

1 SECTOR OPERATIONS PLAN AND AGREEMENT

2 This NORTHEAST FISHERY SECTOR OPERATIONS PLAN AND AGREEMENT (this “Agreement”) is entered
3 into as of March 15, 2016 (the “Effective Date”), by and among XII Northeast Fishery Sector, Inc. (“NEFS
4 XII”) and each of the Sector members identified on the attached **Exhibit C**.

5 **Recitals**

6 A. Pursuant to “Amendment 16” to the Northeast Multispecies Fishery Management Plan and
7 implementing regulations promulgated by the National Marine Fisheries Service (“NMFS”), a group of
8 persons holding limited access multispecies vessel permits may form self-selecting voluntary sectors for
9 fishery management. As a condition to forming a sector under Amendment 16, the persons wishing to
10 do so must enter into a binding sector operations plan and agreement that contains the required
11 elements.

12 B. The parties to this Agreement wish to form a self-selecting voluntary sector under Amendment 16
13 and to do so are voluntarily entering into this Agreement for **Fishing Year 2016 (May 1, 2016-April
14 30, 2017)**.

15 **Agreement**

16 Now therefore, for and in consideration of the agreements, covenants, rights and obligations set forth
17 herein and the mutual benefits anticipated by the Members under this Agreement, the receipt and
18 sufficiency of which is hereby acknowledged, the Members and Sector hereby agree as follows:

19 1. Sector Name. The organization described under this Agreement shall be called the XII
20 Northeast Fishery Sector, Inc. This is a non-profit organization incorporated in Massachusetts on May
21 26, 2009 and therefore may be held liable for violations committed by its members.

22 2. Sector Eligibility and Membership. To be eligible to be a member of the Sector, a
23 person must hold a Limited Access Northeast multi-species permit and meet all other Sector eligibility
24 requirements as established from time to time by the Sector’s Board of Directors (the “Board”). Any
25 person wishing to become a Sector member must submit an application no later than sixty (60) days
26 prior to the annual deadline by which Sector contracts must be submitted to NMFS. Sector membership
27 shall be effective upon admission of a member by the Board and acceptance by execution by such
28 member of the Sector’s Membership Agreement. Subject to the automatic renewal provisions of

1 Section 12 below, and the disciplinary expulsion provisions of Section 13 below, Sector membership
2 shall expire at the conclusion of each fishing year, unless renewed by the Board in accordance with the
3 Sector’s Bylaws and this Agreement. The Sector’s members (the “Members”), such Members’ “Limited
4 Access Multispecies Permit” (LA MS) as identified by its “Moratorium Rights Identifier” (MRI), and the
5 vessels that will harvest the Sector’s Amendment 16 allocations are identified on the attached **Exhibit C**,
6 which may be amended from time to time in accordance with this Agreement and the Sector’s Bylaws.

7 2.1. Rule of Three Requirement: Amendment 16 to the NE multispecies FMP
8 defines a sector as a group of three or more persons, none of whom have an ownership interest in the
9 other two persons in the sector. This criterion has been fulfilled for FY 2016 with permit # 150538 under
10 the distinct ownership of Thomas Bell, permit # 250468 under the distinct ownership of Ronald P.
11 Gustafson, and permit # 250525 under the distinct ownership of Philip M. Lynch.

12 3. Member and Vessel Permits. The attached **Exhibit D** is provided in accordance with
13 the requirements of Amendment 16 that all state and federal permits held by Members or assigned to
14 Members’ vessels be disclosed in each sector’s annual operations plan.

15 4. Sector Allocation and Exemptions. Each Member shall take all actions and execute all
16 documents necessary to obtain the Sector’s Amendment 16 annual catch entitlement (“ACE”). The
17 Sector shall request all universal exemptions granted to sectors under Amendment 16 and relating
18 multispecies implementing regulations; and any special exemptions the Board deems appropriate. The
19 special exemptions initially requested by the Sector are identified on the “Harvesting Rules” attached
20 hereto as **Exhibit A**.

