESRI ArcGIS format compatible with ArcGIS9.3.1 and have attached metadata.

3. All GIS files containing habitat data for each individual survey need to be produced to the MESH translated habitat data exchange format to the most detailed EUNIS habitat level possible. MNCR (04,05) data should be added to the ORIG\_HAB column. The GUI provided by Natural England for each survey will be used, and as much information as possible (survey name, originally assigned feature/habitat name etc.) from the original dataset, as well as any documentation provided (where available) should be included in the resulting datasets to maintain a useful audit trail. Where MESH GUI references are identical, the datasets should be combined and treated as a single survey record. As specified in the MESH data exchange format, data files must be provided as ESRI Shapefiles using geographic coordinates (lat/long) and the WGS84 datum. If the datasets supplied are in other projections, transformation using the appropriate petroleum (EPSG) transformation should be carried out as part of the data formatting procedure.

4. If not included in the GIS data layers listed above all sampling locations, vessels tracks and links to data obtained should also be included as a single GI layer.

5. A MESH data confidence assessment for each habitat map should be calculated and provided in a 'MESH confidence scoresheet' excel file. The confidence assessment process is described and a template provided in the MESH resources.

6. Accompanying metadata for the data set must meet the MEDIN metadata discovery standard. Metadata derived as part of this project must be submitted to Natural England in an XML file which Natural England will archive through Data Archive Centres (DACs). Guidance 'MEDIN Evidence for Contractors' will be provided to the successful Contractor.

7. Copies of the original data spreadsheets or databases are to be provided in the appropriate Microsoft Office format.

8. Stills photographs to be provided in their raw format on CD/DVD or USB compliant external hard drives.

9. Natural England will be provided with two bound hard copies and one electronic copy (on disc or USB) of the final report. The final report should contain:

- a) Executive summary
- b) Introduction
- c) Methods
- d) Results including mapped extent of features, biotopes and analysis of species composition
- e) Comment on biotopes, species identified
- f) Condition assessment
- g) Description of any impacts to the site resulting from human activity
- h) Recommendations for further work
- i) Catalogue of data provided
- j) References
- k) Appendices to include full faunal and particle size data

## **5.11 Risk Assessments**

All risk assessments need to be seen and signed off by the Natural England project officer (must be presented with the project plan), as part of the contract management process. 15

### **5.12 Invasive non-native species**

Invasive non-native species (INNS) are considered to be one of the top five pressures directly driving biodiversity loss globally. With largely isolated environments lagoons can be particularly sensitive to INNS. Prevention is the key focus, particularly in marine environments. The successful contractor shall be aware of and work in accordance with standard good practice biosecurity measures to avoid spread of INNS:

- Equipment, clothes and boots should be clean before carrying out any work on site
- When on or near water it is important that equipment is drained after use and as far as possible dried
- Dry all clothes and boots thoroughly
- Boats to be used in survey work should have their hulls cleaned on a regular basis. Best practice guidelines should be followed as outlined by The Green Blue

A statement of biosecurity measures that the successful Contractor will undertake is required with the tender.

The successful Contractor shall report any records of INNS observed on site to the Marine Biological Association <http://www.mba.ac.uk/recording> and to the Natural England project officer. More information and guidance including ID guides can be found at [www.nonnativespecies.org](http://www.nonnativespecies.org) and the Marine Aliens Project

