

1 **GB Cod Fixed Gear Sector**
2 **Fishing Year 2015 & 2016**
3 **DRAFT Operations Plan and Agreement**
4

5 *Submitted May 11, 2015 (v final)*
6
7

8 This OPERATIONS PLAN AND AGREEMENT (this “Agreement”) is entered into
9 as of this 1st day of May, 2015 by and among the permit owners listed on the
10 signature pages hereto and any other permit owners that are admitted
11 pursuant to the terms of this Agreement (each, a “Member” and, collectively,
12 the “Members”).
13

14 **RECITALS**
15

16 **WHEREAS**, under Amendment 13 to the Northeast Multispecies Fishery
17 Management Plan (such amendment shall hereinafter be referred to as
18 “Amendment 13” and the plan shall be referred to as the “Plan”), and the
19 regulations promulgated thereunder, a self-selecting co-operative, or “sector,”
20 of fishermen is authorized to submit to the New England Fishery Management
21 Council (the “Council”) a proposal for the allocation of catch or effort of a
22 regulated groundfish species to such sector;
23

24 **WHEREAS**, on April 17, 2007, the Members formed a fishery sector through
25 GB Cod Fixed Gear Sector Inc. (the “Sector”), for the purposes of establishing a
26 legally responsible entity (i) to obtain an Annual Catch Entitlement (“ACE”) of
27 Georges Bank (“GB”) cod from the NOAA Fisheries (“NMFS”), as authorized by
28 Framework Adjustment 42, and to sub-allocate such ACE among the Members
29 and/or their permits and vessels, (ii) to participate in Special Access Programs
30 (“SAPs”) or other programs in closed areas to the extent that such SAPs or
31 other programs are available to the Sector, and (iii) to take such actions as may
32 be necessary to ensure that the Sector, its Members and their vessels conduct
33 groundfish harvesting activities in compliance with the Plan, Amendment 13,
34 the Magnuson-Stevens Fishery Conservation and Management Act (the “Act”),
35 Framework Adjustment 42, and applicable regulations promulgated by NMFS;
36

37 **WHEREAS**, in connection with the formation of the Sector, the Members
38 entered into that certain Operations Plan and Agreement, dated November 22,
39 2006 (the “Original Agreement”);
40

41 **WHEREAS**, on April 9, 2010, Amendment 16 to the Northeast Multispecies
42 Fishery Management Plan (“Amendment 16”) authorized new sectors, the
43 allocation of other groundfish stocks to all sectors, and additional exemptions
44 from fishery management regulations; and
45

46 **WHEREAS**, the Members desire to amend and restate the Original Agreement

1 to make certain adjustments thereto and to the Members' obligations
2 thereunder, in order to incorporate changes promulgated by Amendment 16
3 and subsequent NMFS policies, and to account for the circumstances of the
4 2015 and 2016 Fishing Years ("FY(s)").

5
6 **NOW, THEREFORE**, in consideration of the mutual agreements, covenants,
7 rights and obligations set forth in this Agreement, the benefits to be derived
8 therefrom and other good and valuable consideration, the receipt and
9 sufficiency of which are hereby acknowledged, the parties hereto, intending to
10 be legally bound hereby, agree as follows:

11
12
13 **Article I. Representations and Warranties of the Members.**

14
15 As of the date hereof, each of the Members represents and warrants to the
16 other Members and the Sector that:

17
18 Section 1.01. Sector Qualification.

19 To be eligible and recognized, a sector must include three or more persons,
20 none of whom have ownership interests in at least two other persons' vessels in
21 the sector. Having an ownership interest in a permit/vessel includes, but is
22 not limited to, persons or entities who are shareholders, officers, or partners, in
23 a corporation owning a permit/vessel; who are partners to a permit/vessel
24 owner; or who, in any way, partly own a permit/vessel. Other factors that may
25 indicate ownership interest include whether a permit/vessel owner derives any
26 financial benefit, or exercises any control over, another permit/vessel. NMFS
27 interprets permit ownership as including permits in Confirmation of Permit
28 History ("CPH"). The Sector's compliance with the ownership provision is
29 included in Exhibit E.

30
31 Section 1.02. Eligibility.

32 To be eligible for participation in the Sector each Member must have been
33 issued a valid limited access multispecies permit with or without documented
34 landings of regulated species between May 1, 1996, and April 30, 2007, which
35 are the 1996 through 2006 fishing years (such period of time shall hereinafter
36 be referred to as the "Qualifying Period"). Those Sector permits that committed
37 to either the Sector or the GB Cod Hook Sector by March 1, 2008 for the 2010
38 FY will qualify with landings of GB cod during FY 1996-FY 2001; all other
39 Sector permits will qualify under the previously-described Qualifying Period.
40 Each such permit which the Member intends to enroll in the Sector is listed
41 below such Member's name on the signature pages and Exhibit B hereto (each,
42 a "Permit"). Notwithstanding the list of Participating Vessels set forth on the
43 signature pages hereto, for purposes of this Agreement, "Participating Vessel"
44 shall mean the vessel to which a Member's Permit applies at any given time.

1 Section 1.03. **Organization and Authority.**

2 Each Member (i) to the extent that it is an entity, is duly organized, validly
3 existing and in good standing in its state of organization and (ii) has all
4 authority, corporate or otherwise, to enter into this Agreement on its own
5 behalf and on behalf of the Participating Vessels that it represents. This
6 Agreement constitutes a legally valid and binding obligation of each Member,
7 enforceable against such Member in accordance with its terms. Each of the
8 Members represents that its Participating Vessel(s) and Permit(s) have no
9 sanctions or other restrictions against them that would prevent such
10 Participating Vessels and Permits from enrolling in the Sector and/or
11 complying with the terms of this Agreement.
12
13

14 **Article II. Membership.**

15
16 Section 2.01. **Voluntary Membership.**

17 Participation in the Sector is completely voluntary among the Members, their
18 Permits and the related Participating Vessels.
19

20 Section 2.02. **Scope of Membership Obligations.**

21 The obligations of the Members set forth in this Agreement shall only apply to
22 the Permits and Participating Vessels and not to any other permits or vessels
23 owned by the Members that are not enrolled in the Sector pursuant to the
24 terms hereof to the extent that such Permits or Participating Vessels are fishing
25 commercially (i) with gear that is capable of harvesting regulated multispecies
26 managed under the Plan. Notwithstanding the foregoing, each Member is
27 required to provide the Manager with the information requested in Exhibit D,
28 including but not limited to a list of all federal and state permits assigned to
29 participating vessels. Sector Members, from time to time, may be permitted to
30 participate in SAPs or any other pilot program, or to access any closures as
31 authorized by NMFS. It may be necessary to expand the scope of the
32 membership obligations hereunder, in order to ensure that the Sector and its
33 Members are in compliance with the rules and regulations. Therefore, the
34 Members hereby agree to execute any amendments or supplements to this
35 Agreement, which may reasonably be requested by the Sector or the Sector
36 Manager in order to comply with the rules and regulations, including, without
37 limitation, any amendments or supplements that expand the scope of the
38 membership obligations hereunder to apply to vessels and/or permits that are
39 not enrolled in the Sector.
40

41 Section 2.03. **Length of Commitment.**

42 Each Member hereby agrees to cause each of its Permits and any related
43 Participating Vessels to remain enrolled in the Sector for the entire fishing year
44 following the date on which such Member enrolled in the Sector (the
45 “Commitment Period”); provided, however, that if NMFS shall not approve the
46 Sector’s Operations Plan and Agreement, as the same may be amended, for any

1 fishing year during a Member's Commitment Period, then the obligation of such
2 Member under this Section 2.03 shall terminate on the last day of the last
3 fishing year for which the Sector's Operation Plan and Agreement shall have
4 received approval from NMFS. Each Member further agrees that if its Permit
5 leaves the Sector for any reason during the Commitment Period, (i) such
6 Member shall be subject to penalties as described on the Schedule of Penalties
7 (as hereinafter defined) and (ii) such Member, its Permit, any permit in which
8 the Member has a business interest, and the related Participating Vessel shall
9 be ineligible to participate in the Sector for a period of five (5) years following
10 the date of such departure from the Sector. This provision should be
11 considered exclusive to the administration of the Sector and would therefore
12 not be subject to NMFS enforcement.

13
14 Each Member acknowledges and agrees that 50 CFR 648.87 requires that each
15 of its Permits and the related Participating Vessels must remain in the Sector
16 for the entire fishing year in which such Permits and/or Participating Vessels
17 are enrolled in the Sector, and that each Member's Participating Vessels may
18 not fish outside the Sector under a multispecies DAS program during any
19 fishing year in which its Permits and/or Participating Vessels are enrolled in
20 the Sector. Notwithstanding the foregoing requirements, a Member that
21 executes this Agreement prior to the time the final Annual Catch Entitlement
22 ("ACE") is provided to the Sector by NMFS, may terminate the Agreement
23 without penalty within fourteen (14) days of the initial ACE has been
24 promulgated by NMFS and/or the Council unless otherwise prohibited by
25 Sector policy. This provision should be considered exclusive to the
26 administration of the Sector and would therefore not be subject to NMFS
27 enforcement.

28
29 Section 2.04. **New Members.**

30 The owner of a permit that is eligible under the criteria set forth in Section 1.01
31 and 1.02 hereto, but that is not enrolled as a Member (and/or whose permit is
32 not so enrolled) may apply to the Board (as hereinafter defined) for membership
33 in the Sector. Such application shall be made in writing and shall include
34 evidence of eligibility. The Board shall, in its reasonable discretion, determine
35 whether the applicant shall be admitted as a Member of the Sector and/or its
36 permit included as a Permit. Notwithstanding the foregoing, no such
37 admission shall be effective until such new Member has agreed in writing to be
38 bound by, and to cause its Permit and/or Participating Vessel to comply with,
39 the terms of this Agreement, and until the provisions of this Agreement shall
40 have been amended or modified to reflect such additional Member, Permit
41 and/or Participating Vessel. This provision should be considered exclusive to
42 the administration of the Sector and would therefore not be subject to NMFS
43 enforcement.

44
45 Section 2.05. **Permit Transfers.**

46 Each Member agrees that so long as it is a party to this Agreement, such

1 Member (i) shall not have the authority to sell, lease or transfer the ownership
2 of its Permit to a party that is not or does not agree in writing to be bound by
3 this Agreement for the remainder of the fishing year in which such sale, lease
4 or transfer is to occur, (ii) shall not transfer, lease or assign any DAS allocated
5 to its Permit by NMFS to any permit not enrolled in an approved sector, and (iii)
6 shall comply with the right of first refusal provisions of Section 2.06 hereof
7 prior to the consummation of any proposed sale, lease or transfer permitted
8 hereunder. To the extent that a Member sells, leases or transfers its Permit to
9 another individual or entity (a "Transferee") in compliance with the foregoing
10 sentence, then (a) such Transferee shall only be permitted to participate in the
11 Sector for the remainder of the fishing year in which the transfer occurred (the
12 "Transfer Year") and (b) prior to the commencement of the fishing year
13 immediately following the Transfer Year, the Transferee must apply for
14 admission to the Sector pursuant to the provisions of Section 2.04 hereof in
15 order to be admitted to the Sector as a Member. For the avoidance of all doubt,
16 for the purposes of calculating a Member's Commitment Period under Section
17 2.03 hereof, no portion of a Transfer Year shall be included in such calculation.
18

19 Section 2.06. **Right of First Refusal – Permanent Permit Transfer.**

20 In the event that any Member (a "Transferring Member") at any time proposes
21 to sell, transfer or lease (a "Transfer") its Permit to any proposed Transferee
22 who shall make a good faith, bona fide written offer therefore (a "Bona Fide
23 Offer"), then the Transferring Member shall first deliver to the Sector a written
24 notice ("First Refusal Notice") that the Transferring Member proposes to make
25 such Transfer, which First Refusal Notice shall (i) state the identity of the
26 prospective Transferee, (ii) state the amount of consideration for the Permit and
27 the material terms and conditions upon which the proposed Transfer is to be
28 made (the date on which the Sector receives the First Refusal Notice being the
29 "First Refusal Notice Date"), (iii) represent that the Bona Fide Offer is an actual
30 bona fide offer, and (iv) include a copy of any written proposal, letter of intent
31 or other agreement relating to the Bona Fide Offer. The Sector shall have a
32 period of 5 business days following the First Refusal Notice Date (the "Election
33 Period") in which to elect to purchase or lease the Permit at the price and
34 subject to the same material terms and conditions set forth in the First Refusal
35 Notice. The Sector shall exercise its right to purchase or lease such Permit by
36 delivering a written notice ("Election Notice") to the Transferring Member within
37 the Election Period. In the event that the Sector desires to purchase the Permit,
38 then the parties shall schedule a closing for the payment for, and the delivery
39 of, the Permit, which shall be no later than 90 calendar days after the First
40 Refusal Notice Date. The Transferring Member agrees to enter into and deliver
41 an agreement for the benefit of the Sector, containing standard and customary
42 representations, warranties, covenants and indemnities by the Transferring
43 Member for the benefit of the Sector. If the Sector has not elected to purchase
44 the Permit within the Election Period, then the Transferring Member is free to
45 Transfer the Permit to the Transferee; provided that such Transfer is on the
46 terms and conditions specified in the First Refusal Notice. If the proposed

1 Transfer is not consummated within 90 calendar days following the
2 termination of the Election Period, the Transferring Member may not Transfer
3 the Permit without complying again with all the provisions of Section 2.05 and
4 this Section 2.06. This provision should be considered exclusive to the
5 administration of the Sector and would therefore not be subject to NMFS
6 enforcement.

7
8 Section 2.07. **Membership Dues.**

9 The Sector shall, to the extent necessary for the payment of the costs and
10 expenses associated with the administration and management of the Sector
11 (including but not limited to the payment of the Manager’s salary and payment
12 of outstanding loans and debts), require the payment by the Members of
13 annual membership dues and/or poundage fees. Such annual membership
14 dues and/or poundage fees shall be fixed by resolution of the Board prior to
15 the commencement of the applicable fishing year or at such other time as the
16 Board may deem necessary or appropriate. This provision should be
17 considered exclusive to the administration of the Sector and would therefore
18 not be subject to NMFS enforcement.

19
20 Section 2.08. **Disclosure Agreement.**

21 Pursuant to section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation
22 and Management Act, 16 U.S.C. § 1881a(b)(1)(F), the undersigned hereby
23 authorizes the release to the Manager, or designated sector employee(s), of the
24 [insert sector] of information that may be or is considered to be confidential or
25 privileged by the Magnuson-Stevens Act or other federal law regarding the
26 catch of various species of fish associated with the limited access Northeast
27 multispecies permit with the Moratorium Right Identifiers (MRIs) enrolled in
28 the Sector submitted to the National Marine Fisheries Service that the
29 undersigned has authority to access. This information includes data required
30 to be submitted or collected by NMFS, on an individual MRI and/or aggregated
31 scale, including but not limited to days-at-sea allocation and usage, vessel trip
32 reports, dealer reports, Northeast Federal Observer Program data, catch and
33 landings history data for all species harvested by the vessel/MRI, Sector at-sea
34 monitoring data, protected species takes/interactions, enforcement data, vessel
35 baseline data (length, horsepower, etc), VMS information, and all other
36 information associated with the vessel, MRI #, and/or permit records. In
37 addition, this information includes data for species not managed under the
38 multispecies FMP.

39
40 All confidential Sector data may be released to the Sector Manager, or
41 designated sector employee(s). This statement applies to all confidential data
42 for a two-year time period encompassing FYs 2015 and 2016.

43
44 **Article III. ADMINISTRATION**

45
46 Section 3.01. **Sector Manager.**

1 The Board of Directors (the “Board”) of the Sector shall appoint a manager of
2 the Sector (the “Manager”), which Manager shall have the authority to manage
3 the day-to-day business of the Sector and to act as its designated agent for
4 service of process. The Sector plans to maintain Claire Fitz-Gerald as Manager
5 for FYs 2015 and 2016.

6
7 Section 3.02. **Manager Authority.**

8 The Manager shall have the authority (i) to monitor the activities of the
9 Members and the Participating Vessels and to take such other actions as may
10 be necessary to ensure compliance by the Members and their Permits and
11 Participating Vessels with this Agreement and other Sector requirements as
12 may be adopted under the terms of this Agreement or the Sector’s Bylaws, as
13 well as applicable laws, rules and regulations, and (ii) subject to the authority
14 of the Board or a committee delegated thereby pursuant to Section 3.03 of this
15 Agreement, the Sector’s Bylaws or any other agreement relating to the Sector’s
16 internal governance, to enforce this Agreement, including specifically, without
17 limitation, the authority to impose penalties set forth in the Schedule of
18 Penalties (as hereinafter defined). The Manager shall also act as the liaison
19 between NMFS and the Sector.

20
21 Section 3.03. **Infractions Committee.**

22 The Board shall appoint an Infractions Committee (the “Committee”) to ensure
23 fair, consistent and appropriate enforcement of this Agreement, the Harvesting
24 Rules, the DAS (as hereinafter defined) requirements set forth on Exhibit C
25 hereto, the Plan, the Framework Adjustment and other Sector requirements as
26 may be adopted under the terms of this Agreement or the Sector’s Bylaws. The
27 Committee shall be comprised of five (5) Members of the Sector. Board
28 members shall not be eligible for appointment to the Committee. The
29 Committee shall prepare and recommend to the Board for its approval a
30 schedule of penalties, which shall be similar in form to Exhibit A hereto (the
31 “Schedule of Penalties”), for any unauthorized fishing activities (whether under
32 applicable laws, rules and regulations or otherwise) and for violations of this
33 Agreement, the Harvesting Rules, the DAS (as hereinafter defined)
34 requirements set forth on Exhibit C hereto, the Plan, the Framework
35 Adjustment and other Sector requirements as may be adopted under the terms
36 of this Agreement or the Sector’s Bylaws. The Board shall review and approve
37 any Schedule of Penalties prepared and recommended by the Committee prior
38 to the commencement of the fishing year for which such Schedule of Penalties
39 has been prepared. If such a decision is not made prior to the start of the
40 fishing year, the previous year’s Schedule of Penalties will remain in place. In
41 addition, the Committee, on its own or at the request of a Manager or Member
42 pursuant to Section 3.04 hereof, shall have the authority to take any number
43 of enforcement measures against the Members for the non-payment of
44 membership dues and/or poundage fees. Such enforcement measures may
45 include requesting expulsion of the violating Member under Section 7.02 and
46 issuing a “stop fishing” order against such Member.