21 5. Distribution of Sector ACE. Each Member acknowledges that the Sector’s ACE is
22 composed of allocations for each species of Northeast multispecies groundfish allocated by Amendment
23 16 (each such species being an “Allocated Species”), and any subsequent Framework or Amendment.
24 Subject to the terms and conditions of this Agreement, each Member shall be entitled to harvest or
25 transfer an amount of the Sector’s ACE, as adjusted by the Sector for retainages including but not
26 limited to the Reserve, for each Allocated Species proportionate to the amount of ACE for such species
27 that the Sector receives as a result of such Member’s membership in the Sector. The amount of Sector
28 ACE a Member may harvest or transfer, as adjusted by transfers and Sector retainages including but not
29 limited to the Reserve, made in accordance with this Agreement, is referred to hereafter as a Member’s
30 “Harvest Share.” Each Member may harvest or transfer its Harvest Share only under the terms and

1 conditions of this Agreement and in compliance with the restrictions imposed by the Manager (as
2 defined below), the Enforcement Committee (as defined below) and the Board in accordance with this
3 Agreement. Any other attempted harvest or transfer of a Member’s Harvest Share shall be a breach of
4 this Agreement.

5 6. Sector Manager and Registered Agent. The Board shall from time to time appoint a
6 person to act as the Sector’s authorized agent in all NMFS and New England Fishery Management
7 Council matters (the “Manager”), and a person to serve as the registered agent for receiving service of
8 process on behalf of the Sector (the “Registered Agent”). The procedures for appointing the Manager
9 and the Registered Agent shall be as provided in the Sector’s Bylaws, as the same may be amended from
10 time to time. The Manager and the Registered Agent may be the same person. The Manager shall be
11 responsible for preparing and filing all reports required of the Sector under Amendment 16 and the
12 related implementing regulations. Frank Mirarchi will serve as the registered agent for receiving service
13 of process on behalf of the Sector. Paula Lynch will serve as the Sector Manager for Fishing Year 2016.

14 6.1. Communication with Sector. The Manager is the primary point of contact
15 for all communications on behalf of the Sector and all communications regarding NEFS XII should be
16 directed accordingly. In addition to the Sector Manager, Elizabeth Etrie or the acting program director
17 of Northeast Sector Service Network is authorized to act on behalf of the Sector. At the time in which
18 this Agreement is entered into, the Board of Directors are as follows:

- 19 President: Kevin Norton
- 20 Vice President: Phil Lynch
- 21 Treasurer: Frank Mirarchi
- 22 Clerk: Frank Mirarchi
- 23 Directors: Thomas Bell, Ronald Gustafson, Frank Mirarchi, Kevin Norton,
- 24 Phil Lynch

25 In the event that the Board of Directors is modified, the Sector will notify NMFS of such modifications.
26 Additionally, a list of current Board members can also be located at the following link.

27 <http://corp.sec.state.ma.us/corpweb/corpsearch/CorpSearch.aspx>

28 7. Consolidation Plan. The Sector’s ACE shall be harvested in accordance with the terms
29 and conditions of this Section 7.

1 7.1. Harvest Share Reserve. Each Member acknowledges that under NMFS
2 regulations, the Members' aggregate harvest of the Sector's ACE may not exceed the Sector's ACE
3 allocation, as adjusted by transfers of ACE between the Sector and other sectors. Each Member further
4 acknowledges that under NMFS regulations, each Member may be held jointly liable for fines, penalties
5 and forfeitures related to the Sector's ACE being overharvested. Each Member therefore authorizes the
6 Manager to annually establish a reserve of each Allocated Species in the amount the Manager deems
7 necessary to insure the Sector's ACE is not over-harvested (the "Reserve"). The Reserve for each
8 Allocated Species shall be established by assessing the Members' Harvest Shares for such Allocated
9 Species on a pro rata basis, according to their Harvest Share percentages for each such species. The
10 amount of each Member's Harvest Share available for harvest or transfer shall be net of the amount
11 assessed for the Reserve. The Reserve shall be managed under a "Deemed Value System" ("DVS") by
12 the Manager in accordance with the terms and conditions adopted by the Board from time to time. If
13 the Board requires that Members pay for distributions from the Reserve, the DVS payments received by
14 the Sector shall be distributed to the Members after the close of fishing for the year on a pro rata basis,
15 such that each Member receives a share of the total amount paid for distributions of each Allocated
16 Species from the Reserve proportionate to the amount of such Allocated Species each Member
17 contributed to the Reserve.