## **6. Outputs – Products and Timescales – Dates to be finalised with the Authority**

### **6.1 Timeline for project delivery:**

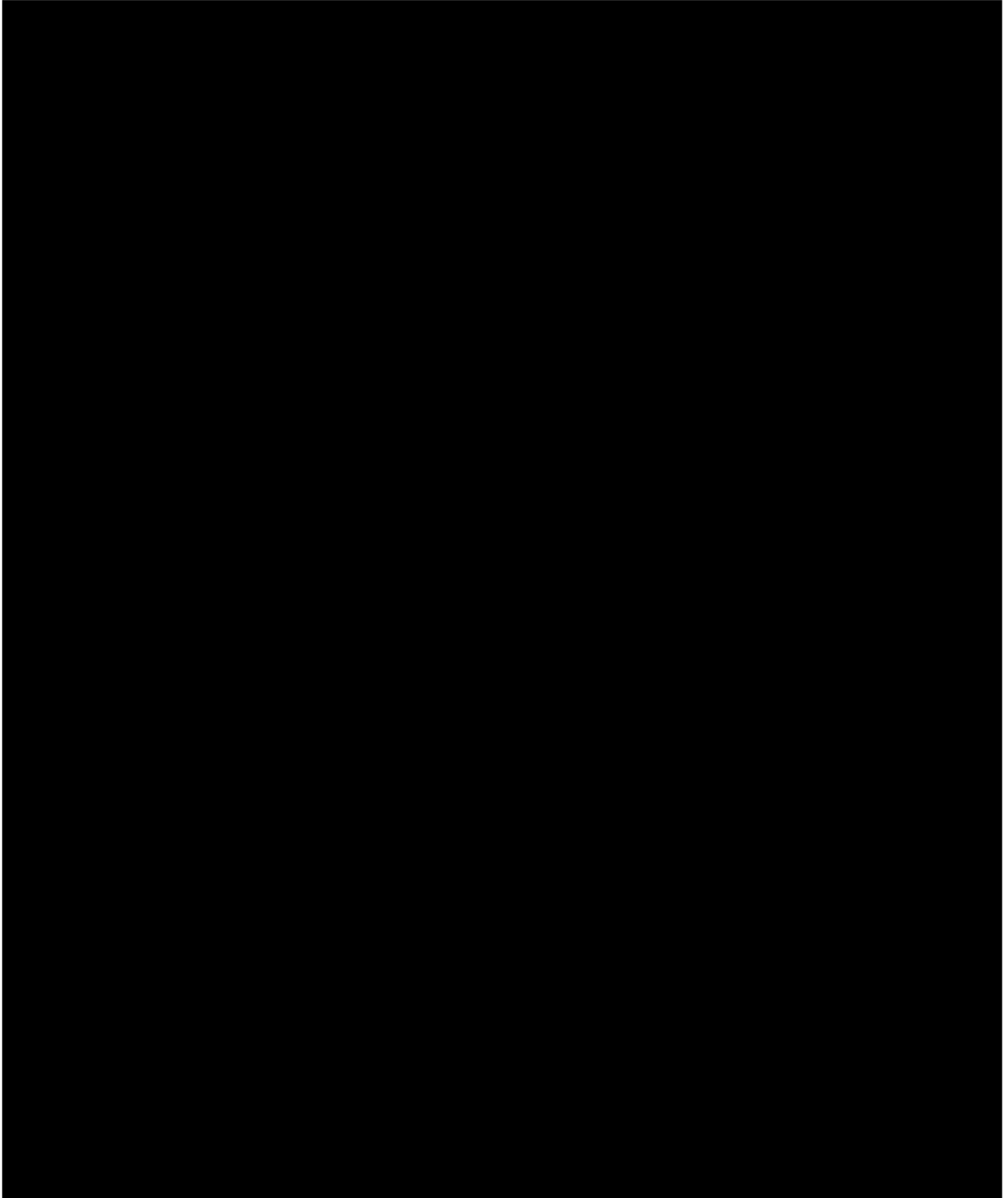
#### **Event**

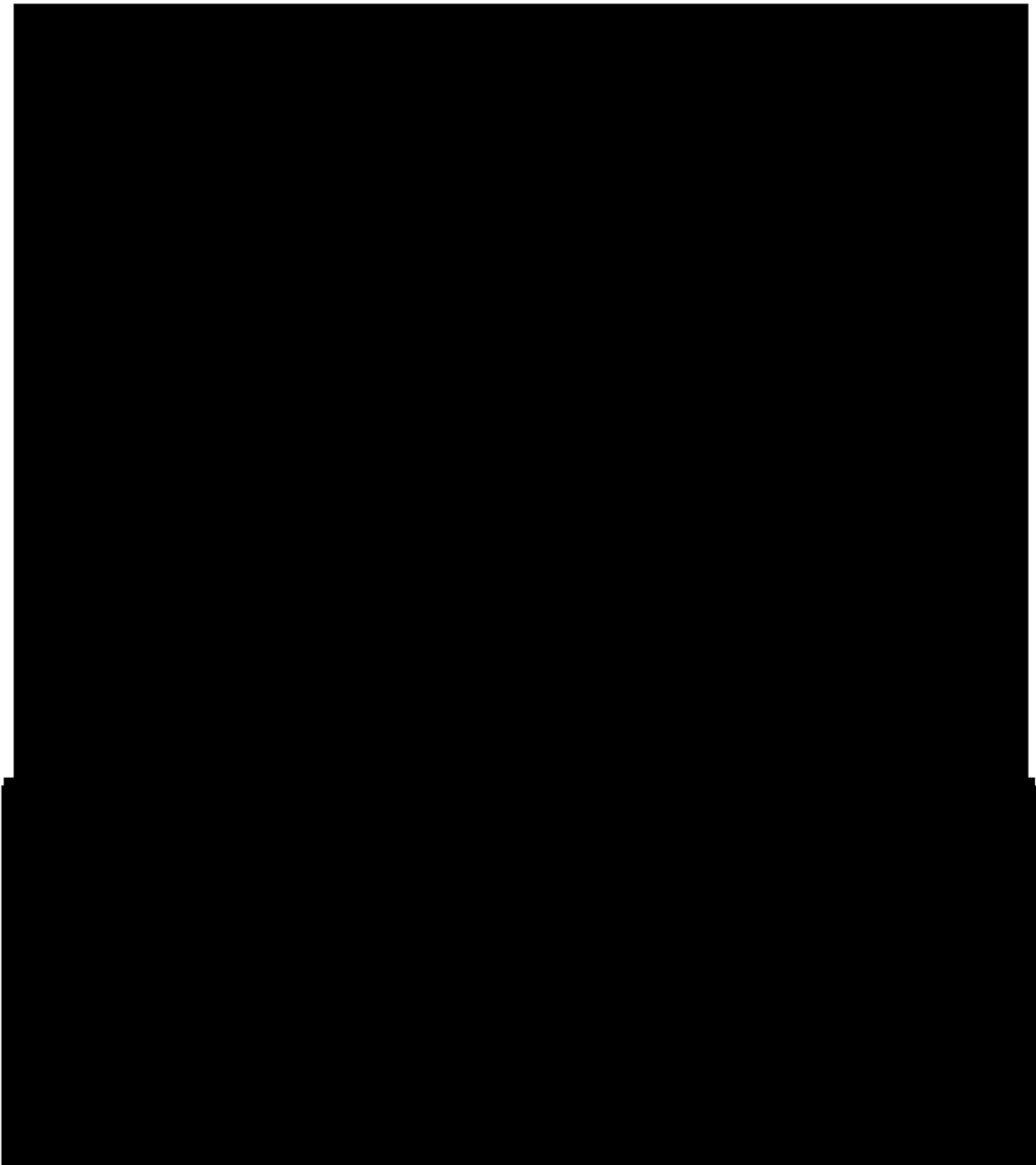
Finalise sampling design	<b>2 September 2020</b>
Produce final project plan.	<b>7 September 2020</b>
Obtain any necessary access permissions.	<b>9 September 2020</b>
Ground survey to be completed by	<b>12 October 2020</b>
Submission of brief field report by	<b>5 November 2020</b>
Any lab work to be completed by	<b>7 January 2021</b>



## SCHEDULE 2 - PRICES

The fixed sum for this contract is £28,554 + VAT as detailed in the agreed cost schedule below.





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