1
2 Section 3.04. **Procedures for Investigations.**

3 In addition to the Manager’s authority to impose penalties under the Schedule
4 of Penalties pursuant to Section 3.02 hereof, the Manager may, on his own,
5 and shall, at the request of a Member, request that the Committee conduct an
6 investigation of possible infractions of the Agreement, the Harvesting Rules, the
7 Plan, the Framework Adjustment or other Sector requirements as may be
8 adopted under the terms of this Agreement or the Sector’s Bylaws, by calling a
9 meeting of the Committee and presenting it with the information that is the
10 basis for the Manager’s or Member’s opinion that an infraction occurred. The
11 Committee shall operate as a “blind” committee, such that the identity of the
12 Member, Permit and/or Participating Vessel under consideration shall only be
13 known to the Manager. The Committee shall assign a number of its members,
14 which constitutes no more than 50% of the Committee, and the Manager, to
15 investigate the matter further and to recommend action, if any, to the full
16 Committee. Such Committee member assignments shall be rotated. If, upon
17 the conclusion of such investigation, the Committee determines by an
18 affirmative vote of a majority (51%) of its members that a violation of this
19 Agreement, the Harvesting Rules, the Plan, the Framework Adjustment or other
20 Sector requirements (as may be adopted under the terms of this Agreement or
21 the Sector’s Bylaws) has occurred, it may, and is hereby given the authority to
22 (in addition to the imposition of any penalties prescribed in the Schedule of
23 Penalties), invoke sanctions, ranging from letters of warning to reductions in
24 allocation of days-at-sea allotted (“DAS”) to the Member, its Permits and its
25 Participating Vessels by the Sector, allocation seizures, or issue stop fishing
26 orders. The Committee shall exercise all reasonable efforts to ensure that
27 penalties and settlements are commensurate with the nature and extent of the
28 violation, are designed to further the purposes of the Plan, the Framework
29 Adjustment, Amendment 13 and Amendment 16, and are uniform with those
30 reached in similar circumstances. All appeals from such Committee action
31 shall be taken in accordance with Section 7.04 hereof. Each of the Members
32 agrees to cooperate fully with the Manager and the Committee in such
33 investigations and procedures (including cooperation with any requests for
34 information or data that may be made by the Manager or the Committee).

35
36 Section 3.05. **Sector Reporting Requirements.**

37 Within 60 days of the end of the fishing year or at a time determined by NMFS,
38 the Manager shall prepare and submit to the Council and NMFS an annual
39 year-end report on the fishing activities of its Members, including the number
40 of Sector vessels that fished for regulated groundfish, the permit and MRI
41 numbers of those vessels, the number of vessels that fished for other species,
42 the method used to estimate in-season discard rates as provided by NMFS, the
43 landing ports used by Sector vessels while landing regulated groundfish, the
44 harvest levels of all regulated groundfish species by Sector vessels (landings
45 and discards by gear type), any enforcement actions taken against the
46 Members, their Permits or Participating Vessels, and any other information

1 requested by the Regional Administrator.

2
3 In addition to the annual report, the Manager or his designee shall, on a
4 weekly, or daily, basis, transmit to NMFS the following reports:

5
6 Sector Manager ACE Status Report: The ACE Status Report provides the means
7 for sector managers to report their ACE status calculations. This allows NMFS
8 to cross-check totals, as stipulated in Amendment 16. Additionally, the Sector
9 Manager Daily ACE Status Report provides the means for sector managers to
10 report their ACE status calculations on a daily basis if the “trigger point”
11 (threshold) has been reached in the current fishing year (see below).

12
13 Sector Manager Detail Report: The Sector Manager Detail Report provides
14 information down to the sub-trip level about each sector trip for a given week,
15 regardless of the completeness of the data. The information includes stock,
16 gear, mesh categories, landing amounts, discards, and total catch.

17
18 Sector Manager Trip Issue Report: The Sector Manager Trip Issue Report
19 provides information about sector trips for a given week that have enforcement
20 or other issues. Weekly reports must include any enforcement or reporting
21 compliance issues, including violations of Operations Plans (exclusive of defined
22 administrative provisions), violations of regulations, or general problems with
23 monitoring or sector operations during the reporting period. The Sector Manager
24 Trip Issue Report allows the sector to briefly describe to NMFS any enforcement
25 or reporting compliance issues, violations of sector operations plan and
26 regulations, and general problems with monitoring or sector operations during
27 the reporting period. The sector manager submits one Issue Report per
28 reporting period.

29
30 The NMFS JIRA issue tracking application will be used to report all data
31 quality issues to the appropriate personnel for research and correction
32 activities. Provided the issues are directed to the appropriate personnel in a
33 timely manner and that claimed corrections are actually completed to the
34 satisfaction of the Sector, JIRA may allow issues to be well-monitored
35 throughout the correction process.

36
37 Such administrative provisions include but are not limited to internal Sector
38 reporting and financial requirements, and general violations of internal Sector
39 agreements/policies.

40
41 The reporting frequency for the Sector Manager’s ACE Status Report will be
42 increased to daily when 90% of any of the Sector’s ACEs is reached. The Sector
43 Manager, or a designated representative, must notify NMFS immediately by
44 email if the threshold that triggers daily reporting has been reached. During
45 the period when a sector has reached or exceeded 90% of any of its ACEs, a
46 daily ACE Status Report must be submitted only on a day when a member

1 vessel lands, or when the sector engages in an ACE transfer of a stock that is
2 exceeding the 90% threshold. An alternative threshold for triggering daily
3 reporting may be implemented if agreed upon by the Sector and NMFS. The
4 Sector Manager, or a designated representative, must notify NMFS immediately
5 by email if 100% of any ACE is achieved or exceeded. In the event that any of
6 the Sector’s ACEs are reached, the Sector Manager will issue a “stop fishing”
7 order against all Members for the appropriate Broad Stock Area until such time
8 as more ACE can be acquired.

9
10 The Manager will submit required reports using the format and procedure
11 prescribed by NMFS.

12
13 More detailed information on the requirements for the weekly reports can be
14 found in the Fisheries Data Services Division (FDSD) Publication: “Preparing
15 the Sector Manager Report,” available online at
16 www.nero.noaa.gov/sfd/SectorManagers.html

17
18
19 **Section 3.06. Inshore Gulf of Maine (GOM) Declaration Program.**

20 Contingent upon implementation and enforcement of this provision by 100% of
21 the additional approved sectors in FYs 2015 and 2016, Members agree to the
22 following:

- 23 1. For the purpose of this declaration, the portion of Broad Stock Area
24 (BSA) 1 West of 70:15 to the shoreline north to the Maine Coast and
25 South to Cape Cod would be defined as “Inshore GOM.”
- 26 2. When an observer/monitor is onboard:
 - 27 ○ The Members may declare and fish in all Broad Stock Areas
28 (BSAs), including the portion of BSA1 defined as the Inshore GOM
29 defined in this section, and fishing activity may occur in any
30 declared BSA.
- 31 3. When an observer/monitor is not onboard:
 - 32 ○ If the Members intend to fish West of the 70:15 in the area
33 described above as the Inshore GOM, at any time during the trip,
34 the Member must declare BSA 1 only, and the Member may not
35 conduct any fishing activity outside of the area defined as BSA 1
36 for the entire trip.
 - 37 ○ If the Member declares more than one BSA on the trip, the Member
38 is prohibited from conducting fishing activity West of the 70:15 in
39 the area described above as the Inshore GOM and the Member
40 must indicate acknowledgement of this restriction by transmitting
41 a Trip Start Hail, through their VMS unit or third party software,
42 and check the “b. Inshore Gulf of Maine” from the list of Sector
43 Ops Plan Provisions in the Trip Start Hail.

44
45
46 **Article IV. ANNUAL CATCH ENTITLEMENT / QUOTA MONITORING.**

1
2 Section 4.01. **Sector Allocation.**

3 The Sector will be allocated an ACE of all allocated regulated groundfish stocks
4 pursuant to Amendment 16. Such allocation shall include stocks that are
5 managed under the terms of the US/CA Resource Management Understanding
6 (“EUSCA”), as applicable. For those permits that committed to the Sector as of
7 March 1, 2008, the proportional Sector ACE will be calculated based on
8 landings of GB cod during the period FY 1996-FY 2001, divided by the total
9 landings of GB cod during that period. For all other Sector permits, the
10 proportional ACE will be calculated based on the landings of GB cod during the
11 period FY 1996-FY 2006, divided by the total landings of GB cod during that
12 period but proportionately reduced by the amount of the permits that received
13 PSCs based on landings of GB cod during the period FY 1996-FY 2001. Sector
14 ACE for additional groundfish stocks (i.e. not GB cod) allocated by Amendment
15 16 will be based on the landings history of each permit during the time period
16 FY 1996-FY 2006.

17
18 Section 4.02. **Annual Distribution.**

19 Each Member hereby acknowledges and agrees that the ACE of all stocks, as
20 authorized by Amendment 16, the Framework Adjustment and NMFS to the
21 Sector, shall be harvested in accordance with the Harvesting Rules, which are
22 set forth as Exhibit C hereto. Each Member agrees to, and agrees to cause its
23 Participating Vessels to, exercise all commercially reasonable efforts to (i) assist
24 in harvesting an amount of regulated groundfish stocks allocated by
25 Amendment 16 equal to, but not greater than, the ACE for each stock, as
26 further set forth on Exhibit C, unless additional ACE can be acquired, and (ii)
27 to comply with all of the other Sector requirements set forth on Exhibit A and
28 Exhibit C hereto. If at any time during the fishing year the Board determines
29 that the ACE may not be fully harvested, the Board shall, subject to the
30 provisions of Section 4.02, redistribute the ACE, through weekly quota targets
31 or otherwise, to ensure that the ACE is fully harvested. In addition, to the
32 extent that the ACE is adjusted upward or downward after the commencement
33 of any fishing year, whether by the authority of NMFS, by framework
34 adjustment or by other regulatory action, the Board shall have the authority to
35 redistribute the adjusted ACE through DAS, weekly quotas or otherwise, to
36 ensure that the adjusted ACE is properly harvested by the Members.

37
38 Prior to the commencement of the FY, the Board shall make an initial
39 distribution of the Sector’s ACE to Members based on the Members’ fishing
40 history. After the initial allocation of individual ACE is made, and at any time
41 during the fishing year, Members are free to pool, transfer, or lease any ACE
42 attributed to their Permit(s) to any other Member subject to advance approval
43 of Manager. Such requests shall be made in writing to the Manger in a timely
44 manner. This provision should be considered exclusive to the administration
45 of the Sector and would therefore not be subject to NMFS enforcement.

1 Members with or without ownership interests in multiple Permits may
2 consolidate individual ACE to harvest from a single or fewer vessels. Such
3 consolidation shall be approved by the Manager prior to validation, and
4 requests shall be made to the Manager in a timely manner. ACE from Vessels
5 designated as “Lease Only” (Exhibit D) may be leased by Vessels designated as
6 “Active Commercial Groundfish.” Vessels that plan to target species other than
7 allocated groundfish (i.e. Spiny Dogfish, Winter Skate) may redistribute ACE to
8 those Vessels that plan to target allocated groundfish, while maintaining
9 enough ACE to cover actual and assumed non-target interactions.

10
11 In FY2014, approximately 18% of the permits enrolled in the Sector for FYs
12 2015 and 16 are attached to vessels actively fishing for NE multispecies. For
13 FYs 2015 and 16, the Sector has 113 permits currently enrolled. Of those
14 permits, 29 or 26% are anticipated to actively fish for NE groundfish in FYs
15 2015 and 2016. While these numbers may change, the Sector expects that,
16 compared to FY 2014, there would be little to no change from the consolidation
17 that previously occurred among Members during FY2014. The member
18 permits that are not attached to active NE multispecies vessels in FYs 2015
19 and 2016 are the same permits that did not fish in FY2014. In most cases, a
20 Member who owns multiple permits fished the ACE (or DAS if in the Common
21 Pool) of all those permits on a single hull and will now continue to fish the ACE
22 contributed by all those permits on the same single hull, resulting in little-to-
23 no additional consolidation.

24
25 Section 4.03. **Reserve.**

26 Each Member agrees that the Board shall, in its sole discretion, establish a
27 reserve for each allocated stock in order to ensure that the Sector remains in
28 compliance with its ACE limits; provided, however, that such reserves shall not
29 exceed twenty (20) percent of any ACE. The amount of the reserve shall be
30 deducted at the beginning of the fishing year from each Member’s permit on a
31 pro rata basis once ACE has been distributed to the Members. This provision
32 should be considered exclusive to the administration of the Sector and would
33 therefore not be subject to NMFS enforcement.

34
35 Section 4.04. **Release of Reserve.**

36 If the Board, subsequent to the establishment of a reserve pursuant to Section
37 4.03 hereof, determines that the ACE, as adjusted pursuant to Section 4.03,
38 will be fully harvested by the Participating Vessels, the Board shall, at its
39 discretion, release and authorize the harvesting of the reserve so as not to
40 exceed the ACE for any species unless additional ACE can be acquired. This
41 provision should be considered exclusive to the administration of the Sector
42 and would therefore not be subject to NMFS enforcement.

43
44 Section 4.05. **ACE Transfer.**

45 Members acknowledge that ACE transfer from the Sector to another sector will
46 only be carried out in a manner authorized by NMFS and in accordance with

1 this Agreement. If a Member seeks to transfer ACE attributed to its permit to
2 another sector, that Member shall submit an ACE transfer request to the
3 Manager at least seven (7) days in advance of the desired transfer
4 date. Transfer requests to be completed sooner than seven (7) days may be
5 accepted by the Manager and approved on a case-by-case basis. Such transfer
6 request must receive approval of the Board and will only be transmitted to
7 NMFS after such Board approval. An ACE transfer from the Sector will only be
8 finalized after NMFS approval and all parties are notified. Any ACE transfer
9 must adhere to any internal transfer policies, including but not limited to a
10 Right of First Refusal policy, as approved by the Board. This provision should
11 be considered exclusive to the administration of the Sector and would therefore
12 not be subject to NMFS enforcement.

13
14 Section 4.06. **ACE Carryover.**

15 If the Sector expects to have unused ACE at the end of the fishing year, an
16 amount not to exceed ten (10) percent of the original Sector ACE may be
17 carried forward into the next fishing year, unless otherwise determined by
18 NMFS. Prior to such a carryover, the Board shall determine whether unused
19 ACE is needed to cover existing or potential ACE overages.

20
21 Section 4.07. **ACE Overage.**

22 The Sector is responsible for preventing ACE overages during the fishing year.
23 The Sector must cease all fishing operations in the appropriate stock area
24 when the Sector achieves or exceeds any ACE. The Sector may acquire
25 additional ACE to resume fishing in that stock area and to avoid an ACE
26 deduction for the following fishing year. NMFS may find Members and the
27 Sector jointly and severally liable for, among other violations, any ACE overage
28 and may assess penalties accordingly. If ACE is exceeded, the overage shall be
29 deducted from the following year's ACE.

30
31 An ACE overage is defined as the catches by Sector vessels that exceed the ACE
32 possessed by the Sector after considering all ACE transfers that take place for
33 the current FY (including those that occur up to 2 weeks into the following FY,
34 as allowed by the NMFS ACE transfer provisions).

35
36 The Member is responsible for preventing individual ACE overages during the
37 fishing year. The Member must cease all fishing operations in the appropriate
38 stock area when the Member achieves or exceeds any ACE, unless otherwise
39 determined by the Board. The Member may acquire additional ACE to resume
40 fishing in that stock area and to avoid an ACE deduction for the following
41 fishing year. If any Member exceeds its allocation of ACE, it may be subject to
42 penalties in accordance with Exhibit A and may have its future allocation
43 reduced by an amount equal to the overage or more. This provision should be
44 considered exclusive to the administration of the Sector and would therefore
45 not be subject to NMFS enforcement.

1 If a Member that causes the Sector to exceed any ACE leaves the Sector the
2 following year, any reduction in the Sector’s ACE or reduction in DAS will
3 follow that Member’s permits that left the Sector in the form of DAS reductions
4 if the Member joins the Common Pool, or pound-for-pound ACE reduction in a
5 new sector. Additional penalties may also be invoked by the Board in
6 accordance with Exhibit A.

7
8 NMFS will withhold 20 percent of each ACE at the beginning of the fishing year
9 for a period of 61 days to allow time to process any year-end transfers of ACE
10 and to determine whether any reductions in ACE are necessary due to overage
11 in the previous year, unless otherwise determined by NMFS.

12
13 Section 4.08. **Available ACE.**

14 For a Member to be able to fish commercially with any gear capable of
15 harvesting regulated groundfish species, both the Member and the Sector must
16 have available ACE. Alternately, the Member may draft an internal ACE trade
17 agreement with another Member to “cover” harvested ACE. This provision
18 should be considered exclusive to the administration of the Sector and would
19 therefore not be subject to NMFS enforcement.

20
21 Further, ACE must be available to account for interactions with allocated
22 regulated groundfish stocks in non-target fisheries in which groundfish catch
23 applies to the Sector’s ACEs, including directed monkfish and skate trips,
24 which are likely to be taken by Members. All monitoring and reporting
25 requirements will be maintained in non-target fisheries to account for available
26 ACE.