18 7.2. Harvest Share Use. Only Members that notify the Manager in writing on or
19 before March 15, 2016 (the "Notification Date"), and on or before any succeeding Notification Dates
20 established by the Board for FY 2016 of their intention to harvest Sector ACE ("**Active Members**") may
21 harvest Sector ACE. Each Member's notice that such Member intends to harvest Sector ACE shall
22 identify the vessels which will be used for such harvest. **Non-Active Members** shall not harvest Sector
23 ACE, including without limitation, their own Harvest Share. No **Active Member** shall harvest an amount
24 of Sector ACE in excess of their Harvest Share. Harvest of each **Active Member's** Harvest Share shall be
25 subject to all NMFS and other management regulations generally applicable to the Sector's ACE
26 (including but not limited to seasonal apportionments and area harvest restrictions) on a discreet,
27 individual basis; i.e., no greater percentage of each Member's Harvest Share may be harvested in any
28 season or area than the percentage of the related Sector ACE allocation permitted to be harvested in
29 such season or area. The Manager may impose and enforce additional restrictions on each **Active**
30 **Member's** harvest of Sector ACE authorized by this Agreement or adopted by the Board.

1 7.2.1. Non-Active Members. The Members acknowledge that
2 **Active Members** are assuming certain costs and risks associated with harvesting the Sector's ACE on
3 behalf of the **Non-Active Members**, and that the **Active Members** are making certain financial
4 contributions to the Sector that are not made by **Non-Active Members**. Obligations assumed by **Active**
5 **Members** that are not imposed on **Non-Active Members include**, but are not limited to payments of the
6 initial Membership Fee, and paying Network and Sector fees in connection with landings of catch
7 harvested under the Sector's ACE. In consideration for the **Active Members** assuming these costs, risks
8 and fee obligations, each **Non-Active Member** shall:

9 A. Not fish in any ACE-accountable fisheries;

10 B. Participate only as a transferor with regards to transfer of such
11 member's Harvest Share within the sector. However, a **Non-Active Member** may act as a
12 transferee through an Inter-Sector transfer of ACE provided the transaction results in a
13 net increase of this Sector's ACE.

14 C. Not have access to information on FishTrax, or other Sector
15 specific tools, other than the information necessary to track the balance of such
16 Member's Harvest Share, and specifically, shall not have access to Harvest Share Offers or
17 Permit Offers posted on behalf of Members;

18 D. Not have the Rights of First Offer on Sector Harvest Share and
19 the related Sector ACE extended to **Active Members**, which may be adopted or amended
20 from time to time by the Board under Section 7.3, and shall not have a right of first
21 refusal on Permits extended to **Active Members**, which may be adopted or amended
22 from time to time by the Board under Section 15;

23 E. Pay Sector Operating Fees on the net amount of Sector ACE
24 transferred out of the Sector by such Member, and pay the Network Fee on the net
25 amount of Sector ACE transferred out of the NEFS Sectors by such Member.

26 7.3. Harvest Share Transfer. Subject to the terms and conditions of this
27 Agreement, each Member may transfer some or all of such Member's Harvest Share to one or more
28 **Active Member(s)** on such terms and conditions as the transferor Member and the transferee **Active**
29 **Member(s)** may agree. No transfer of a Member's Harvest Share shall become effective until the

1 Manager has received actual notice of such transfer. No Member may transfer any portion of such
2 Member's Harvest Share, or interest in the Sector's ACE, to any person other than an **Active Member**
3 unless the Board first authorizes such transfer in writing. Any such transfer shall be subject to such
4 terms and conditions as the Board may adopt from time to time, including but not limited to
5 establishment of procedures to implement a Right of First Offer (the "ROFO") that is extended to **Active**
6 **Members** of the Sector, **Active Members** of other Northeast Fishery Sectors, and certain other parties in
7 accordance with the terms and conditions established by the Board. Without limiting the foregoing, the
8 Sector Board of Directors may condition, review, approve and restrict transfers of Harvest Shares to
9 non-Members as it deems necessary to promote the harvest of the Sector's entire ACE allocation and
10 ensure that the Sector's management and administrative costs can be recouped through reasonable
11 Sector membership fees established by the Board.