27
28 Section 4.09. **Discards.**

29 The Sector Manager (or his/her designated representative) will derive stock-
30 specific discards for each trip. If the trip is observed by either an at-sea
31 monitor or a Northeast Fisheries Observer Program (NEFOP observer), discards
32 will be derived based on data collected during that trip and will account for all
33 hauls (observed and unobserved) on that trip. If the trip is not observed,
34 discards will be derived using the NOAA Fisheries-provided discard rate
35 resulting from the NOAA Fisheries method to estimate “in-season” discard
36 rates, which may not include data from research trips or Sector trips using
37 certain exemptions.

38
39
40 **Article V. VESSEL OPERATIONS AND EXEMPTIONS / GEAR**
41 **REQUIREMENTS.**

42
43 Section 5.01. **Proof of Sector Membership.**

44 Each Member agrees that its Participating Vessels shall maintain on-board at
45 all times a Letter of Authorization from NMFS verifying such Participating
46 Vessels’ participation in the Sector, contact information for the Manager, and a

1 copy of the Operations Plan and Agreement in effect for the current fishing
2 year, except when such Participating Vessels are fishing as charter/party
3 vessels.

4
5 Section 5.02. **Gear Restrictions.**

6 Each Member agrees that its Participating Vessels shall not fish for regulated
7 groundfish species with any gear other than rod-and-reel/(jigs), demersal
8 longline, handgear, sink gillnets, or otter trawl.

9
10 Section 5.03. **Stock Areas.**

11 Each Member agrees that it shall not fish commercially with gear that is
12 capable of harvesting regulated groundfish species unless the Member has
13 available ACE for all stocks for the area being fished or such an agreement as
14 mentioned above. To the extent that ACE availability allows, Sector members
15 would fish within the entire range of the Northeast Multispecies Complex – the
16 Gulf of Maine Regulated Mesh Area (RMA), the Georges Bank RMA, and the
17 Southern New England RMA. Primary fishing effort would occur in the Georges
18 Bank RMA, with secondary effort occurring in the Gulf of Maine RMA and
19 Southern New England RMA.

20
21 Section 5.04. **Operators.**

22 Each Member agrees to ensure that any operators of its Participating Vessels
23 fully comply with the obligations and restrictions set forth in this Agreement as
24 they may be modified from time to time by the Board. Each Member further
25 agrees to accept responsibility hereunder for the actions of any such operators
26 that result in a violation of this Agreement. This provision should be
27 considered exclusive to the administration of the Sector and would therefore
28 not be subject to NMFS enforcement.

29
30 Section 5.05. **Designated Landing Ports.**

31 To enable the Members and the Manager to monitor, observe and verify
32 catches, each Member agrees that each of its Participating Vessels will offload
33 catch in the following designated ports:

- 34 • Provincetown, MA;
- 35 • Aunt Lydia’s Cove, Chatham, MA;
- 36 • Stage Harbor, Chatham, MA;
- 37 • Saquatucket Harbor, Harwich, MA;
- 38 • Allen’s Harbor, Harwich, MA;
- 39 • Wychmere Harbor, Harwichport, MA;
- 40 • Sesuit Harbor, Dennis, MA;
- 41 • Gloucester, MA;
- 42 • Barnstable Harbor, Barnstable MA;
- 43 • Hyannis, MA;
- 44 • Plymouth Harbor, Plymouth, MA;
- 45 • Sandwich, MA;

- Scituate, MA;
- Woods Hole, MA;
- Portland, ME.

Section 5.06. Landing Port Exceptions.

Landings in ports, remote or otherwise, other than those listed in Section 5.05 hereof are permitted on a temporary, case-by-case basis, for the purpose of promoting safety at sea and protecting vessel and crew. Should a Member need to enter port somewhere other than a designated landing port, the Member shall contact the Manager through email or phone as soon as it is safe to do so. The Manager shall notify NOAA fisheries via email of all landing port exceptions, which would include but would not be limited to the number of landing port exemptions granted to a vessel more than one time per month and the anticipated timeframe for which landing port exemptions are to be granted if that timeframe is greater than two days, including until further notice.

Section 5.07. Observed Offloading.

Each Member agrees that, in order to enhance the monitoring and enforcement of the provisions in this Agreement, the Manager may request that an observer be present during offloading operations. If such a request is made, each Member agrees not to permit its Participating Vessel(s) to offload retained catch until the Manager or his designee is present.

Section 5.08. Advanced Notice of Offloading.

Vessels shall notify the Manager and/or NMFS Office of Law Enforcement (“OLE”) through the vessel’s Vessel Monitoring System (“VMS”) or other means at least 6 hours prior to landing for trips greater than 6 hours in length. For trips less than 6 hours in length or occurring within 6 hours of port, the estimated time of arrival to port will be provided in the trip start hail, if required. The trip end hail will be sent upon completion of the last tow or haul with required updated information. An alternative timing for the trip end hail may be implemented if agreed upon by the Sector and NOAA fisheries.

Section 5.09. Redirection of Effort.

The Members acknowledge that redirection of fishing effort onto stocks not managed under the Plan may occur as a result of insufficient ACE for a directed fishery on regulated groundfish species, and/or additional opportunities to target an abundance of non-regulated-groundfish species. Any redirection of effort into other fisheries where non-specified gear is used will be closely monitored throughout the year and reported in the Annual Report. Through the reporting requirements contained in this Agreement, the Manager will monitor any redirection of effort that may occur and include that information in the Manager's reports to NMFS. Members that violate this provision will be subject to penalties in accordance with Exhibit A.

1 During FY2013, Sector vessels concentrated fishing efforts in the following
2 non-regulated-groundfish fisheries:

- 3
- 4 • Monkfish (extra-large mesh sink gillnets)
- 5 • Winter Skates (extra-large mesh sink gillnets)
- 6 • Spiny dogfish (large mesh sink gillnets and demersal longline)
- 7

8 During the first quarter of FY2014, Sector vessels concentrated fishing efforts
9 in the following non-regulated-groundfish fisheries:

- 10
- 11 • Monkfish (extra-large mesh sink gillnets)
- 12 • Winter Skates (extra-large mesh sink gillnets)
- 13 • Spiny dogfish (large mesh sink gillnets and demersal longline)
- 14

15 During FYs 2015 and 2016, the Fixed Gear Sector anticipates similar, if not
16 increased, redirection of effort to the non-regulated-groundfish fisheries listed
17 above. This redirection of effort has been generally attributed to substantially
18 decreased abundance and access to traditional groundfish resources, along
19 with increased abundance and access to the above-mentioned resources.

20 Section 5.10 **Exemptions.**

21 All sectors will be universally exempt from the following regulated groundfish
22 management measures approved in Amendment 16:

- 23 • **Trip limits on all stocks for which a sector receives an ACE (except**
24 **halibut).**
- 25 • **Seasonal closed areas (at present, the only seasonal closure is in**
26 **May on Georges Bank).**
- 27 • **All groundfish DAS restrictions.**
- 28 • **GOM Cod Protection Closures**
 - 29 **a. Vessels are exempt from GOM Cod Protection Closures IV**
30 **(October) and V (March), but must comply with GOM Cod**
31 **Protection Closures I (May), II (June), and III (November,**
32 **December, and January).**
- 33 • **Additional mortality controls adopted by Amendment 16.**
- 34 • **Requirement to use 6.5-inch mesh in the codend in haddock**
35 **separator trawl/Ruhle trawl when targeting haddock in the Georges**
36 **Bank RMA.**
- 37

38 The Sector will further be exempt from the following regulated groundfish
39 management measures (approved at the commencement of FY2011):

- 40
- 41 **1. 120-Day Block Requirement Out of the Fishery for Day Gillnet**
42 **Vessels.**
- 43 **2. 20-Day Spawning Block.**
- 44 **3. Limitation on the Number of Gillnets for Day Gillnet Vessels in**

1 **GB, SNE, and MA RMAs**

2 a. **Day gillnet vessels using this exemption in these areas may**
3 **fish up to 150 roundfish or flatfish nets, but may not**
4 **exceed 150 nets total. Vessels must tag both roundfish**
5 **gillnets and flatfish gillnets with one tag per net.**

6 b. **This exemption does not apply in the GOM RMA. Day**
7 **gillnet vessels in the GOM RMA are restricted to 100**
8 **gillnets (of which no more than 50 can be roundfish**
9 **gillnets). Roundfish gillnets must be tagged with two tags**
10 **per net, while flatfish gillnets can be marked with one tag**
11 **per net.**

12 **4. Prohibition on a Vessel Hauling Another Vessel's Gillnet Gear.**

13 a. The Sector seeks continued approval of the exemption from the
14 prohibition on a vessel hauling another vessel's gillnet gear. In
15 past years, Sector members with more than one vessel have
16 used this exemption to fish more efficiently while minimizing
17 the amount of gear in the water.

18 **5. Prohibition on Hauling Another Vessel's Trap Gear**

19 a. Vessels participating in the GB Cod Fixed Gear Sector may haul
20 another sector vessel's groundfish trap gear, provided that each
21 vessel adheres to the gear marking requirements specified at §
22 648.84(a). Gear must be tagged by each vessel that intends to
23 haul the gear.

24 **6. Limitation on the Number of Gillnets that May be Hauled on GB**
25 **when Fishing Under a Groundfish/Monkfish Days-at-Sea (DAS).**

26 **7. Limitation on the Number of Hooks that May be Fished.**

27 **8. Length and Horsepower Restrictions of the DAS Leasing Program.**

28 **9. Prohibition on discarding unmarketable fish.**

29 **10. Submission of Daily Catch Reports by Sector Managers for**
30 **Vessels that Fish in the CA I Hook Gear Haddock SAP.**

31 **11. Gear requirements in the USCA Management Area.**

32 **12. Vessel Monitoring System Requirements when a Vessel is at the**
33 **Dock.**

34
35 The Sector will additionally be exempt from the following regulated groundfish
36 novel management measures (approved for FY 2012 and published in the
37 Federal Register on May 2, 2012):

38
39 **13. Prohibition on Fishing Inside and Outside the CAI Hook Gear**
40 **Haddock SAP while on the same trip.**

41 **14. Prohibition on a Sector Vessel Hauling Another Sector Vessel's**
42 **Hook Gear.**

43 a. The Sector seeks continued approval of the exemption from the
44 prohibition on a vessel hauling another vessel's hook gear.
45 Although this exemption is not used often, it has provided
46 sector members with important flexibility in the past. For

1 example, a vessel operator that experiences a breakdown may
2 have its gear retrieved by another vessel; a vessel that has
3 reached its trip limit for a stock may allow another vessel to
4 haul its gear, thereby preventing wasteful discards.

5 **15. The requirement to declare intent to fish in the EUSCA SAP and**
6 **the CAII Yellowtail Flounder/Haddock SAP prior to leaving the**
7 **dock.**
8
9

10 The Sector will additionally be exempt from the following regulated groundfish
11 management measures approved in FY2013:

12 **16. Seasonal Restrictions of the Eastern US/Canada Haddock SAP**

13 **17. Seasonal Restrictions of the CA II Yellowtail Flounder/Haddock**
14 **SAP**

15 **18. Prohibition on groundfish trips in the Nantucket Lightship Closed**
16 **Area (see Exhibit H)**

17 **19. Sampling Exemption**

18 a. The Sector seeks continued approval of the exemption to
19 temporarily possess un-landable and undersized fish for
20 research purposes.

21 b. In past years, the Sector has used the Sampling Exemption to
22 participate in a variety of research projects intended to
23 advance understanding of the life histories and population
24 dynamics of commercial stocks.

25 c. In FY2014, 6 Members (listed below) participated in a project to
26 collect biological data and tag Atlantic Halibut throughout the
27 entire range of the Northeast Multispecies Complex- the Gulf of
28 Maine RMA and Georges Bank RMA. This project has been
29 extended to continue through FY2015/2016 and, as such,
30 requires continued approval of the Sampling Exemption.

- 31 1. Eric Hesse, Chatham, MA: F/V Tenacious II
- 32 2. Bruce Kaminski, Chatham, MA: F/V Never Enough
- 33 3. Peter Taylor, Harwich, MA: F/V Sea Hound
- 34 4. Greg Walinski, Dennis Port, MA: F/V Alicia Ann
- 35 5. William Amaru, Chatham, MA: F/V Joanne III
- 36 6. Pamela Lynam, Sandwich, MA: F/V Annie Wilder

37 d. The Sector wishes to retain this exemption for FYs 2015 and
38 2016 to support this ongoing project as well as future research
39 projects. The following members require the exemption to allow
40 continuation of this project.

- 41 1. Eric Hesse, Chatham, MA: F/V Tenacious II
- 42 2. Bruce Kaminski, Chatham, MA: F/V Never Enough
- 43 3. Peter Taylor, Harwich, MA: F/V Sea Hound
- 44 4. Greg Walinski, Dennis Port, MA: F/V Alicia Ann
- 45 5. William Amaru, Chatham, MA: F/V Joanne III
- 46 6. Pamela Lynam, Sandwich, MA: F/V Annie Wilder

1 **20. Access to Portions of Nantucket Lightship Closed Area**

- 2 a. This exemption allows sector vessels to access portions of the
3 Nantucket Lightship Closed Area to provide additional
4 opportunities to target monkfish, dogfish, and skates.
5 b. Any vessel that intends to access the Western or Eastern
6 Nantucket Lightship Closed Areas must declare a closed area
7 trip through the VMS trip start hail by checking the box next to
8 “Closed Area Trip” under sector exemptions. Trip Start Hails
9 must be submitted prior to departure. The sector must follow
10 any additional trip declaration or reporting requirements that
11 NMFS implements during the fishing year.
12 c. Under this exemption, a trawl vessel may fish in the Western
13 Exemption Area with any legal trawl gear allowed in the large-
14 mesh groundfish fishery. A trawl vessel fishing in the Eastern
15 Exemption Area must use a haddock separator trawl (as
16 specified in 50 C.F.R. § 648.85(a)(3)(iii)(A)), a Ruhle trawl (as
17 specified in 50 C.F.R. § 648.85 (b)(6)(iv)(J)(1)), or a rope
18 seperator trawl (as specified in 50 C.F.R. § 648.84(e)). Flounder
19 trawl nets (as specified in 50 C.F.R. § 648.85(a)(3)(iii)(B)) are
20 prohibited in the Eastern Exemption Area. A vessel using hook
21 gear is permitted in both areas. A vessel using gillnet gear must
22 use 10-inch (25.4-cm), or larger, diamond mesh in both areas.
23 A vessel using gillnet gear must also use pingers when fishing
24 in the Western Exemption Area from December 1 – May 31,
25 because this area lies within the existing Southern New
26 England Management Area of the Harbor Porpoise Take
27 Reduction Plan.
28 d. The Western and Eastern Nantucket Lightship Exemption Areas
29 are defined by lines connecting the points listed below in the
30 order stated.

31
32 Western Nantucket Lightship Exemption Area

33

Point	N. Lat.	W. Long.
34 A	40°50'	70°20'
35 B	40°50'	70°00'
36 C	40°20'	70°00'
37 D	40°20'	70°20'
38 E	40°50'	70°20'

39

40
41 Eastern Nantucket Lightship Exemption Area

42

Point	N. Lat.	W. Long.
43 A	40°50'	69°30'
44 B	40°50'	69°00'
45 C	40°20'	69°00'

46

1	D	40°20'	69°30'
2	E	40°50'	69°30'

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Similar to FY2014, the Sector expects the opportunity to incorporate any approved exemption granted to other sectors that may not appear on this list, prior to the start of FYs 2015 and 2016. Furthermore, the Sector expects any approved exemption requested by the Sector be made available to other sectors that agree to adhere to such regulations.

Upon approval, each Sector Vessel will be issued an LOA specifying the exemptions granted. Vessels must comply with all requirements stipulated in the LOA and all applicable Federal Regulations and laws not specifically exempted in the LOA.

Section 5.11. **SAPs and Other Special Management Programs.**

Sector Members may participate in SAPs or any other pilot/EFP/LOA program, or special management programs as authorized by NOAA fisheries as long as the Sector has available ACE.

Article VI. CATCH MONITORING AND VERIFICATION (AT-SEA); CERTAIN OTHER MEMBERSHIP REQUIREMENTS.

Section 6.01. **Sector Hails/Reporting.**

Each Participating Vessel must notify the Manager, his designated representative, and/or an approved Monitoring Vendor via email, other electronic means, or other means if necessary prior to departing from port on a commercial fishing trip when commercial fishing with gear capable of harvesting regulated groundfish unless otherwise exempted. Such notification shall include vessel name, permit number, and any other information as determined by the Manager. In accordance with and defined by Amendment 16, all Sector vessels will also be required to make a declaration to NMFS via VMS prior to departing port identifying whether they intend to fish in one broad reporting area or multiple reporting areas. Vessels that fish in multiple areas will be required to provide additional daily reports to NMFS as required by Amendment 16. Each Participating Vessel must notify the Manager, his designated representative, and/or an approved Monitoring Vendor via email, other electronic means, or other means if necessary in accordance with Section 5.08 hereof with species-specific landings, and any other information as requested by NMFS.