12 7.4. Harvesting Rules and Fishing Plan. The Board may from time to time adopt
13 such restrictions on harvest of the Sector's ACE as the Board deems necessary to ensure the Sector's
14 compliance with Amendment 16 and related implementing regulations (such restrictions referred to
15 hereafter as "Harvesting Rules"). The Harvesting Rules are set forth on Exhibit A. Each **Active Member**
16 shall conduct their harvest of the Sector's ACE in strict compliance with the Harvesting Rules. Each
17 Member shall exercise their best efforts to ensure such Member's Harvest Share is harvested in
18 accordance with the Harvesting Rules. The Manager shall annually develop a Sector fishing plan that
19 promotes harvest of the Sector's ACE in accordance with the Harvesting Rules and shall make the Fishing
20 Plan available to Active Members prior to the commencement of the fishing season.

21 7.5. Re-direction of Effort. During FY 2015, the MRI's enrolled in NEFS XII for FY
22 2016 were associated with vessels that also participated in the following fisheries:

- 23 • Fishery: State of Massachusetts Squid Fishery (Gear: Otter Trawl)
- 24 • Fishery: State of Massachusetts Fluke Fishery (Gear: Otter Trawl)
- 25 • Fishery: State of Massachusetts Horseshoe Crab Fishery (Gear: Otter
26 Trawl)
- 27 • Fishery: State of Massachusetts Whelk (Gear: Otter Trawl)
- 28 • Fishery: Squid (Gear: Otter Trawl)
- 29 • Fishery: Fluke (Gear: Otter Trawl)
- 30 • Fishery: Skate (Gear: Otter Trawl)
- 31 • Fishery: Monkfish (Gear: Otter Trawl)

32
33 NEFS XII, anticipates a similar redirection of effort to the fisheries listed above in FY 2016.

1 7.6. Sector Vessel Interactions with Allocated Species in Non-Amendment 16
2 Fisheries. NMFS will account for Member harvests of Allocated Species as harvests of the Sector’s ACE,
3 regardless of whether such harvests are made during directed groundfish fishing trips or during other
4 fishing trips, unless the Allocated Species harvest is managed under another management plan or as a
5 sub-component annual catch limit (“ACL”) of Amendment 16 Allocated Species. Each **Active Member**
6 shall report every fishing trip by such Member to the Manager prior to sailing, for determination
7 whether the related Allocated Species harvest must be accounted for to NMFS as harvest of the Sector’s
8 ACE.

9 7.7. Consolidation and Redistribution of ACE: Scientific recommendations and
10 new Magnuson requirements will influence the level of consolidation that will take place in the
11 groundfish fishery. The Sector members intend to utilize sector management to mitigate excessive
12 consolidation that may occur in the effort controlled system where overall management measures are
13 based upon the weakest stocks. In FY 2015, 47% of the permits enrolled in the NEFS XII for FYs 2016 are
14 attached to vessels actively fishing for NE multispecies. For FYs 2016, the NEFS XII sector has 19 permits
15 currently enrolled. Of those permits 9 are anticipated to actively fish for NE multispecies in FYs 2016.
16 While these numbers may change, the NEFS XII sector expects that, compared to FY 2015, there would
17 be no change from the consolidation that previously occurred among the members during FY 2016. The
18 member permits that are not attached to active NE multispecies vessels in FYs 2016 are the same
19 permits that did not fish in FY 2014. In all cases, a member who owns multiple permits fished the ACE
20 (or DAS if in the common pool) of all those permits on fewer hulls and will now continue to fish the ACE
21 contributed by all those permits on fewer hulls, resulting in little additional consolidation.

22 8. Release of Catch Data. Pursuant to section 402(b)(1)(F) of the Magnuson-Stevens
23 Fishery Conservation and Management Act, 16 U.S.C. § 1881a(b)(1)(F), the undersigned hereby
24 authorizes the release to the Manager, and/or designated sector employee(s) of the XII, Northeast
25 Fishery Sector Inc., the Program Director of the Northeast Sector Service Network, and the FishTrax
26 Programmer, information that may be or is considered to be confidential or privileged by the
27 Magnuson-Stevens Act or other federal law regarding the catch of various species of fish associated with
28 the limited access Northeast multispecies permit with the Moratorium Right Identifiers (MRIs) enrolled
29 in the Sector submitted to the National Marine Fisheries Service that the undersigned has authority to
30 access. This information includes data required to be submitted or collected by NMFS, on an individual
31 MRI and/or aggregated scale, including but not limited to days-at-sea allocation and usage, vessel trip

1 reports, dealer reports, Northeast Federal Observer Program data, catch and landings history data for all
2 species harvested by the vessel/MRI, Sector at-sea monitoring data, protected species
3 takes/interactions, enforcement data, vessel baseline data (length, horsepower, etc), VMS information,
4 and all other information associated with the vessel, MRI #, and/or permit records. In addition, this
5 information includes data for species not managed under the multispecies FMP.

6 All confidential Sector data may be released to the Sector Manager, and/or designated sector
7 employee(s), the Program Director of the Northeast Sector Service Network, and the FishTrax
8 Programmer. This statement applies to all confidential data for a two-year time period encompassing
9 FYs 2016 and 2016.

10 9. Catch Monitoring and Reporting. Each **Active Member** shall comply with all catch
11 monitoring and reporting requirements established by the Manager, which may include but are not
12 limited to maintaining and filing copies of accurate catch logs, carrying fishery observers, installing and
13 operating electronic vessel and catch monitoring equipment, delivering fish only at pre-approved
14 landing stations at pre-approved times, and completing and filing accurate delivery reports on a timely
15 basis. Without limiting the foregoing, each **Active Member** shall submit on a timely basis all catch
16 information as required by and necessary for the Manager to complete and file the Sector's weekly
17 reports. Each **Active Member's** harvest of Sector ACE shall be calculated and tabulated in accordance
18 with the catch accounting measures established by NMFS with respect to the Sector's ACE. Absent
19 manifest error, the catch and delivery information produced by the Manager shall be presumed
20 accurate, and absent manifest error, each Member's obligations under this Agreement and all related
21 documents may be enforced to their fullest extent on the basis of such information.

22 10. Breach and Remedies for Breach. The benefits associated with Sector membership
23 will only accrue to the Members if each of them strictly complies with this Agreement. Each Member
24 will make significant operational and financial commitments based on this Agreement, and any
25 Member's failure to fulfill any of its obligations under this Agreement could have significant adverse
26 consequences for some or all other Members. Any failure by a Member to fulfill any of its obligations
27 under this Agreement shall constitute a breach of this Agreement. Each Member shall be bound by the
28 procedures set forth in this Section for determining whether a Member has breached this Agreement.
29 The Sector shall be entitled to the remedies set forth in this Section if a Member is determined by the
30 Sector to have breached this Agreement. Each Member shall take all actions and execute all documents
31 the Manager deems necessary or convenient to give effect to the provisions of this Section.

1 10.1. Liquidated Damages Schedule and Schedule Amendments. The loss, costs
2 and damages which may be suffered or incurred by Members as the result of any Member harvesting
3 Sector ACE in excess of the amount such Member is authorized to harvest under this Agreement, or
4 otherwise breaching this Agreement, will be difficult to calculate. The loss, costs and damages the
5 Members and the Sector could suffer as the result of a Member harvesting more Sector ACE than its
6 Harvest Share, or otherwise breaching this Agreement, are likely to substantially exceed the market
7 value of the excess harvest. Consequently, the Sector may impose and assess upon any breaching
8 Member the liquidated damages amounts as established under Section 10.3, below.

9 10.2. Enforcement Committee. Not less than one hundred twenty (120) days
10 prior to each annual Northeast multispecies groundfish season opening date (the “Season Opening
11 Date”), the Manager shall call a meeting of the Board to appoint the Enforcement Committee for the
12 upcoming year, and to address any other matters of Sector business properly before the Board. The
13 Board shall meet for those purposes not less than ninety (90) days prior to the Season Opening Date,
14 and at such meeting shall appoint an Enforcement Committee composed of five (5) persons. If the
15 Board fails to do so, the Manager shall appoint the Enforcement Committee. The Enforcement
16 Committee shall assist the Manager in setting and updating the liquidated damages amounts for
17 breaches of this Agreement and shall hear and decide Members’ appeals of the Manager’s contract
18 breach determinations and liquidated damages assessments.