Section 6.02. **Participating Vessel Catch Reports.**

1 To enable each Member and the Sector to monitor the Members' compliance
2 with this Agreement, each Member agrees to report each of its Participating
3 Vessels' entire catch on a landing-by-landing basis, by providing the Manager
4 with a copy of the official Vessel Trip Report, Electronic Vessel Trip Report
5 ("EVTR"), or other reporting document authorized by NMFS within 24 hours, or
6 as soon as possible thereafter, of offloading retained catch or prior to departing
7 on a subsequent trip, whichever occurs first, in the form and manner
8 prescribed by the Manager. The Members agree that these records shall be
9 maintained by the Manager. The Manager shall, upon the request of any
10 Member or NMFS, provide such Member or NMFS with the Sector's aggregate
11 catch information that is generated from such records.
12

13 Section 6.03. **Dealer Reporting.**

14 Each Member agrees to (i) sell the catch of its Participating Vessels only to a
15 dealer licensed under the Plan by NMFS and (ii) cause any such dealer to
16 provide the Manager with a copy of the official dealer weigh out slip, access to
17 an electronic copy of these data on a weekly basis, and a paper copy of the
18 pack-out slip within 24 hours, or as soon as possible thereafter, of offloading
19 retained catch unless otherwise noted by the Manager (This provision should
20 be considered exclusive to the administration of the Sector and would therefore
21 not be subject to NMFS enforcement). Each Member further acknowledges and
22 agrees that (a) it is responsible for ensuring timely dealer reporting in
23 accordance with the provisions of this Section 6.03 and (b) failure of the dealer
24 to deliver timely reports for a Member's Participating Vessel in accordance with
25 this Section 6.03 shall be deemed a breach of this Agreement by such Member.
26 It is the responsibility of the Member to ensure that a dealer is licensed and
27 Member shall provide evidence of such licensure to Manager upon request.
28

29 Section 6.04. **Catch Verification.**

30 The Manager shall, and each Member shall ensure that the Manager does
31 compare, verify and validate each Participating Vessel's catch records with the
32 dealer reports for such Participating Vessel on a continuing and frequent basis
33 if the Members maintain compliance with Section 6.02 and 6.03 if requested by
34 the Members. If the Member or Manager identifies a discrepancy between these
35 or any other available catch verification data, both parties shall seek to resolve
36 the discrepancy. If the Manager is unable to satisfactorily reconcile the catch
37 records, he shall notify the Committee of the discrepancy for its consideration
38 and resolution. Each Member further agrees to cooperate fully with any
39 requests for information or data that are made by the Manager or the
40 Committee in an effort to resolve such discrepancy in a timely manner.
41

42 Section 6.05. **Monitoring Vendors.**

43 The following Monitoring Vendors may be candidates for administering the
44 Sector's ASM Programs in FYs 2015 and 2016, should they be approved by
45 NMFS and implemented by the Sector:
46

1 **A.I.S., Inc.**
2 89 North Water Street
3 New Bedford, MA 02747
4 Phone: (508) 990-9054
5 Primary Contact: Lauren Wahl, laurenw@aisobservers.com
6 Secondary Contact: Luke Szymanski, lukes@aisobservers.com
7

8 **Atlantic Catch Data Ltd.**
9 4 Parker Street
10 2nd Floor
11 Gloucester, MA 01930
12 Phone: (902) 749-5107
13 Primary Contact: Greg Connor, gconnor@atlanticcatchdata.ca
14

15 **East West Technical Services**
16 PO Box 643864
17 Vero Beach, FL 32964
18 Phone: (860) 910-4957
19 Primary Contact: Jerry Cygler, jerry@ewts.com
20 Secondary Contact: Karl Cygler, karl@ewts.com
21

22 **MRAG Americas**
23 65 Eastern Ave.
24 Unit B2C
25 Essex, MA 01929
26 Phone: (978) 768-3880
27 Primary Contact: Bruce Lambert, bruce.lambert@mrغامericas.com
28 Secondary Contact: Jennie Harrington, jennie.harrington@mrغامericas.com
29

30 **Archipelago Marine Research, LTD**
31 525 Head Street
32 Victoria, BC, V9A 5S1
33 Canada
34 Phone: (250) 383-4535
35 Primary Contact: Maria Jose Pria, mariap@archipelago.ca
36 Secondary Contact: Dawn Mann, dawnm@archipelago.ca
37

38 **Saltwater, Inc.**
39 4209 21st Ave West Suite 405
40 Seattle, WA 98199
41 Phone: (206) 588-1401
42 Primary Contact: Morgan Dyas, Morgan.dyas@saltwaterinc.com
43
44

45 The Sector may contract a provider(s) from the above-list that has been
46 approved by NMFS to provide at-sea monitoring services prior to May 1, 2015

1 and notify NMFS of its selection. Any providers that are approved by NMFS but
2 not contained in the above-list will be considered as well. NMFS shall notify
3 the Manager which of these Monitoring Vendors have been certified. Specific
4 vendor(s) selection may be approved by the Manager through consultation with
5 Members, and based on internal criteria yet to be determined. If a Monitoring
6 Vendor loses certification in the course of the fishing year, NMFS will
7 immediately alert the Manager; the Sector will subsequently establish a
8 contract with another approved vendor from the vendor list and notify NMFS of
9 this decision. Standards for Monitoring Vendors can be found in Exhibit I.

10
11 Section 6.06. **Dockside Monitoring Program.**

12 The Sector will not be required to implement a Dockside Monitoring (DSM)
13 Program (“DMP”) in FYs 2015 and 2016.

14
15 Section 6.07. **At-Sea Monitoring Program.**

16 The GB Cod Fixed Gear Sector will participate in the Northeast Fisheries
17 Observer Program (NEFOP) and the NMFS-funded at-sea monitoring (ASM)
18 program while they operate. The sector will transition to its approved industry-
19 funded ASM program when NMFS funding for ASM ends, pursuant to an
20 independent contract between the Sector and a NMFS approved provider. This
21 ASM coverage will have vessel and trip selection coordinated through NMFS
22 and will use approved at-sea monitors. The Sector manager will maintain a
23 database of all catch data, including but not limited to VTR, dealer, monitor,
24 and observer data. NMFS will provide the Sector with data from NEFOP and
25 and the ASM program. ASMs will be deployed in a way to achieve 24% of trips
26 that is random and representative of fishing activities of the Sector.

27
28 The Sector will use the NOAA fisheries-designed ASM program for FYs 2015
29 and 2016 unless it can provide a Sector-designed ASM program that NMFS
30 approves.

31
32 See Exhibit I.

33
34 Section 6.08. **Fixed Gear Sector Monitoring Program.**

35 In addition to the foregoing catch verification protocols, there may be
36 established an Internal Sector Monitoring Program whereby data collection
37 personnel and/or video monitoring equipment may be deployed onboard
38 Participating Vessels to monitor such vessels’ catch and/or to collect data
39 relevant to evaluating the performance of the Sector as determined by the
40 Manager. The Manager shall publish guidance describing Program
41 requirements in advance of the fishing year, and may revise it as necessary
42 throughout the year. Thereafter, the Manager shall have sole discretion to
43 deploy data collectors or video monitoring equipment onboard a Participating
44 Vessel. Each Member agrees to participate in the design and implementation
45 of the Internal Sector Monitoring Program. Each Member further agrees to
46 make every reasonable effort to ensure that data collectors and/or video

1 monitoring equipment are able to perform their monitoring duties. Members
2 agree to address any issues and/or concerns directly to the Manager in a
3 timely and responsible manner. Any refusal to participate in the Internal
4 Sector Monitoring Program and/or unreasonable interference with onboard
5 data collectors will be referred to the Infractions Committee for investigation
6 and appropriate enforcement action. This provision should be considered
7 exclusive to the administration of the Sector and would therefore not be subject
8 to NMFS enforcement.

9
10 In accordance with the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.), and 50
11 CFR 600.745, the Sector is requesting exemptions from the following
12 regulations for sampling purposes only: Minimum fish size restrictions; fish
13 possession limits; species quota closures; prohibited fish species, not including
14 species protected under the Endangered Species Act; and gear-specific fish
15 possession restrictions. All fish that do not comply with applicable fishing
16 regulations must be discarded as soon as practicable following data collection,
17 and shall not enter port or be landed. Of importance to this section, primary
18 data to be collected includes but is not limited to length and weight of
19 regulated groundfish stocks for the purpose of conducting such analyses as
20 discards, discard rates, length-weight regressions, and other similar analyses.

21
22 Section 6.09. **Fixed Gear Sector Electronic Monitoring Program.**

23 This section should be considered a placeholder as additional work is currently
24 being done on developing an approvable electronic video monitoring (EM)
25 program for the Sector. This work is being done concurrently with the
26 development of EM standards/protocols/policies by the NEFMC, NERO, and
27 NEFSC. The Sector anticipates some manner of EM being approved for use
28 during FY2015 or FY2016; the language contained herein would be finalized at
29 that time.

30
31
32 **Article VII. ENFORCEMENT.**

33
34 Section 7.01. **Agreement Enforcement.**

35 Each Member agrees that the Sector, by or through its representatives, and/or
36 any other Member may enforce this Agreement on behalf of the Sector and/or
37 its Members. Each Member agrees to take all actions and to execute all
38 documents necessary or convenient to give effect to the enforcement
39 procedures contemplated by this Agreement, the Harvesting Rules, and any
40 Schedule of Penalties.

41
42 Section 7.02. **Liability.**

43 Members acknowledge and agree that the Sector itself is a legal entity –
44 501(c)(5) corporation - and therefore may be held liable for violations of the
45 law, applicable regulations, and this Agreement committed by its members.
46 Each Member participating in the Sector must comply with all applicable

1 requirements and conditions of this Agreement and their LOA(s). It shall be
2 unlawful and subject to enforcement by NOAA fisheries for the Sector or any
3 Members to violate any such conditions and requirements unless they are
4 identified as exclusive to the administration of the Sector. Those conditions
5 and requirements that are considered to be exclusive to the administration of
6 the Sector are contained in the following sections:

- 7 • 1.03 – Organization and Authority
- 8 • 2.01 – Voluntary Membership
- 9 • 2.02 – Scope of Membership Obligations
- 10 • 2.03 – Length of Commitment
- 11 • 2.04 – New Members
- 12 • 2.05 – Permit Transfers
- 13 • 2.06 – Right of First Refusal
- 14 • 2.07 – Membership Dues
- 15 • 2.08 – Disclosure Agreement
- 16 • 3.01 – Sector Manager
- 17 • 3.02 – Manager Authority
- 18 • 3.03 – Infractions Committee
- 19 • 3.04 – Procedures for Investigations
- 20 3.06 – Inshore GOM Declaration Program
- 21 • 4.01 – Sector Allocation
- 22 • 4.02 – Annual Distribution
- 23 • 4.03 – Reserve
- 24 • 4.04 – Release of Reserve
- 25 • 4.05 – ACE Transfer
- 26 • 5.04 – Operators
- 27 • 5.07 – Observed Offloading
- 28 • 5.09 – Redirection of Effort
- 29 • 6.02 – Participating Vessel Catch Reports
- 30 • 6.03 – Dealer Reporting
- 31 • 6.04 – Catch Verification
- 32 • 6.08 – Fixed Gear Sector Monitoring Program
- 33 • Article VII in its entirety (Enforcement)
- 34 • Article VIII in its entirety (Expulsion of Members)
- 35 • Article IX in its entirety (Term/Termination)
- 36 • Article X in its entirety (Misc.)

37
38 Section 7.03. **Restrictions on Fishing Activity.**

39 The Members acknowledge that a violation of this Agreement or applicable
40 fishery regulations by one or more Members (or the Members' Permits,
41 Participating Vessels or Participating Vessels' operators, if any) including
42 misreporting of catch (landings or discards), discarding of legal-sized fish, and
43 ACE overages could subject the Sector and its Members to joint and several
44 liability to NMFS for fishing violations (including ACE overages, discarding of
45 legal sized fish, and misreporting of catch (landings and discards)). The

1 Members further acknowledge and agree that monetary and/or allocation
2 seizure penalties could be inadequate recourse under such circumstances.
3 Therefore, the Members acknowledge and agree that each of them will (and will
4 cause their Permits, Participating Vessels and Participating Vessels' operators,
5 if any, to) comply with a "stop fishing" order from the Sector, which shall be
6 issued by the Board, the Manager or the Committee, and each of the Members
7 further agrees that if any Member (or its Permits, its Participating Vessels or
8 the Participating Vessels' operators) fails to comply with such order, the Sector
9 shall have the authority to obtain an injunction, restraining order or other
10 equivalent form of equitable relief to give effect to such "stop fishing" order.

11
12 Section 7.04. **Penalties for Violations.**

13 Any penalties that are imposed upon a Member by the Sector, Manager, or
14 Committee pursuant to the terms of this Agreement shall be in addition to, and
15 not in lieu of, any other potential state or federal penalty that may be imposed
16 upon such Member.

17
18 Section 7.05. **Appeal from Infractions Committee Decision.**

19 If the Committee (i) has determined, pursuant to the procedures set forth in
20 Section 3.04 hereof, that a Member has violated this Agreement or (ii) makes
21 any other determination with respect to a Member under this Agreement
22 (including, specifically, without limitation Section 4.07 hereof), such violating
23 Member shall have five (5) business days following the date of the Committee's
24 determination to request reconsideration of the enforcement or other action
25 and/or propose an alternative form of penalty. Such request shall be made in
26 writing and shall be addressed to the Board. The Board may, in its sole
27 discretion, grant or deny any request for reconsideration and may, in its sole
28 discretion, approve or disapprove any alternative form of penalty; provided,
29 that the Board shall exercise all reasonable efforts to ensure that penalties and
30 settlements are commensurate with the nature and extent of the violation, are
31 designed to further the purposes of the Plan, Amendment 16, the Framework
32 Adjustment and Amendment 13 and are uniform with those reached in similar
33 circumstances.

34
35 Section 7.06. **Penalties and Attorneys' Fees.**

36 Penalties for any violations of this Agreement shall, to the extent addressed in
37 the Schedule of Penalties, be limited to the amounts set forth on the Schedule
38 of Penalties plus all costs, fees and expenses, including attorneys fees, incurred
39 by the Sector or, in a case in which the Sector does not take enforcement
40 action, by the Members bringing such action, in enforcing the provisions of this
41 Agreement. To the extent the Schedule of Penalties addresses such matter, the
42 Members and the Sector hereby waive any claims to actual, direct, or indirect
43 damages, and instead agree that payment of the amounts set forth on the
44 Schedule of Penalties and costs of enforcement shall be their sole remedy for
45 breaches of this Agreement. In connection with any legal proceeding related to
46 this Agreement, the non-prevailing party shall pay the prevailing party's

1 reasonable costs and attorney's fees associated with the proceeding.

2
3 Section 7.07. **Application of Penalties, Fines and Damages.**

4 All penalties, fines and/or other damages paid to the Sector shall, first, be
5 applied to the cost of enforcement of such violations and, second, any
6 remaining amounts shall be applied to the costs and expenses of the
7 administration, management and preservation of the Sector. Any funds
8 remaining after the application of the foregoing sentence shall be used to
9 further research into efficient and responsible management of groundfish
10 stocks for the benefit of the resource and those that harvest the resource. The
11 Board shall have sole discretion to redistribute ACE seized for penalties.

12
13 Section 7.08. **Dispute Procedures.**

14 Notwithstanding the provisions of Section 7.01 hereof, prior to instituting any
15 litigation or other dispute resolution, the parties shall follow any applicable
16 procedures set forth in this Agreement, including specifically Sections 3.04,
17 6.04 and 7.02, for the resolution of such dispute. Any appeals taken with
18 respect to any dispute that arises in connection with this Agreement shall be
19 taken in the federal district court in Boston, Massachusetts or, if said court(s)
20 does not have jurisdiction, in such courts in the Commonwealth of
21 Massachusetts that do have jurisdiction.

22
23 Section 7.09. **Specific Performance.**

24 In furtherance and not limitation of Section 7.02 hereof, each of the Members
25 and the Sector shall have the right to have any provision of this Agreement
26 specifically enforced, through injunction, restraining order or other form of
27 equitable relief.

28
29 Section 7.10. **Indemnification.**

30 Each party that violates this Agreement (the "Indemnitor") hereby severally
31 agrees to indemnify, defend and hold harmless the other parties hereto (each,
32 an "Indemnitee") in respect of their respective Losses; provided, that such
33 Losses result or arise from a third party claim or governmental proceeding
34 brought against or involving the Indemnitee, which is based on or relates to
35 such Indemnitor's (or its Permits', its Participating Vessels' or such
36 Participating Vessels operators', if different from such Indemnitor) (i) violation
37 of applicable laws, rules or federal fishery regulations or (ii) breach of any
38 covenant, agreement or obligation contained in this Agreement, the Harvesting
39 Rules or other Sector requirements as may be adopted under the terms of this
40 Agreement or the Sector's Bylaws. The indemnification obligations of the
41 parties hereto shall be several and not joint and several. For the purposes of
42 this Section 7.09, "Losses" shall mean any and all claims, liabilities,
43 obligations, judgments, liens, injunctions, charges, orders, decrees, rulings,
44 damages, dues, assessments, taxes, losses, fines, penalties, expenses, fees,
45 costs, amounts paid in settlement (including reasonable attorneys' and witness
46 fees and disbursements in connection with investigating, defending or settling

1 any action or threatened action) arising out of any claim, complaint, demand,
2 cause of action, action, suit or other proceeding asserted or initiated or
3 otherwise existing. The obligations under this Section 7.09 shall survive the
4 termination of this Agreement and the expulsion of any Member pursuant to
5 Article VII.
6
7

8 **Article VIII. EXPULSION OF MEMBERS.**
9

10 **Section 8.01. Cause.**

11 The Members agree that any Member, its Permits and/or its Participating
12 Vessels may be expelled from the Sector if (i) the actions of such Member
13 and/or its Participating Vessels (or the Participating Vessels' operators)
14 seriously undermine and threaten the existence of the Sector, (ii) the actions of
15 such Member and/or its Participating Vessels (or the Participating Vessels'
16 operators) have exposed other Members of the Sector to monetary penalties
17 and/or legal actions, (iii) such Member has been convicted of a serious crime,
18 or (iv) such Member has not paid its membership dues and/or poundage fees
19 as required by Section 2.07.
20

21 **Section 8.02. Procedure.**

22 Any Member, the Committee or the Manager may submit to the Board a
23 request to have a Member, its Permits and/or its Participating Vessels expelled
24 from the Sector (the "Expulsion Request"). Such Expulsion Request shall be in
25 writing and shall include an explanation of the basis for expulsion. The Board
26 shall vote on such Expulsion Request within fourteen (14) days of receipt of
27 such Expulsion Request. The affirmative vote of three-fourths (75%) of the
28 members of the Board shall be required in order to expel a Member, its Permits
29 and/or its Participating Vessels. Expulsion shall be effective immediately upon
30 the receipt of the requisite vote by the Board. As required by 50 CFR Part
31 648.87 or any substitute or successor provision, a Member, its Permits and/or
32 its Participating Vessels expelled during any fishing year may not fish outside
33 of the Sector under a groundfish DAS program, participate in another
34 groundfish sector, or lease or transfer any DAS or ACE assigned to that
35 Member's Permits or Participating Vessels during the remainder of such fishing
36 year. Upon expulsion of any Member, its Permits and/or its Participating
37 Vessels, the Manager shall immediately notify NMFS via certified mail and
38 email that the Member's Permits and/or Participating Vessels are no longer
39 included in the Sector.
40
41

42 **Article IX. TERM/TERMINATION.**

43 This Agreement takes effect upon the approval hereof by the Regional
44 Administrator in accordance with 50 CFR Part 648.87 and terminates on the
45 last day of the 2016 FY (which occurs on April 30, 2016) (the "Term"). The
46 Term of this Agreement may be extended by the written consent of the

1 Members. Such written consent to extend the Term of this Agreement shall be
2 given twenty (20) calendar days in advance of the date by which the Sector's
3 Operations Plan and Agreement for the upcoming fishing year must be
4 submitted to NMFS. Notwithstanding the foregoing, if NMFS shall not approve
5 the Sector's Operations Plan and Agreement, as the same may be amended, for
6 any fishing year during the Term or any extension thereof, then this Agreement
7 shall terminate on the last day of the last fishing year for which the Sector's
8 Operations Plan and Agreement shall have received approval from NMFS.