19 10.3. Liquidated Damages Base Value and Multiplier Adoption. Not less than
20 sixty (60) days prior to each annual Season Opening Date, the Manager shall establish the market value
21 of an unprocessed pound of each Allocated Species (each such value being a “Base Value”), and transmit
22 such Base Values to the Enforcement Committee. In establishing such Base Values, the Manager may
23 take into account both the direct costs and the opportunity costs associated with an over-harvest of the
24 relevant species. Not less than thirty (30) days prior to each annual Season Opening Date, the
25 Enforcement Committee, in consultation with the Manager, shall adopt Base Values and Base Value
26 multipliers, and the liquidated damages amounts for breaches of this Agreement other than over-
27 harvest of a Member’s Harvest Share, which shall be based on the Enforcement Committee’s estimate
28 of the losses that the Sector and its Members could be expected to suffer as a result of such breaches.
29 Because the damages suffered by one or more other Sector Members as the result of a Member
30 harvesting an amount of Sector ACE in excess of its Harvest Share are likely to substantially exceed the
31 market value of the excess harvest, the Base Value multipliers shall not be less than three (3). Upon the

1 Enforcement Committee’s adoption of Base Values and Base Value multipliers, such Base Values and
2 Base Value multipliers will be the basis for calculation of damages for unreconciled Harvest Share
3 overages.

4 10.4. Liquidated Damages Calculation. The liquidated damages amount for each
5 pound by which a Member’s harvest of an Allocated Species exceeds such Member’s Harvest Share for
6 such species shall be the relevant Base Value, multiplied by the relevant liquidated damages multiplier.
7 The liquidated damages amounts for breaches of this Agreement, other than over-harvest of a
8 Member’s Harvest Share shall be as provided on **Exhibit E**.

9 10.5. Notice to Vessel Masters; Assumption of Liability. Each vessel harvesting a
10 Member’s Harvest Share, or participating in a fishery that may require utilization of a Member’s Harvest
11 Share (i.e., non-exempt monkfish), will be under the day-to-day command of the vessel’s master who
12 will to a significant degree have control over whether the vessel is operated in compliance with this
13 Agreement. Each Member shall ensure that the master(s) of the vessel(s) harvesting such Member’s
14 Harvest Share are aware of the terms and conditions of this Agreement governing the harvest of such
15 Member’s Harvest Share, including without limitation the Harvesting Rules, and shall have confirmed
16 their agreement to abide by such terms in writing. Each Member assumes all liability under this
17 Agreement arising out of or related to the actions of the master(s) operating such Member’s vessel(s).

18 10.6. Liquidated Damages Security. The Board may require that a Member that
19 has two (2) or more NMFS fishing regulation violations, or which has breached this Agreement or
20 another sector’s operations plan on two (2) or more occasions, post a bond or obtain a letter of credit
21 securing such Member’s payment and performance obligations under this Agreement in such amounts
22 as the Board deems appropriate, or may require such Member to personally guaranty, and/or have
23 other Members or third parties personally guaranty, such Member’s payment and performance
24 obligations under this Agreement.

25 10.7. Manager Action in Response to Apparent Breach. The Manager shall
26 monitor the Members’ compliance with the terms and conditions of this Agreement. If the Manager
27 becomes aware of an apparent breach of this Agreement by a Member, the Manager shall investigate
28 the matter, and if the Manager concludes that a Member has breached this Agreement, the Manager
29 shall notify such Member of the apparent breach and (if such breach is reasonably susceptible of cure)
30 provide such Member with an opportunity to cure the breach. If such Member fails to demonstrate to

1 the Manager, in the Manager’s sole and absolute discretion, that no breach occurred, or to cure the
2 breach within the time period directed by the Manager, taking into account the magnitude of the
3 breach and the potential consequences of the breach for the Sector and the other Members, the
4 Manager shall notify the Member in writing that the Manager is referring the alleged breach to the
5 Enforcement Committee, and shall notify the Enforcement Committee in writing of the alleged breach
6 and the proposed liquidated damages. Pursuant to Section 14, below, if during the investigation, notice
7 and cure period described above, the Manager concludes it is necessary for the protection of the
8 interests of the Sector and its Members, the Manager may issue a “Stop Fishing Order” to the Member
9 in apparent breach, and if such Member fails to cause the vessels harvesting its Harvest Share to
10 immediately stop fishing , the sector manager may take any action he/she deems necessary including
11 without limitation, self-help or court action which may include the seeking of injunctive relief.