9
10
11 **Article X. MISCELLANEOUS.**

12
13 **Section 10.01. Entire Agreement.**

14 This Agreement, including the Exhibits hereto, the Schedule of Penalties and
15 any other documents incorporated by reference herein, constitutes the entire
16 agreement among the parties and supersedes any prior understandings,
17 agreements, or representations by or among the parties, written or oral, to the
18 extent they related in any way to the subject matter hereof.

19
20 **Section 10.02. Succession and Assignment.**

21 This Agreement and all of the provisions hereof shall be binding upon and
22 inure to the benefit of the parties and their respective successors and permitted
23 assigns, but neither this Agreement nor any of the rights, interests or
24 obligations hereunder shall be assigned by any party, including by operation of
25 law, without the prior written consent of the Manager, such consent not to be
26 unreasonably withheld or delayed, nor is this Agreement intended to confer
27 upon any person except the parties hereto any rights, interests, benefits,
28 obligations or remedies hereunder. Any assignment in contravention of this
29 Agreement shall be null and void.

30
31 **Section 10.03. Counterparts.**

32 This Agreement may be executed in one or more counterparts, each of which
33 shall be deemed an original but all of which together shall constitute one and
34 the same instrument.

35
36 **Section 10.04. Notices.**

37 All notices, requests, demands, consents, claims and other communications
38 hereunder shall be deemed duly given (i) one business day following the date
39 sent when sent by overnight delivery, (ii) five business days following the date
40 mailed when mailed by registered or certified mail return receipt requested and
41 postage prepaid, (iii) upon delivery confirmation when sent by facsimile, and
42 (iv) upon verifying the "sent" status of an email, at the contact information
43 provided by each such Member to, and maintained by, the Manager.

44
45 **Section 10.05. Governing Law.**

46 This Agreement shall be governed by and construed in accordance with federal

1 fisheries laws and, to the extent that federal fisheries laws do not apply, with
2 the domestic laws of the Commonwealth of Massachusetts without giving effect
3 to any choice of law provision or rules (whether of Massachusetts or any other
4 jurisdiction) that would cause the application of the laws of any jurisdiction
5 other than the Commonwealth of Massachusetts.

6
7 Section 10.06. **Change in Law.**

8 If and to the extent that any laws or regulations that govern any aspect of this
9 Agreement shall change, so as to make any aspect to this Agreement
10 unenforceable, then the parties agree to make such modifications to this
11 Agreement as may be reasonably necessary for this Agreement to accommodate
12 any such legal or regulatory changes, without materially changing the overall
13 benefits or consideration expected hereunder by the parties.

14
15 Section 10.07. **Consent to Jurisdiction and Venue.**

16 Subject to and without limiting the dispute resolution procedures set forth in
17 Article VI, each of the Members consent to the exclusive jurisdiction and venue
18 of the federal district court in Boston, Massachusetts or, if said court does not
19 have jurisdiction, in such courts in the Commonwealth of Massachusetts that
20 do have jurisdiction, for adjudication of any suit, claim, action or other
21 proceeding at law or in equity relating to this Agreement. Each of the Members
22 accepts, generally and unconditionally, the exclusive jurisdiction and venue of
23 the aforesaid courts and waives any objection as to venue, and any defense of
24 *forum non conveniens*.

25
26 Section 10.08. **Amendments and Waivers.**

27 No amendment of any provision of this Agreement shall be valid unless the
28 same shall be in writing and signed by each of the Members.

29
30 Section 10.09. **Severability.**

31 Any term or provision of this Agreement that is held invalid or unenforceable in
32 any situation shall not affect the validity or enforceability of the remaining
33 terms and provisions hereof or the validity or enforceability of the offending
34 term or provision in any other situation.

35
36 Section 10.10. **Expenses.**

37 Except as otherwise provided herein, each of the members shall bear its own
38 costs and expenses (including legal and accounting fees and expenses)
39 incurred in connection with this Agreement.

40
41 Section 10.11. **Incorporation of Exhibits and Other Documents.**

42 The Exhibits and Schedule of Penalties identified in this Agreement are
43 incorporated herein by reference and made a part hereof.

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See Signature Pages
(submitted March 6, 2015)

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EXHIBIT A

GB Cod Fixed Gear Sector Penalty Schedule			
Violation	FIRST	SECOND	THIRD
VIOLATIONS REGARDING PERMITS, REPORTING, DOCUMENTATION, VESSEL OPERATIONS AND EXEMPTIONS			
All Violations including but not limited to: providing false statements or supporting documentation on applications or reports to the Sector; late or non-reporting; failure to comply with a permit condition/restriction/ letter of authorization or exemption issued by the Sector; providing false statements; failure to participate in the Sector Catch Monitoring Program (ie NMFS ASM program, FGS electronic monitoring program); unreasonably interfering with onboard data collectors; or failing to comply with VMS/DAS	Up to \$5,000 and/or seizure of up to 10% of a Member's ACE (and/or stop fishing order)	\$5,000-\$15,000 and/or seizure of up to 30% of a Member's ACE (and/or stop fishing order)	\$20,000 or more, and/or seizure of up to 40% of a Member's ACE (and/or stop fishing order)

requirements (technical and minor violations may result in a letter of warning).			
VIOLATIONS REGARDING TIME AND AREA RESTRICTIONS			
All violations including, but not limited to: exemption areas, closed fisheries, closed seasons, restricted gear/management areas and Days at Sea or ACE violations.	Up to \$50,000 and/or seizure of up to 50% of a Member's ACE (stop fishing order for 30 days)	\$50,000-\$100,000 and/or seizure of up to 100% of a Member's ACE (unable to fish for the remainder of the fishing year)	Expulsion
VIOLATIONS THAT PLACE THE SECTOR AGREEMENT AT RISK			
All violations including but not limited to a violation of a stop order, fishing in a closed area, transfer of fish from a non-sector vessel to a sector vessel, transferring fish to a non-Sector vessel (including a non-Sector vessel owned or operated by a Permit holder), subverting the reporting requirements (misappropriating landings) or any other action which could cause the Authorized Georges Bank Cod Fixed Gear Sector Allocation to be in violation of its agreement.	Up to \$50,000 and/or seizure of up to 10% of a Member's ACE (loss of fishing rights for 365 days)	Expulsion	
VIOLATIONS REGARDING MEMBERSHIP COMMITMENT			
Violation of 50 CFR 648.48 or failing to remain in the Sector for the Commitment Period (i.e., breach of Section 2.03 of the Agreement).	\$10,000 and/or seizure of up to 20% of a	N/A	N/A

	Member's ACE		
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EXHIBIT B

GB Cod Fixed Gear Sector Roster
(Final Roster *submitted May 11, 2015*)

Current Owner Name	MRI #	Permit #	Vessel Name
John Tuttle	27	150563	Cape Island
Tye Vecchione	30	150988	Skiff
CCCFA	76	150187	Seed
Robert Eldridge, Jr	84	220839	Unicorn
Theodore Ligenza	99	221764	Riena Marie
John L. Our, Jr	119	232108	Miss Fitz
Jan Margeson	142	151268	Jan M
Gregory F Walinski	148	232096	Alicia Ann
James L Young	151	230322	Pooh Bah
CCCFA	153	150877	Sea Holly III
Gregory J Connors	167	151403	2010 Beacon
Joanne-A III, Inc.	183	230926	Joanne A III
Shawn Sullivan	194	231435	Back Off
Benjamin K Morgan	195	151314	Lobster Mobster
William H Amaru	213	150922	Wood Flat Boat
Pillory Fisheries Inc.	224	150237	1971 Seacraft 20
Lynam Fisheries Inc	236	150255	Annie Wilder II
Gregory J Connors	256	149575	Rebecca and Emily
The Red Death Inc	257	150616	1976 Homemade
Kenneth Tolley	260	240543	Hunter
Tye Vecchione	262	149525	Bada Bing
CCCFA	274	151192	Carole R II 2009 KL Indus
Mark D Liska	285	241576	Sea Dancer
CCCFA	328	150844	Sam Ryder
Charlie S Dodge	331	149278	Strangle Hold
Lynam Fisheries Inc	392	321116	Annie Wilder
Jan Margeson	395	149963	Great Pumpkin
Harmony Fisheries Inc	418	250571	Edward & Joseph
CCCFA	449	150671	Carol Ann
CCCFA	465	240543	Hunteress
Benjo Inc	647	233617	Saga
CCCFA	677	149988	2002 Skiff Tolley Susie Q
Mark D Liska	910	222737	Taint
David Murdoch IV	1191	146765	Jack Tar
Charlie S Dodge	1316	149278	Strangle Hold

CCCFA	1434	151437	Marilyn Louise Skiff
Glen LeGeyt	1435	150652	Morgan I
Johanna Fisheries LLC	1467	250463	Johanna
Charlie S Dodge	1469	149826	Little Giant
Peter Taylor	1496	242520	Sea Hound
Theodore Ligenza	1521	135641	Water Horse
CCCFA	1527	221935	Sea Baggins
John Our Jr	1545	149986	22 Hiliner
Thomas M Szado	1562	221518	Arlie X
CCCFA	1563	150706	Sturdee
Stuart W Tolley	1576	118641	Dawn T
John L. Our, Jr	1609	150361	1979 Young
James E Bergstrom	1619	150767	1973 Sea Ray
Harmony Fisheries Inc	1620	121162	Lady Irene
Gregory J Connors	1634	146922	Constance Sea
Raymond J Brunelle	1668	104564	Anna Marie
James F Nash	1685	222231	Magic
John S Tuttle	1689	233175	Cuda
Eric M Hesse	1708	242648	Tenacious II
Linda St. Pierre	1744	151695	Rug Rats Skiff
CCCFA	1746	211160	Sea Winds
Bruce Kaminski	1755	100598	Never Enough
Scott MacAllister	1852	150611	Carol Marie
CCCFA	1856	120962	Little Rascal
James F Nash	1883	149261	Ann Marie
CCCFA	1886	232096	Alicia Ann
Thomas S. Smith	1888	151214	Seanymp
Edward F Bennett	1906	230558	Synergistic
Timothy D Linnell	1923	122157	Perry's Pride II
Charles J Comeau	1940	111336	Buffy Anne
Lost At Sea, LLC	1942	231457	Lost
Gregory J Connors	1951	223588	Last Stand
Raymond J Ransom III	1958	223581	Lyndsy Liz
Michael A Russo	1961	150562	Always Something
Althea K Inc.	1985	100277	Althea K
Jakob & Megan Fisheries LLC	2001	222737	Jakob & Megan
Peggy B II Inc	2006	213029	Peggy B II
Gerald Miszkin	2008	116103	Ouija
CCCFA	2013	223607	Headhunter
Wade S Behlman	2020	222022	Jennifer Dan
CCCFA	2039	150897	Monomoy

Alfred J Yuknavich	2050	221794	Surf Breaker
CCCFA	2107	151425	Paula Jean
Shannon E McKosker	2171	223565	Miss Jennifer
CCCFA	2179	151438	Fair Winds Skiff
CCCFA	2196	232043	William Gregory
John Matthew Linnell	2218	222175	Lori B
Nicholas O'Toole	2248	130772	Zachary T
James B Eldredge	2265	230420	Yellow Bird
Gregory J Connors	2297	150597	1992 Sylvan Skiff
Peters Fisheries Inc.	2351	240872	Trappist
Earl T LeGeyt Jr	2623	146672	Sea Hook
Mattanza LLC	2650	214970	Mattanza
CCCFA	2692	150529	Beacon
Kurt Martin	2992	223512	Time Bandit
CCCFA	2995	150853	Blue Bag
CCCFA	3015	149404	DH Boatworks
CCCFA	3098	135589	Blue Sky
Kenneth Eldredge	3174	150691	Lolo
Nicholas O'Toole	3176	150861	Three Reasons
Jean E Barker	3323	213004	Tuna Eclipse
Eric Hesse	3390	150584	Lei Lani
Thomas Luce	3449	211160	Sea Win
Pennel Ames	3470	214158	Kaos
Christopher J Ripa	3542	221581	Irish Lady
Wallace H Bicknell	3595	222365	Miss Melodye
Mark J Hurley	3669	230935	Seaborne
Michael E Terrenzi	3684	231241	Kelly J
Leslie Shwam	3688	233177	Rosey S
CCCFA	4129	150841	Desire III
Robert Eldridge, Jr	4202	220839	Unicorn
CCCFA	4326	151429	Snafu II Skiff
CCCFA	47883	151425	Nothing But Trouble Skiff
CCCFA	47926	151436	Miss Molly Skiff
Douglas R Feeney	47950	151287	Noah
Nantucket Sound Fish Weirs Inc	47964	220698	Nancy S
CCCFA	48923	151352	Tony K
Joseph J Geary	49047	148763	Blue Herron

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2 **EXHIBIT C**
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4 HARVESTING RULES
5 Fishing Years 2015 and 2016
6 GB Cod Fixed Gear Sector
7

8 The Members and the Participating Vessels of the Sector agree to be legally
9 bound to follow the Harvesting Rules for the 2015 and 2016 Fishing Years as
10 described herein, notwithstanding those rules and regulations applicable to
11 Common Pool groundfish vessels.
12

13 **QUOTA MONITORING**
14

15 **1. Annual Catch Entitlement (ACE):**

16 The Members agree that they would not collectively harvest more ACE than
17 allocated to the Sector, and once the ACE is reached for any stock, no Member
18 would fish commercially with any fishing gear capable of harvesting regulated
19 groundfish species in the area for which there is no ACE. ACE transfer would
20 be allowed within and between sectors, to the extent authorized by Amendment
21 16. Carryover of up to 10 percent of any sector’s initial ACE would be allowed
22 for the purposes of accounting for inadvertent overages. Once an ACE in a
23 particular stock area is reached, no member would fish commercially with any
24 fishing gear capable of catching species managed under the Plan in that stock
25 area until additional ACE can be acquired. The Annual Catch Entitlement,
26 allocated by NMFS to the sector for FY 2015 & FY 2016 will be available in the
27 Northeast Multispecies Fisheries Sector Operations Plans and Contracts and
28 Allocation of Northeast Multispecies Annual Catch Entitlement Final Rule as
29 published by NOAA Fisheries.
30

31 **2. Target Quotas:**

32 The Manager may impose weekly or trip target quotas to slow down harvest
33 rates. If such target quotas are imposed, Sector Members agree to adjust their
34 fishing operations to avoid exceeding these quotas.
35
36

37 **3. Trip Limits for Non-ACE Stocks:**

38 Sector Members would be subject to all possession and trip limits for those
39 stocks for which the Sector is not allocated ACE.
40
41

42 **ADMINISTRATIVE**
43

44 **4. Days-At-Sea (“DAS”):**

45 Each participating Permit and Participating Vessel would be allocated DAS by
46 the Regional Administrator, as set forth on Exhibit C to the Agreement. This

1 DAS allocation would be considered the Sector’s DAS allocation to individual
2 Members. Members may be required to use an “A” DAS when conducting
3 fishing operations.
4

5 **5. DAS Pooling:**

6 Participating Vessels and/or Permits may redistribute or pool DAS to other
7 Participating Vessels and/or Permits, provided that both parties have given
8 prior written consent to such redistribution or pooling. A Participating Vessel
9 and/or Permit may not transfer or lease DAS to or from any non-Sector vessel
10 and/or permit during the fishing year in which the Participating Vessel and/or
11 Permit is enrolled in the Sector, unless such leasing or transferring is
12 authorized by an amendment to the Plan or by the Regional Administrator.
13

14

15 **GEAR REQUIREMENTS**

16

17 **6. Gear Restrictions:**

18 Unless otherwise permitted under this Agreement (see Section 5.02 and 5.11),
19 no Participating Vessel may fish for regulated groundfish species with any gear
20 other than rod-and-reel/jigs, demersal longline, handgear, sink gillnets, or
21 otter trawl. All Participating Vessels are subject to the same gear restrictions on
22 marking, tagging, and mesh size applicable to common pool vessels using the
23 same type of gear. In addition, when fishing with demersal longlines all hooks
24 must be 12/0 circle hooks. A “circle hook” is defined as a hook with the point
25 turned back towards the shank and the barbed end of the hook is displaced
26 (offset) relative to the parallel plane of the eyed-end, or shank of the hook when
27 laid on its side.
28

29

30

1 **EXHIBIT D**

2
3 Vessel Permit Data

4
5 All permits, groundfish or otherwise, owned by Sector members, are included
6 in the following list. To the knowledge of the Manager, no Member currently
7 has any other permits on another operating vessel (Federal or State).