12 10.8. Member Appeals. A Member receiving notice of an alleged breach and
13 proposed liquidated damages shall have five (5) days from the date that the Member receives the notice
14 to request an appeal hearing before the Enforcement Committee. If a Member fails to request a hearing
15 within such 5-day appeal period, the Member’s right of appeal shall expire, the Member shall be
16 deemed to have breached this Agreement in accordance with the Manager’s determination, and the
17 Member shall be obligated to pay the related liquidated damages. If a Member timely requests an
18 appeal hearing, the Manager shall consult with the Enforcement Committee and schedule an
19 Enforcement Committee meeting for that purpose. The Enforcement Committee shall make reasonable
20 efforts to schedule the meeting at a time and place such that the Member requesting the appeal is able
21 to attend, and shall provide the Member with at least thirty (30) days advance written notice of the time
22 and place of the meeting. At such meeting, the Enforcement Committee shall provide the Manager with
23 an opportunity to present evidence of the apparent breach, and shall provide the Member in apparent
24 breach with a reasonable opportunity to rebut such evidence. Per Section 9, above, the catch and
25 delivery data produced by the Manager shall be presumed accurate, and, absent manifest error, each
26 Member's obligations under this Agreement and all related documents may be enforced to their fullest
27 extent on the basis of such data. If the Enforcement Committee determines that a Member breached
28 this Agreement, the Sector shall have the right to collect from such Member the liquidated damages
29 amount provided for such breach under this Agreement.

30 10.9. Voluntary Compliance. In connection with breaches of this Agreement for
31 which a Member is liable to the Sector or other Sector Members for liquidated damages, the Sector shall

1 provide the breaching Member fifteen (15) days prior notice of its intent to exercise its rights of
2 collection, during which period the Member may propose an alternative method of compensating the
3 Sector and other Sector Members for the damages suffered as the result of such Member's breach. The
4 Enforcement Committee may approve or disapprove any alternative form of compensation in its sole
5 discretion, provided that if the breach at issue is an overharvest of a Member's Harvest Share, there
6 shall be no liquidated damages imposed if the Member in breach obtains sufficient Harvest Share from
7 other Members to offset the overharvest, and tenders conclusive evidence to that effect to the
8 Enforcement Committee. Such Member shall nevertheless remain liable for the costs and fees incurred
9 by the Sector in connection with the alleged breach, and the Sector shall be entitled to collect such costs
10 and fees if such Member fails to pay the same within ten (10) days of receiving the Sector's demand for
11 payment.

12 10.10. Liquidated Damages Collection and Related Expenses. If a Member fails to
13 resolve a breach of this Agreement through voluntary compliance measures approved by the
14 Enforcement Committee and performed by such Member on a timely basis, the Member in breach shall
15 pay the liquidated damages amount assessed by the Sector within ten (10) days of the end of the
16 voluntary compliance period described in Section 10.9, above. Liquidated damages amounts not paid
17 when due shall accrue interest at a rate of interest equal to the prime rate of interest announced by
18 Bank of America, or such other bank as the Board may select from time to time, as of the last day of the
19 voluntary compliance period plus twelve percent (12%). If a Member fails to pay the liquidated
20 damages amount assessed by the Enforcement Committee with interest within thirty (30) days of the
21 end of the voluntary compliance period described in Section 10.9, above, the Sector may pursue legal
22 action to collect the liquidated damages. In addition, in connection with Member breaches resulting
23 from an over-harvest of a Member's Harvest Share, the Sector (acting through the Enforcement
24 Committee) may take possession of an amount of the Member in breach's Harvest Share for the
25 overharvested species for the year in which the contract breach occurred and, if necessary, in
26 subsequent years, in a total amount equal to three (3) times the amount of such over-harvest, provided
27 that the amount of a Member's liability to the Sector for over-harvest shall be reduced proportionately
28 to the extent that the Sector does so. In addition to liquidated damages, the Sector shall be entitled to
29 all fees, costs and expenses, including attorney's fees, actually incurred by the Sector in connection with
30 any action to collect liquidated damages from a Member in breach of this Agreement, whether or not
31 the Sector prevails in such action.