8
9 *Current as of May 11, 2015*

10
11
12

Sector Roster	
Lease Vessels	40
Non-Lease Vessels	29
Targeted Commercial Fisheries*	
Groundfish	10
Monkfish & Skate	17
Lobster (Trap)	2
Primary Gear Type** (Groundfish, Monkfish, Skate)	
Sink Gillnet	19 (66%)
Demersal Longline	6 (21%)
Jig/handline	2 (7%)
Otter Trawl	2 (7%)

13 *Includes Vessels participating in **both** the groundfish and monkfish/skate
14 fisheries.

EXHIBIT E

Ownership Documentation

Section 1.01. **Sector Qualification.**

Amendment 16 to the NE multispecies FMP defines a sector as a group of three or more persons, none of whom have an ownership interest in the other two persons in the sector. This criterion has been fulfilled for the Fixed Gear Sector with:

Permit Number 150237 (F/V 1971 Seacraft 20) under the distinct ownership of Pillory Fisheries Inc.

Permit Number 150255 (F/V Annie Wilder II) under the distinct ownership of Lynam Fisheries Inc.

Permit Number 149575 (F/V Rebecca and Emily) under the distinct ownership of Black Mariah Inc.

EXHIBIT F

GB Cod Fixed Gear Sector Board of Directors

Section 1.01. ***Board of Directors Membership***

The following GB Cod Fixed Gear Sector Members comprise the current (as of May 6, 2015) Board of Directors:

2015 Board of Directors
Jason Amaru
Gregory Connors
Doug Feeney
Eric Hesse
Timothy Linnell
Nick Muto
James Nash
Mike Terrenzi
Gregory Walinski

As of the date of this document submission (May 6, 2015), the additional contact able to act on behalf of the Sector is the President of the Sector's Board of Directors:

Name: James Nash
Mobile: 857-636-8325
Email: jimnash05@comcast.net
Address: 17 Ralph Street, Chatham MA 02633

EXHIBIT G

GB Cod Fixed Gear Sector Points of Contact

Section 1.01. Points of Contact

The following individuals associated with the GB Cod Fixed Gear Sector may be contacted for the following responsibilities:

Sector Communications Contacts					Mailing Address			
Name	Title	Responsibility	Email	Phone	Street	City	State	Zip
Claire Fitz-Gerald	Manager	Day-to-Day Sector Operations	claire@capecodfishermen.org	(w) 508.945.2432 (m) 847.721.8186	1566 Main St	Chatham	MA	02633
Amy Morris	Sector Analyst	Data Management	amorris701@yahoo.com	(m) 305.731.6267	same			
Claire Fitz-Gerald	Manager	Reporting	same (Claire)	same (Claire)	same			
Claire Fitz-Gerald	Manager	Policy Issues	same (Claire)	same (Claire)	same			
Claire Fitz-Gerald	Manager	Research	same (Claire)	same (Claire)	same			
Claire Fitz-Gerald	Manager	Outreach	same (Claire)	same (Claire)	same			
Jim Nash	Sector President	General Management	jimnash05@comcast.net	857.636.8325	17 Ralph Street	Chatham	MA	02633

EXHIBIT I

The Northeast Fisheries At-Sea Monitor Program

National Marine Fisheries Service, Northeast Fisheries Science Center

C.1. BACKGROUND OVERVIEW

The National Oceanographic and Atmospheric Administration's (NOAA) mission is to understand and predict changes in the Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. NOAA's National Marine Fisheries Service (NMFS) supports the overall NOAA mission by focusing on stewardship of living marine resources through science-based conservation and management and the promotion of healthy ecosystems.

NMFS is responsible for the management, regulatory compliance, economic data and protection of living marine resources within the United States Exclusive Economic Zone. NMFS also plays a supportive and advisory role in the management of living marine resources in coastal areas under state jurisdiction. It provides scientific and policy leadership in the international arena, and implements international conservation and management measures as appropriate.

Under this mission, the goal is to optimize the benefits of living marine resources to the Nation through sound science and management. This requires a balancing of multiple public needs and interests in the sustainable benefits and use of living marine resources, without compromising the long-term biological integrity of coastal and marine ecosystems.

Many natural and human-related factors affect the status of fish stocks, protected species and ecosystems. Although these factors cannot all be controlled, available scientific and management tools enable the agency to have a strong influence on many of them. Maintaining and improving the health and productivity of these species is the heart of the NMFS mission. These

activities will maintain and enhance current and future opportunities for the sustainable use of living marine resources as well as the health and biodiversity of their ecosystems.

NMFS has three objectives in its mission to protect, restore, and manage the use of coastal and oceanic resources:

- Protect and restore ocean, coastal, and Great Lakes resources
- Recover protected species
- Rebuild and maintain sustainable fisheries.

NMFS will measure its performance against these objectives using the following measures:

- 1) Increased number of coastal and marine ecosystems maintained at a healthy and sustainable level
- 2) Increased social and economic value of the marine environment and resources (e.g., seafood, recreation, and tourism)
- 3) Increased number of acres and stream-miles restored for coastal and ocean species
- 4) Increased number of protected species in a stable condition or in an upward trend
- 5) Increased number of managed species that are at optimum levels
- 6) Improved ecological conditions in coastal and ocean protected areas

Additionally, Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) was developed by the New England Fishery Management Council (Council) as part of the biennial adjustment process established in the FMP to update status determination criteria for all NE multispecies (groundfish) stocks; adopt rebuilding programs for groundfish stocks newly classified as being overfished and subject to overfishing; and revise management measures necessary to end overfishing, rebuild overfished groundfish stocks, and mitigate the adverse economic impacts of increased effort controls. In addition, Amendment 16 would implement new requirements for establishing allowable biological catch (ABC), annual catch limits (ACLs), and accountability measures (AMs) for each stock managed by the FMP, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as revised. This action is necessary to address the results of the most recent stock assessment that indicates that

several additional groundfish species are overfished and subject to overfishing and that stocks currently classified as being overfished require additional reductions in fishing mortality to rebuild by the end of existing rebuilding periods.

The Northeast Fisheries Science Center (NEFSC), National Marine Fisheries Service (NMFS) is required to collect scientific, management, regulatory compliance and economic data for fisheries by placing At-Sea Monitors aboard U.S. domestic fishing vessels participating in the groundfish multispecies Fisheries Management Plan. These data cannot be obtained at the dock or on Government research vessels. These data are needed for the management and monitoring of Annual Catch Limits and groundfish sectors.

Every sector should equally be covered at 25% (17% by At-Sea Monitors and 8% by NEFOP observers). The coverage rates apply to the seaday level. At-Sea Monitors will be systematically assigned by NMFS to a vessel to ensure the coverage is fair and even. Several types of fishing gear may be used: longline, trawl, and gillnet. A monitored trip must be a trip where landings of groundfish occur (a “groundfish”, “skate” or “monkfish” trip as defined in Amendment 16). Coverage levels will be in terms of number of seadays. At-Sea Monitoring standards will be consistent with the final regulations implemented under Amendment 16, unless further specified by NMFS. As described in the rule, Northeast Fisheries Observer Program (ASM) observers take precedence over At-Sea Monitors for vessel placement when deployments overlap.

C.2. AT-SEA MONITOR PROGRAM OBJECTIVES

NMFS has an extensive program to monitor and observe living marine resources and associated communities to provide information on biota, their habitats, and the human activities and actions that may impact coastal and ocean ecosystems. Data are the foundation of scientific advice, which provides information to management to support decision-making. A more consistent flow of high quality, credible information is required to improve decision-making. To collect the quantity and quality of data necessary, NMFS intends to improve its capacity to conduct surveys and to conduct research and studies for better understanding of ecosystems. These efforts rely on extensive collaboration with fisheries participants and other stakeholders in the living marine resource decision process.

At-Sea Monitors are the only independent data source for some types of at-sea information such as bycatch composition and mortality, and marine mammal, sea bird and sea turtle interactions. Although vessel self-reporting is often utilized, only limited data collection demands can reasonably be placed on the captain and crew. In addition, the reliability of self-reported information is a concern for scientists and policy makers, who use the data to make fishery management decisions for the purpose of maintaining the nation's marine resources.

Currently, more than 500 At-Sea Monitors are deployed in 11 At-Sea Monitor programs most of which are administered through NMFS 6 regional Fisheries Science Centers (FSC). Increasing NMFS At-Sea Monitor data coverage is essential to reliably estimating catch and bycatch and helping to implement programs to reduce bycatch. Additional benefits of enhanced At-Sea Monitor programs are near real-time monitoring of biological and environmental conditions and sampling opportunities not available from dockside sampling. This includes information on marine mammals, turtles and seabirds, resource abundance, contaminants, habitat, life history, and other basic biological information.

NMFS is required to collect scientific, management, regulatory compliance, and economic data for fisheries by placing At-Sea Monitors aboard U.S. domestic fishing vessels. These data cannot be obtained at the dock or on Government research vessels. These data are needed for the management of fisheries occurring in the U.S. Exclusive Economic Zone (EEZ) and the high seas beyond the EEZ.

NMFS desires contractor support, as described below, to satisfy these requirements.

C.3. SCOPE AND OUTCOMES

The contractor shall provide and retain the necessary qualified personnel, material, equipment, services, and facilities (except as otherwise specified) to perform quality environmental, and fisheries operations data collection, data

analysis, and information dissemination for the Northeast Fisheries Science Center (NEFSC) Data quality is of the utmost importance. Quality data collection, analysis, and dissemination are expected to increase the critical information gathered for stock assessments to manage the species.

This Statement of Work (SOW) defines the requirements and services necessary to provide program continuity, integrity, and productivity.

C.3.1. Policies and Regulations

In addition to the Federal Acquisition Regulation (FAR) clauses referred to and listed herein of this Request for Proposal (RFP), the contractor shall comply with the Federal Regulations, Acts, Executive Orders, Special Publications, Guidelines, NOAA Directives and Policies and standards listed below. This listing is not all-inclusive and is not intended to relieve the contractor of its responsibilities for identification of applicable statutes, regulations and procedures and compliance therewith, when performing work under this SOW.

- Magnuson-Stevens Fishery, Management, and Conservation Act (MSA)
- Marine Mammal Protection Act (MMPA)
- Endangered Species Act (ESA)
- Data Quality Control Act (P.L. 106-514)
- Information Technology Security Policy
- Fisheries Management Plans (FMP)
- Biological Opinions (BO)
- Take Reduction Team (TRT)
- NOAA Safety Standards
- Fair Labor Standards Act (FLSA)
- Service Contract Act (SCA)
- Department of Labor Wage Determinations
- Applicable Federal and State labor laws
- At-Sea Monitor Health and Safety regulations
- Federal, state, and local safety regulations
- Merchant Marine Act (Jones Act) and General Maritime Law
- U.S. Longshore and Harbor Worker's Compensation Act

C.4. PERFORMANCE WORK STATEMENT

The contractor shall meet all requirements of the SOW.

C.4.1. Management Requirements

C.4.1.1. Project Management

The contractor shall perform all Project Management functions including contract, technical, personnel, administrative, logistic, quality, business, and other management functions that are necessary to execute the total effort required by this SOW. The contractor shall provide all personnel and other resources, except as otherwise specified in this SOW, necessary to accomplish these functions. The contractor shall effect these management functions through an integrated management approach, including cost, schedule, and technical performance within an acceptable project management framework. The contractor shall develop and submit to NMFS a Project Management Plan (as further defined in Section F.5.2) for approval that details how the contractor will manage the contract and its At-Sea Monitor program.

C.4.1.2. Project Manager

The contractor shall assign a Project Manager to be the focal point for communications between NMFS and the contractor. The assigned Project Manager shall be designated as Key Personnel for this contract (per Section H.7). Ensure that all key personnel attend any refresher trainings for At-Sea Monitors. For a specific job description see Section J, Attachment 2, Labor Category Classifications and Job Descriptions.

C.4.1.3. Coordinators

The contractor shall assign coordinators as needed to coordinate At-Sea Monitor deployment and provide At-Sea Monitor support services. The coordinator shall be designated as key personnel under this contract (per section H.8). All coordinators are required to maintain current At-Sea Monitor Certification. Ensure that all key personnel attend any refresher trainings for At-Sea Monitors. For a specific job description see Section J, Attachment 2, Labor Category Classifications and Job Descriptions.

C.4.1.4. Management Reporting and Coordination

The contractor shall prepare and submit to the Contracting Officer (CO) , Contracting Officer's Technical Representative (COTR) a monthly Status Report, as listed in Section F.5.1, that provides information on project status to include, contract award-to-date financial expenditures; At-Sea Monitor retention status; any problems or issues encountered; and other information as may be requested by the COTR.

C.4.1.5. Performance Measures

The contractor shall monitor and meet all requirements as stated in the SOW.

C.4.2. Operational Requirements

At-Sea Monitors are deployed, in accordance with coverage rates developed by NMFS and as assigned through the Pre-Trip Notification System (PTNS), to vessels. Due to availability of funding, changes in the fishery management, such as emergency closures, court ordered closures, weather, and unforeseen events must remain flexible. Additional funding for sea days may be added to the contract within the scope and maximum allowable sea days.

The following items define the operational services to be provided by the contractor under this contract.

C.4.2.1. At-Sea Monitor Recruitment and Retention Requirements

The recruitment and retention of fully qualified At-Sea Monitors is essential to successful performance under the contract. At-Sea Monitors shall be employees of the contractor. The contractor shall provide sufficient qualified At-Sea Monitors to complete the mandated coverage requirement by selecting the best candidates.

The contractor shall describe their strategy for recruiting qualified candidates and retaining their services, as referenced in Section F.5.4. The contractor shall manage its At-Sea Monitors to retain both experienced and new At-Sea Monitors. The contractor is encouraged to provide incentives for superior performance demonstrated by their work force.

C.4.2.2. Eligibility Requirements

C.4.2.2.1. Educational Qualifications

Collecting marine fisheries data during fishing activities requires speed and accuracy. At-Sea Monitors must possess the minimum educational and experience requirements and specific psychological and physical qualities cited in the Minimum At-Sea Monitor Qualifications for educational requirements (Section J, Attachment 3, NOAA Fisheries At-Sea Monitor Eligibility Requirements).

C.4.2.2.2. Non-Conflict of Interest

Section J, Attachment 4 (Statement of Non-Conflict of Interest)

C.4.2.2.3. Physical/Medical Condition

Section J, Attachment 5 (Physical Standards & Acknowledgement of Risks)

C.4.2.2.4. Communication Skills

At-Sea Monitor candidates must be able to clearly and concisely communicate verbally and in writing in English.

C.4.2.2.5. Citizenship or Ability to Work Legally in the United States

At-Sea Monitor must be a U.S. Citizen, or a non-citizen who has a green card, TN Authorization, H1 visa, or valid work visa, and a social security card.

C.4.2.2.6. Statement of No Criminal Conviction

Section J, Attachment 6 (Statement of No Criminal Conviction)

C.4.2.2.7. CPR and First Aid Requirements

At-Sea Monitors shall obtain and maintain current certification for CPR by the American Red Cross or American Heart Association (AHA) or other as approved by the COTR. Completion of a basic First Aid class is also required before the start of training. A copy of CPR and First Aid certification(s) for all At-Sea Monitors will be provided to NMFS 7 calendar days prior to the first day of training and annually thereafter.

C.4.2.2.8. At-Sea Monitor Standards of Conduct

At sea, At-Sea Monitors work in a self-supervised capacity and shall maintain high standards of conduct. At-Sea Monitors shall maintain a professional, objective demeanor at all times. At-Sea Monitors shall comply with these standards and those set forth in the Standards of Conduct (Section J, Attachment 7, At-Sea Monitor Standards of Conduct).

C.4.2.3. Observer/At-Sea Monitor Duties and Data Collection Requirements

(a) General Observer Duties and Data Collection Requirements – Fishery Observer I, II, and III

- i. Observers/At-Sea Monitors shall collect scientific, management, compliance, and other data at sea through interviews of vessel captains and crew; observations of fishing operations; sampling catch; measuring selected portions of the catch and fishing gear; and collecting samples. Observer/At-Sea Monitor coverage is mandated by a number of statutes and is an integral part of the regulations. These authorities empower the observer/At-Sea Monitor to perform certain functions aboard vessels as well as afford protection to the observer/At-Sea Monitor against interference and intimidation in the course of performing his/her duties.
- ii. Observer/At-Sea Monitors shall collect data on fishing effort,

location, retained catch and discarded catch for each gear deployment that occurs while the observer/At-Sea Monitor is aboard the vessel. The At-Sea Monitor Sampling Manual describes data collection protocols for gear deployment that the observer/At-Sea Monitor sees as well as those not observed.

- iii. Observer/At-Sea Monitors shall collect length samples from segments of the catch. Observer/At-Sea Monitor protocols, priorities, and data/sample collection procedures are detailed in the At-Sea Monitor Manual.
- iv. Observer/At-Sea Monitors shall collect information on any incidentally captured sea turtles, including, but not limited to, location of take, biopsies, measurements, photos, and any other information. Observer/At-Sea Monitors shall also collect information on any marine mammals or other protected species interactions. When protected species are caught, the primary responsibility of the observer/At-Sea Monitor shall be to handle and release the protected species.
- v. Observers shall participate in all training, briefings and debriefings as required by the COTR. Observer/At-Sea Monitors shall participate in port orientations, if offered by NMFS and requested by the COTR (Section B – Supplies or Services and Prices/Costs Training CLIN 0003, 1003, and CLIN 2003. Debriefing of the observer/At-Sea Monitor ensures that the data are complete and as accurate as possible before computer audits are run. Debriefing also provides immediate feedback to the observer/At-Sea Monitor in the field and errors can be corrected immediately. Debriefings shall occur on a regular basis and as frequently as possible either by email, phone or in person. Debriefings shall consist of but are not limited to:
 - 1) Reviewing sampling methods and answering observer/At-Sea Monitor questions;
 - 2) Reviewing preliminary data;
 - 3) Correcting any data errors;
 - 4) Reviewing any other past errors or changes in sampling techniques or recorded on forms;
 - 5) Reviewing any logistical problems or concerns encountered by the observer/At-Sea Monitor; and
 - 6) Testing observer/At-Sea Monitor ability to adhere to sampling protocols
 - 7) Checking gear calibration
 - 8) Providing the observer/At-Sea Monitor with any updates on modifications to sampling procedures or other program information.

- vi. Observer/At-Sea Monitors who encounter captains or vessels' owners operating in fisheries requiring mandatory observer/At-Sea Monitor coverage that refuses to accept the observer/At-Sea Monitor on their vessel for deployments shall provide documentation of the refusal to NMFS. This documentation shall be provided via e-mail or hard copy to the Branch Chief of the Fisheries Sampling Branch on the day of the event. This documentation shall be of sufficient substance and detail to be usable for NMFS enforcement actions. Narrative shall be provided to completely answer the following guideline questions: who, what, when, and where. This shall be reported on the Incident Report Form (Section J, Attachment 8, Incident Report Form).
 - vii. Observer/At-Sea Monitors may be asked to perform various program support tasks (industry outreach activities, industry meetings, observer/At-Sea Monitor training sessions, port orientations, reconnaissance, other research project needs, etc.). Each observer/At-Sea Monitor should attend at least one (1) Fishery Council Meeting each year in their assigned area. The contractor shall invoice NMFS separately for these hourly costs in Section B Supplies or Services and Prices/Costs Hourly Rate observer/At-Sea Monitor CLINS 0004, 1004 and 2004, and travel costs in Section B Supplies or Services and Prices/Costs Travel CLINS 0002, 1002, and 2002.
 - viii. Observer/At-Sea Monitors shall send in the whole animal or take a photo of all species encountered the Species ID Verification Program quarterly to NMFS (Section J, Attachment 9, Species Verification Program). Failure to do so may result in an observer/At-Sea Monitor's change in status (i.e., pre-probation, probation, and decertification).
- (b) Fishery Observer/At-Sea Monitor I – Performance Requirements and Labor Category Definition - The Fishery observer/At-Sea Monitor I shall meet and perform all the General Requirements specified in C.4.3.2a and the following:
- 1. Performs routine tasks associated with recurring and continuing work according to prescribed or established procedural standards and technical methods assigned.
 - 2. Assures that tasks are completed, data developed, methods used in securing and verifying data are technically accurate and in compliance with instructions and established procedures.

3. Makes estimates of amounts and species composition of fish caught, retained and discarded, using at a minimum, simple, single stage sampling techniques and dichotomous keys.
4. According to established standards and detailed procedures, records data on appropriate forms and logs, some of which may be electronic.
5. Maintains field equipment and supplies.
6. Collects scientific, management, compliance information, and make observations of fishing operations.
7. Use and complete a pre-boarding vessel safety checklist.
8. Measures selected portions of catch including incidentally caught marine mammals, sea birds and sea turtles.
9. Uses calculator and/or PC for calculations and recording data.
10. Obtains, enter and transfer data electronically.
11. Obtains and record information on gear characteristics of fishing gear types while working either on board vessels, on an alternative platform, or at a shore-based facility.
12. Use interpersonal and communication skills to contact fishermen and schedule observer/At-Sea Monitor sampling trips.
13. Observes and documents compliance with fishery regulations, and write affidavits as required.

(c) Fishery Observer/At-Sea Monitor II - The Fishery observer/At-Sea Monitor II shall meet and perform all the General Requirements specified in C.4.3.2a, perform all duties of Fishery observer/At-Sea Monitor I and the following additional duties:

1. Independently executes duties, while learning when and how to resolve exceptions and special problems.
2. Estimate amounts and species composition of fish caught, retained and discarded, utilizing knowledge of various statistically valid sampling methods and dichotomous keys.
3. Measure selected portions of catch including incidentally caught marine mammals, sea birds and sea turtles.
4. Uses calculator and/or PC for calculations and recording data.

(d) Fishery Observer/At-Sea Monitor III - The Fishery Observer/At-

Sea Monitor III shall meet and perform all the General Requirements specified in C.4.3.2a, perform all duties of Fishery observer/At-Sea Monitor II and the following additional duties:

1. May act as field coordinator of lower graded fishery observer/At-Sea Monitors.
2. Demonstrates extensive familiarity of methods, procedures and management to ensure proper day-to-day operations.
3. Shifts from one type of responsible technical assignment to other types, which are different in terms of equipment used, of data used, and uses to which data will be put.
4. Makes estimates of amounts and species composition of fish caught, retained and discarded, utilizing knowledge of various statistically valid sampling, sub-sampling methods and dichotomous keys.
5. According to established standards and detailed procedures, records data on appropriate forms and logs, some of which may be electronic and provide recommendations for updates.
6. Oversees the maintenance of field equipment and supplies.
7. Collect scientific, management, compliance information, observations of fishing operations, measure selected portions of catch including incidentally caught marine mammals, sea birds and sea turtles.

C.4.2.3.1.

Data

Deliverables

Electronic data entry by At-Sea Monitors is required in addition to required paperwork, and shall be managed by the contractor in coordination with the COTR. Submission of At-Sea Monitor data to the NMFS shall be accomplished in a timely manner. The contractor shall work with the COTR to establish the appropriate means to transfer the electronic data to the COTR.

- (a). Delivery of paper log data shall be received within 5 calendar days (120 hours) of the vessel landing as referenced in Section F.5.5.

(b). Delivery of electronic data shall be received within 2 calendar days (48 hours) of the vessel landing as referenced in Section F.5.6.

(c). Delivery of biological specimens (whole fish samples) shall be received within 5 calendar days (120 hours) of the vessel landing as referenced in Section F.5.7.

At-Sea Monitors shall send any written data and biological specimens directly to NMFS. The Government will provide shipping and supplies. At-Sea Monitors shall assure that biological samples or whole animals requiring freezing are received by the nearest NMFS freezer facility within twenty-four (24) hours of vessel landing. NMFS has freezers located in major fishing ports (Section J, Attachment 10, Freezer Locations). The transfer or transport of the frozen samples or animals must be received by NMFS (At-Sea Monitor Training Center) within 5 calendar days of the trip landing, unless a delay is authorized by the COTR. Costs for travel associated with transport of biological samples will be reimbursed under the travel provision section herein (Section B Supplies or Services and Prices/Costs Travel CLINS 0002, 1002 and 2002).

C.4.2.3.2. At-Sea Monitor Communication

At-Sea Monitors shall maintain regular contact with their assigned NMFS editor/debriefer. All At-Sea Monitors shall call their editor/debriefer prior to making a trip in a fishery or program covered for the first time or as requested. At-Sea Monitors shall return phone calls or reply to email questions as soon as realistically possible (i.e., before departing on a multi-day trip). NMFS can request that an in-person meeting occur with an At-Sea Monitor at any time. These meetings will take priority over accomplishment of the sea day schedule. All travel costs associated with required in person debriefings, exit interviews and meetings with NMFS

will be reimbursed under the travel provision section herein (Section B Supplies or Services and Prices/Costs Travel CLINS 0002, 1002 and 2002) and the At-Sea Monitor hourly rate will be reimbursed under the hourly rate provision section herein (Section B Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004).

NMFS staff will provide written memo updates to the contractor regarding any new or changed sampling protocols, data collection procedures, or other collection or reporting procedures. The contractor shall make certain that At-Sea Monitors comply with changes, as applicable.

Require that any At-Sea Monitor who leaves the program come into the At-Sea Monitor Training Center complete all exit procedures including an in-house exit interview with NMFS (Section J, Attachment 11, Exit Procedures) within 30 days from landing from their last trip.

Provide the primary port, contact information (full name, mailing address, residential address, e-mail address, cell phone number, home number, emergency contact name and phone number, and working status (full time or part time). If there is a change made to any variables in the list, an updated list shall be provided to NMFS immediately (Section F.5.8).

C.4.3. At-Sea Monitor Support Services

C.4.3.1. Logistic and Operation Support for At-Sea Monitor Deployment

The contractor shall provide complete logistical and operational support to At-Sea Monitors throughout their employment. The

contractor's approach to supporting At-Sea Monitors shall be detailed in the proposal.

C.4.3.2. Training and Debriefings

Attachment 34, HR Bulletin 103, provides policy and guidance on training for non-government employees. At least 95% of new At-Sea Monitor recruits are expected to pass the required training course (Section J, Attachment 12, ASM Training Standards) and the required physical examination (Section J, Attachment 5, Physical Standards & Acknowledgement of Risk).

Training costs are reimbursable and are intended to include all costs associated with At-Sea Monitor training (both initial training and refresher trainings), including, but not limited to, salary during the training period, per diem (meals & reimbursements and lodging), miscellaneous equipment for use during training (as authorized or requested by the Government – Section B Supplies or Services and Prices/Costs Training CLINS 0003, 1003 and 2003).

At-Sea Monitor candidates shall undergo an initial 2-week certification training session with NMFS. A series of tests will be administered during this training that candidates must pass prior to certification. Candidates must demonstrate their potential to collect accurate field data, and react to unfamiliar situations at sea in a professional manner. NMFS personnel as well as specialists in other areas such as vessel safety shall conduct training. Refresher training sessions will be conducted when data logs or protocols change, at the discretion of the COTR, or when there has been over six months service interruption for the At-Sea Monitor. At-Sea Monitors shall be required to attend an annual refresher course for data collection, species identification, and vessel safety. In order for the At-Sea Monitor to maintain a current certification they must successfully complete the recertification training.

Three trainings are scheduled for each year (planned trainings will be posted on the FSB website). The contractor shall provide NMFS

with at least 45 calendar days prior notice when a training session is needed and identify any foreign nationals that may be attending training (it takes a minimum of 30 working days for foreign national clearance) as referenced in Section F.5.9. For extenuating circumstances, additional trainings may be scheduled at the Government's discretion. Attendance by a key personnel at training is required for at least two days each week of training.

The contractor shall submit to NMFS, at least 30 calendar days before the beginning of the training, the following information as referenced in Section F.5.10:

- a list of the potential candidates names for review by NMFS
- a hard copy (mailed to the COTR) of each candidates resume
- a hard copy (mailed to the COTR) of the candidates college transcript
- a hard copy (mailed to the COTR) of reference checks from three individuals for each candidate (name of individual providing reference, association with At-Sea Monitor, how long they have known the candidate, contact information (phone number, e-mail), and information about the At-Sea Monitor's past performance)

The contractor shall submit to NMFS, at least 14 calendar days before the beginning of the training, the following information as referenced in Section F.5.11:

- an updated list of candidates
- a medical report for each candidate substantiating the individual's medical qualifications for the job
- online security clearance electronic forms must be initiated by candidates (Section J, Attachment 13, Security Background Instructions)

The contractor shall submit to NMFS, at least 7 calendar days before the beginning of the training, the following information as referenced in Section F.5.12:

- final list of candidates attending upcoming training session
- CPR and First AID Certificate

NMFS may require additional information regarding At-Sea Monitor candidates and should be consulted regarding any for which proposed candidate there is some question regarding qualifications. Should substitution of At-Sea Monitors be required, the contractor shall also provide their pertinent information to the COTR prior to such substitution. The Government retains the right to reject any At-Sea Monitor proposed by the contractor if his or her qualifications do not meet the qualifications specified in paragraph C.4.2.2, Eligibility Requirements, or if their work has been performed at an unsatisfactory level on previous projects, or if their behavior on other projects has been disruptive.

The contractor shall provide the status of its At-Sea Monitor training approvals completed and in process in its Monthly Status Report (Section F.5.1).

NMFS training curriculum is detailed in the ASM training agenda (Section J, Attachment 14, ASM Training Agenda).

An At-Sea Monitor's first 4 deployments and the resulting data shall be immediately edited and approved after each trip by NMFS prior to any further deployments by that At-Sea Monitor (Section J, Attachment 15, ASM Training Trip Policy). During the At-Sea Monitor's first 4 deployments, in order for them to go on their next trip, their data must be received, edited and the At-Sea Monitor must be "cleared" by NMFS to sail on their next trip. This notification will be sent via e-mail to the At-Sea Monitor's provider. The At-Sea Monitor cannot be deployed until the e-mail notification has been sent by NMFS. If the data quality is considered acceptable the At-Sea Monitor will become certified. If the data quality is not considered acceptable, the At-Sea Monitor will not be certified by NMFS at that time.

The first trip an At-Sea Monitor takes after completing the initial 2-week training course will be accompanied by either a NMFS member or a certified trip trainer. Certified trip trainers are current At-Sea Monitors under this contract and are certified by NMFS. In order to become a trip trainer, the contractor must request to NMFS the names of the At-Sea Monitor they would like certified. NMFS would then assign a NMFS staff member to accompany the trip trainer candidate on a future trip. If approved by NMFS the At-Sea Monitor would become a trip trainer. Contractor responsibilities consist of finding vessels that are willing to take two (2) At-Sea Monitors, setting up the logistics of the trip, and communicating with NMFS regularly providing updates on the status of the trip (Section J, Attachment 16, Trip Trainer Certification Program).

At-Sea Monitor trip trainers taking their training assignment trips with NMFS personnel may bill the cost of a seaday under CLINS 0003, 1003 and 2003. When two At-Sea Monitors are on a vessel for the days a certified At-Sea Monitor trip trainer is accompanying a new At-Sea Monitor then the new At-Sea Monitor should be billed under CLINS 0001, 1001 and 2001. The certified trainer would be billed as a seaday under CLINS 0003, 1003 and 2003. NMFS determines the number of trainers needed based on how many At-Sea Monitors are currently working, what the demand for new At-Sea Monitors is, and what the projected training schedule looks like. NMFS currently has 12 certified At-Sea Monitor trip trainers and would expect to maintain that level. At-Sea Monitors certified as trip trainers must be geographically representative of the ports ASM At-Sea Monitors cover to accommodate all new trainees.

Key personnel will be expected to attend any other periodic NMFS required trainings related to the ASM program that could impact At-Sea Monitor protocols, such as program manual update trainings or changes to the Pre-Trip Notification System. One key personnel is required per all trainings, however, NMFS encourages all available staff attend periodic trainings that relate to changes in the ASM program or sampling protocols for their own education. A key personnel is required to attend two days per week of each training and all the days of refresher training.

Compensation for the At-Sea Monitor's time at the refresher training and all other training as well as meals & reimbursement (M&I) and lodging will be reimbursed by NMFS (Section B – Supplies or Services and Prices/Costs Training CLINS 0003, 1003, and 2003). Costs for travel to and from the training center will not be covered by NMFS.

Per Diem and lodging during weekends are reimbursable during trainings that occur over the course of multiple weeks. Weekend At-Sea Monitor salary costs are not covered under reimbursement, unless training (such as a weather-delayed training trip) occurs on a weekend day. A weekend make up day would be required if the building is closed during the week.

At-Sea Monitors shall be expected to remain as active At-Sea Monitors or serve in other capacities directly related to the Northeast Fisheries At-Sea Monitor Program (e.g. program management) for at least one (1) year after training. The contractor shall reimburse the Government for training expenses for any At-Sea Monitors terminating their At-Sea Monitor employment with the contractor within one (1) year of completing the NMFS training. This will be done by issuing a credit for the next training session. For example, if three (3) At-Sea Monitors leave the program prior to completing one (1) year of employment, at the next training, three (3) individuals' training costs (Section B Supplies or Services and Prices/Costs Training CLINS 0003, 1003, and 2003) and hourly wages associated with the training (Section B Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004) will not be billed to the Government.

At-Sea Monitors shall sign a non-disclosure statement (confidentiality agreement) at the commencement of training (Section J, Attachment 17, NEFSC Statement of Non-Disclosure) as referenced in Section F.5.24.

NMFS may request an At-Sea Monitor be accompanied by a NMFS staff member on a future trip. The contractor shall assist with the setting up these shadow trips (Section J, Attachment 18, Shadow Trip Program).

The contractor shall make At-Sea Monitors available to NMFS (Enforcement and FSB staff) for the purposes of routine debriefings, requested meetings regarding data quality issues, investigating circumstances of alleged refusals by vessels to take an At-Sea Monitor or other violations of the Magnuson-Stevens Fishery Conservation Act (MSA), Marine Mammal Protection Act (MMPA), or the Endangered Species Act (ESA) recorded by the At-Sea Monitor in the course of his/her duties (Section B Supplies or Services and Prices/Costs Training CLINS 0003, 1003 and 2003) and hourly wages associated with the training (Section B Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004). All At-Sea Monitors shall call their editor/debriefer prior to making a trip in a fishery or program covered for the first time.

C.4.3.3. Data Quality Control

Data shall be collected and maintained in accordance with contractor's Quality Assurance Plan as incorporated in the contract (Section F.5.3).

The overall goal of quality control is to ensure the effectiveness and efficiency of collection efforts as well as the quality of data collected. Data quality is of utmost importance. As such the contractor shall ensure the highest quality in data collected by its At-Sea Monitors. NMFS will provide a data quality rating of At-Sea Monitors to the provider on a bi-annual basis (Section J, Attachment 19, Data Quality Rating). The contractor shall use the data quality rating of At-Sea Monitors in their Quality Assurance Plan (F.5.3).

C.4.3.4. At-Sea Monitor Equipment, Operation and Maintenance

The contractor shall provide all materials and equipment necessary

for the collection of data and biological sampling (Section J, Attachment 20, ASM Gear List). The contractor shall maintain and replace lost gear to ensure the At-Sea Monitor is able to carry out his/her sampling duties. For items listed with a brand name, the contractor shall provide the equivalent quality to the brand listed.

The gear and equipment, purchased and charged to the Government in the performance of the contract becomes Government property at the end of the contract. Equipment and gear should be inspected and repaired in accordance with manufacturers specification as needed and at a minimum of once per year. Newly acquired gear must be of the same quality as the originally provided Government gear. At-Sea Monitor gear and contractor's tracking and maintenance of such gear is subject to periodic audit by the Government. The Government retains the right to modify gear specifications and requirements to meet research collection needs.

C.4.3.5. Travel and Lodging

The contractor is responsible for all travel arrangements and expenses, appropriate lodging, and all expenses associated with training, safety meetings, briefings, debriefings, and deploying At-Sea Monitors to assigned vessels. All travel costs and expenses incurred shall be reimbursed in accordance with the Government's Travel Regulations.

Travel costs are reimbursable and are intended to include costs associated with At-Sea Monitor travel to and from vessels and to and from the port if the At-Sea Monitor travels greater than fifty (50) miles, one way, from their primary port (Section B Supplies or Services and Prices/Costs CLINS 0002, 1002, and 2002.

Coordinator and support staff travel (related to At-Sea Monitor deployment) to and from vessels and to and from the port are reimbursable if travel meets Government Travel Regulations and At-Sea Monitor travel costs under CLINS 0002, 1002, and 2002.

The contractor shall submit a travel voucher (Section J, Attachment 21, At-Sea Monitor Travel Voucher) clearly documenting all travel logistics and associated costs to the COTR.

While an At-Sea Monitor is out at sea, per diem is not reimbursable, unless authorized on a case-by-case basis by the COTR, such as if an At-Sea Monitor lands in a port other than their primary port.

C.4.3.6. Vessel Selection

The contractor shall strictly adhere to all sampling design requirements specified for the Northeast Fisheries At-Sea Monitor Program (ASM). NMFS will provide the contractor with a set of specific guidelines regarding vessel selection and placement considerations by various fisheries. The contractor shall make contact with vessels selected either by NMFS to arrange for At-Sea Monitor coverage and deployment scheduling as necessary. When the contractor/At-Sea Monitor makes initial contact with the vessel, the contractor/At-Sea Monitor shall verify with the captain that he has sufficient life raft capacity for an additional person (At-Sea Monitor). If not, the contractor shall immediately attempt to have one of the NMFS issued valise life rafts available for the At-Sea Monitor for that trip. If one is not available, and the captain still intends to sail without the At-Sea Monitor, an SDR shall be issued to the captain of the vessel (Section J, Attachment 22, Safety Deficiency Report). The contractor shall assign At-Sea Monitors to vessels without regard to preference expressed by vessel owners or operators with respect to At-Sea Monitor race, gender, age, religion, or sexual orientation nor shall the contractor consider At-Sea Monitor's expressed preference. The contractor shall not assign At-Sea Monitors who are showing symptoms of illness or who may be contagious. In the event that an At-Sea Monitor falls severely ill or injured at sea, and the vessel must prematurely cease fishing to return the At-Sea Monitor to port, the contractor shall propose a plan on how to work out a fair reimbursement for the vessel's fuel expenses.

Various regulated fisheries have a requirement for a vessel's representative to notify the ASM prior to making each fishing trip. Notification is required prior to the planned departure in a specific time frame, *e.g.*, forty-eight (48). The vessel is then randomly assigned, by NMFS, an At-Sea Monitor or issued a

waiver, relieving them of the requirement to carry an At-Sea Monitor for that specific trip.

The contractor shall provide personnel or an automated answering service to handle notifications twenty four (24) hours a day, seven (7) days a week, for certain fisheries. Depending on regulations enacted by the NMFS, the notification requirement may require e-mails, telephone calls, or inputting into a website from the vessel's representative. The Groundfish fishery is required to notify NMFS, NMFS is responsible for the selection and informs the vessel and the contractor of trip details.

For the groundfish fishery (notifies NMFS when they are sailing), the contractor will be notified of trip selection via the website. The contractor may accept or decline trips within twelve (12) hours. The reasons to decline a trip must be related to limited At-Sea Monitor availability or reported safety concerns. The contractor must take the trip once they have claimed acceptance. If there is an unforeseen emergency that results in changing the contractor's acceptance of a trip, it shall be reported to the COTR. If a trip is accepted by a contractor, the contractor would make contact with the vessel for trip logistics. If a vessel informs the contractor that they are cancelling a trip selected to carry an At-Sea Monitor, the contractor shall report that to NMFS twenty-four (24) hours after the scheduled sail date. The COTR shall be notified all circumstances in which At-Sea Monitors were late or missed a scheduled trip for all fisheries as referenced in Section F.5.13.

Vessels must be covered randomly, without repeated deployments on the same vessels by the same At-Sea Monitor, unless waived by the COTR. For trips outside closed areas and other special access fishing programs there shall be no more than two (2) back to back trips by the same At-Sea Monitor on the same vessel AND there shall be no more than two (2) trips on the same boat within one month. A vessel selection list may be provided by NMFS which will rank vessels in the order they should be covered.

Cost Reimbursement is authorized for At-Sea Monitors for the time associated with a "no show". The maximum amount of time for a no show is up to 2.5 hours. The At-Sea Monitor must arrive 30 minutes prior to the scheduled departure time and remain at the designated area for up 2 hours following the scheduled departure time. Travel to and from the site and per diem are not included unless conditions in C.4.3.5 are met. Any costs billed for a "no show" will be billed against CLINS 0004, 1004 and 2004. There will be no reimbursement for situations in which it is the At-Sea Monitor's fault for missing the trip or no attempt was made to communicate with the captain prior to taking the trip. A travel

voucher (Section J, Attachment 21, At-Sea Monitor Travel Voucher) is required for proper reimbursement.

Cost Reimbursement is authorized for At-Sea Monitors for the time associated with a “cancellation” in instances where trips are cancelled at the dock or when an at-sea monitor is enroute to the vessel and cancellations occurs. The maximum amount of time for a cancellation is up to 2.5 hours. Travel to and from the site and per diem are not included unless conditions in C.4.3.5 are met. Any costs billed for a “Cancellation” will be billed against CLINS 0004, 1004 and 2004. A travel voucher (Section J, Attachment 21, At-Sea Monitor Travel Voucher) is required for proper reimbursement.

C.4.3.7. Safety Requirements

Vessels must be in compliance with the At-Sea Monitor Health and Safety Regulations before an At-Sea Monitor is deployed (http://www.nefsc.noaa.gov/fsb/Misc/Obs_Health_&_Safety_Regs.FR.11.01.07.pdf). Vessels must pass the Pre-Trip Vessel Safety Checklist (Section J, Attachment 23) that will be performed by the At-Sea Monitor with the assistance of the captain or designee prior to deployment. If the vessel fails to pass the Pre-Trip Vessel Safety Checklist, the At-Sea Monitor shall not sail on the vessel and shall complete Safety Deficiency Report (Section J, Attachment 22, Safety Deficiency Report), which shall be provided to the captain and NMFS.

Valise life rafts will be issued to the contractor by NMFS upon award of the contract. It is expected that the contractor shall maintain the life rafts while in their care and ensure the life raft is up to date with service and inspections. When service and inspection dates are coming close to their expiration, the contractor shall contact NMFS to schedule a drop off of the raft. If there is evidence that the life raft is not treated properly while in their care (i.e., dragged on the ground resulting in holes in the raft) then the contractor will be liable for the cost of a replacement raft.

At-Sea Monitor safety is of paramount importance to ASM. If at any time an At-Sea Monitor feels that a vessel is unsafe prior to

departure, they may decline the trip and report this on the Pre-Trip Vessel Safety Checklist (Section J, Attachment 23) to NMFS.

C.4.3.8. Communication

The contractor shall provide and employ a method for At-Sea Monitors to communicate vessel departure and arrival information; handle At-Sea Monitor emergencies and/or problems related to At-Sea Monitor logistics when they are at sea, in transit to the dock, or in port awaiting vessel departure. The contractor shall contact NMFS of all emergency situations, including medical, within twelve (12) hours of learning of the incident as referenced in Section F.5.14.

The contractor shall provide NMFS with access to a real time online At-Sea Monitor tracking system for At-Sea Monitor deployments (including vessel identifier information), leave schedules, and status (part-time vs. full-time) updates as referenced in Section F.5.15.

The contractor shall provide NMFS with all written documents/memos that are sent their At-Sea Monitors within 24 hours of when the document/memo is sent as referenced in Section F.5.25.

The contractor shall notify NMFS of when an At-Sea Monitor is subject to disciplinary action by the contractor (i.e., placed on probation, performance monitoring, etc....) within 24 hours of when the disciplinary action took place as referenced in Section F.5.26.

C.4.3.9. Notification of Potential Infractions

The contractor shall immediately notify the COTR of any potential violation of the Rules and Regulations that implement the Fishery Management Plan under the Magnuson-Stevens Fishery

Conservation and Management Act, Marine Mammal Protection Act or Endangered Species Act or any regulations that govern the At-Sea Monitor program, including but not limited to: vessels failing to provide adequate notification prior to departing, failing to take an At-Sea Monitor, incidents of At-Sea Monitor interference, harassment, or intimidation. The contractor shall ensure that each returning At-Sea Monitor is debriefed for incidents of intimidation, interference, or harassment within twelve (12) hours of trip landing as referenced in Section F.5.14. Reported incidents of the vessel failing to take an At-Sea Monitor or incidences of the contractor failing to handle incidents of interference, harassment or intimidation of At-Sea Monitors will be investigated by NMFS.

C.4.3.10. Vessel Operations and Working Conditions

Fishing vessels routinely operate out of ports from New York to Maine (Section J, Attachment 24, Location of ASM Trips in 2010). Trips can range from 1-14 days in duration. The vessels operate in ocean waters, 3-200 miles offshore in all weather conditions. Vessels are generally 30-150 feet in length. Crew members and At-Sea Monitors live and sleep in cramped quarters, often in damp conditions and share common facilities. On some vessels, the crew does not speak English. At-Sea Monitors must be willing to travel occasionally to cover locations other than their primary ports.

At-Sea Monitor Health and Safety Regulations require sleeping areas for the At-Sea Monitor to be equal to those of the crew. Some vessels have no shower and may lack permanent toilets or bunks. Although vessels may not have separate facilities for women, federal regulations require reasonable privacy for female At-Sea Monitors. Female At-Sea Monitors on a vessel with an all-male crew must be accommodated with adequate privacy which can be ensured by installing a curtain or other temporary divider, in a shared cabin. Because of the size and responsiveness of these vessels to sea conditions, motion sickness can be debilitating for some individuals and should be seriously considered in all prospective At-Sea Monitor candidates. Most vessels carry no trained medical personnel aboard and rely upon first aid knowledge of the boat's operator in consultation with land-based physicians via radio.

Food is provided on multiday trips for the At-Sea Monitor and must be equal to the food being served to the rest of the crew. On single day trips, At-Sea Monitors must bring their own food and water.

C.4.3.11. Data Quality

The NMFS COTR will monitor all aspects of contractor performance as described below:

- Failure to deliver data from an observed sea day includes:
- All data must be delivered at the required time frame, as specified by NMFS.
- Data must not be fraudulent or of such poor quality as to be unusable (i.e. if determined to be fraudulent or unusable within 90 days of receipt of the data).

The contractor shall interact with vessels which have carried At-Sea Monitors. They shall interview the captain; using NMFS issued workbooks with a pre-determined set of questions (Section J, Attachment 25, Captain Interview Questions), and determine if the At-Sea Monitor performed his/her job in a professional manner and carried out all required tasks. Unless otherwise instructed by NMFS, a random selection of 10% of each At-Sea Monitor's trips each quarter will have follow-up interviews. Format questions will be provided by NMFS. Trip Interview Reports will be provided to NMFS electronically within two working days of the interview as referenced in Section F.5.16. The contractor shall report, in writing to the COTR, all complaints made by the industry regarding At-Sea Monitor activities, as well as any At-Sea Monitor injuries aboard vessels or on docks to NMFS.

An At-Sea Monitor's ability to work will be based on his/her certification. If an At-Sea Monitor does not adhere to NMFS protocols or meet the At-Sea Monitor Standards of Conduct (Section J, Attachment 7, At-Sea Monitor Standards of Conduct), they may be placed on pre-probation, probation or decertified, as described in the NMFS policy statement regarding certification (Section J, Attachment 26, ASM At-Sea Monitor Performance Monitoring, Review, Probation and Decertification).

NMFS will provide the contractor with a data quality rating for each At-Sea Monitor (Section J, Attachment 19, Data Quality Rating).

C.4.3.12. Vessel Compensation for At-Sea Monitor Food Reimbursement

Contractors shall compensate vessels at a rate of \$40 per day (for every completed 24 hour period) to cover At-Sea Monitor accommodation and food costs while aboard the vessel for trips lasting longer than one (1) day (i.e., 24 hours) (Section B Supplies or Services and Prices/Costs Vessel Meal Reimbursement CLINS 0005, 1005 and 2005). The contractor shall provide NMFS with an example of the vessel reimbursement form the contractor develops as referenced in Section F.5.17. The contractor shall provide a report for all vessel meal reimbursements provided within the last monthly period. The contractor is encouraged to make all vessel compensation payments through Electronic Funds Transfer. If the contractor makes vessel meal reimbursement payment through check, the contractor shall provide proof that the check has been cashed within 90 days of vessel receipt of the check. If a check has not been cashed within 90 days of vessel receipt, the contractor shall cancel the check and provide an offset to NOAA in the amount of the original check less any check cancellation fees (Section F.5.18). The contractor shall provide evidence for all check cancellation fees to the COTR.

C.4.3.13. Contractor Standards of Conduct

The Contractor shall comply with the requirements of Clause H.2.2 At-Sea Monitors Preventing Personal Conflicts of Interest. The contractor shall assign at-sea monitors without regard to any preference expressed by representatives of vessels based on, but not limited to, at-sea monitor race, gender, age, religion or sexual orientation.

C.4.3.14. At-Sea Monitor Termination Documentation

The contractor shall notify the COTR when an At-Sea Monitor leaves the ASM for any reason as referenced in Section F.5.19. Reasons for termination, whether contractor initiated or At-Sea Monitor initiated, must be documented and provided to NMFS within 7 days of the At-Sea Monitor's departure and shall be used to determine trends and assist in improving retention of qualified At-Sea Monitors as referenced in Section F.5.20.

C.4.3.15. Emergency Action Plan

The contractor shall institute an Emergency Action Plan that documents what they will do in the case of an emergency. The purpose of an Emergency Action Plan is to facilitate and organize employer and employee actions during workplace emergencies. Well developed emergency plans and proper employee training (such that employees understand their roles and responsibilities within the plan) will result in fewer and less severe employee injuries. The contractor shall provide NMFS with a copy of their Emergency Action plan as referenced in Section F.5.27.

C.4.3.16. Quality Assurance Plan

The contractor shall develop and submit to NMFS a contractor Quality Assurance Plan, as referenced in Section F.5.3, which details how the contractor will ensure effectiveness and efficiency of collection efforts as well as the quality of data collected by its At-Sea Monitors. The contractor shall further establish, implement, and maintain a Quality Assurance Management program to ensure consistent quality of all work products and services performed under this contract.

C.5. PERFORMANCE MONITORING

C.5.1. Quality Assurance Surveillance Plan

NMFS intends to monitor contractor performance against the Schedule of Deliverables (Section F.5.3).

C.6. SECURITY RISK LEVEL DESIGNATIONS

The risk levels under this contract have been determined by the Program Office as shown below:

LABOR CATEGORY	SECURITY RISK
Program Manager	Low
Coordinator	Low
Observer I, II, III	Low

Investigation Packages

At-Sea Monitors and key personnel would be considered contractors and all undergo the required background investigation (Section J, Attachment 13, Security Background Instructions) and would be either U.S. Citizens, Naturalized Citizen, Green Card Holders (aka Permanent Resident Card), or Foreign Nationals. The following requirements will be completed prior to official hiring:

- 0 – 30 days = Security Worksheet, Finger Print Cards (FD 258 Cards)
- 31 – 179 days = Security Worksheet, SAC Form (OFI Form 86C), Finger Print Cards (FD 258 Cards)
- 180 or greater days = EQIP Package
 - Security Worksheet

- Electronic Questionnaire (filled out after applicant has been placed in EQIP)
- EQIP Signature pages (generated after applicant has completed Questionnaire in EQIP)
- Declaration for Federal Employment (Optional Form 306)
- Finger Print Cards (FD 258 Cards)
- Fair Credit Reporting Form (filled out based on position sensitivity)

Foreign National (FN) Information (must be submitted along with Investigation Packages)

Foreign Nationals is anyone who is a non-U.S. citizen or non-green card holder (aka permanent resident card). Foreign Nationals fall into two categories: Visitors or Guests. Visitors are personnel onsite for up to 3 days; or whom will be attending a conference, workshop, or training (which can go up to 5 days). Guests are personnel who will be onsite over 3 days and who do not fall into the 5 day category listed above. All Foreign National Visitor/Guests information must be submitted through the Foreign National Registration System (FNRS) by NMFS.

C.7. CLAUSES INCORPORATED BY REFERENCE

C.7.1. CAR 1352.237-71 SECURITY PROCESSING REQUIREMENTS— LOW RISK CONTRACTS (APR 2010)

(Reference 48 CFR 1337.110-70)(c))

C.7.2. CAR 1352.237-73 FOREIGN NATIONAL VISITOR AND GUEST ACCESS TO DEPARTMENTAL RESOURCES (APR 2010)

(Reference 48 CFR 1337.110-70)(e))