1 10.11. Consequential Damages for Gross Negligence or Willful Misconduct. In
2 addition to the liquidated damages imposed under this Section 10, each Member shall be liable for
3 consequential damages in connection with a breach of this Agreement resulting from the Member's
4 gross negligence or willful misconduct. Each Active Member shall be liable for the consequential
5 damages arising out of or related to the gross negligence or willful misconduct of the captain operating
6 such Active Member's vessel(s).

7 10.12. Distribution of Damages. Where a Member's breach causes one or more
8 other Members to harvest less than their Harvest Share, damages awarded to the Sector under this
9 provision shall first be distributed *pro rata* among the Members whose harvest was reduced, with each
10 Member receiving a fraction of such funds, the numerator of which is the amount by which such
11 Member's catch was less than such Member's allocation or apportionment, and the denominator of
12 which is the sum of the aggregate amount of by which all Members' allocations or apportionments were
13 reduced as a result of the breach, up to the amount of loss suffered by each such Member as the result
14 of the breach. Any damages awarded to the Sector in excess of those distributed to other Members
15 under this Section, and any damages awarded in connection with a breach which does not cause any
16 other Member's allocation or apportionment to be reduced, shall be retained by the Sector and applied
17 to the costs of Sector operations.

18 11. Joint Liability and Indemnification. Each Member acknowledges that the Sector's
19 Members may be held jointly liable for ACE overages, discarding of legal-sized fish and misreporting of
20 catch landings or discards. Further, each Member acknowledges that should a hard total allowable
21 catch ("TAC") allocated to the Sector be exceeded in a given fishing year, the Sector's allocation will be
22 reduced by the overage in the following fishing year, and the Sector, each vessel participating in the
23 Sector and each vessel operator and/or vessel owner participating in the Sector may be charged, as a
24 result of said overages, jointly and severally for civil penalties and permit sanctions pursuant to 15 C.F.R.
25 Part 904, and that if the Sector exceeds its TAC in more than one (1) fishing year, the Sector's ACE may
26 be permanently reduced or the Sector's authorization to operate may be withdrawn.

27 In consideration of the foregoing, each Active Member agrees to indemnify, defend and hold the Sector
28 and all other Members harmless from and against all liabilities, claims, fines, penalties and forfeitures of
29 any nature whatsoever arising out of or related to any breach of this Agreement related to such Active
30 Member's harvest of Sector ACE, and each Member agrees to indemnify, defend and hold the Sector
31 and the other Members harmless from and against all liabilities, claims, fines, penalties and forfeitures

1 of any nature whatsoever arising out of or related to such Member's breach of this Agreement. Each
2 Member's indemnification obligation under this Section 11 is separate from and in addition to each
3 Member's liquidated damages and consequential damages obligations under Section 10, above. Each
4 Member authorizes the Board to require that a Member's obligations under this Section 11 be secured
5 by a surety.

6 12. Membership Termination. No Member may terminate its membership in the Sector
7 other than in accordance with this Section 12. A Member that has agreed to join the Sector prior to the
8 Effective Date may withdraw from Sector membership prior to the Effective Date without penalty or
9 prejudice. Thereafter, only a Member that is not in breach of this Agreement and that has no
10 outstanding Sector performance or payment obligations may terminate its membership in the Sector,
11 and may do so only in compliance with the terms and conditions of this Section 12. Notwithstanding the
12 foregoing, the Board may terminate the membership of a Member in breach of its payment or
13 performance obligations under this Agreement, as the Board deems appropriate in its sole discretion.

14 Subject to the provisions of this Section 12 regarding withdrawal prior to the Effective Date, above, a
15 Member that is eligible to terminate such Member's Sector membership may do so only by providing
16 written notice to that effect to all other Members on or before March 15, 2016 or such date as the
17 Board may from time to time establish for that purpose (the "Termination Date") each fishing year. A
18 Member that fails to provide such notice by the Termination Date shall be deemed to have
19 automatically renewed its Sector membership for the following year, and all other Members shall be
20 entitled to act in reliance on such renewal accordingly. If any Member provides a membership
21 termination notice by the Termination Date, each of the other Members shall have ten (10) days from
22 the date they receive such notice to terminate their membership as well, notwithstanding the
23 Termination Date notice deadline. Termination of membership in the Sector shall be effective as of the
24 final day of the current fishing year.

25 If a Member is in breach of this Agreement or has outstanding Sector payment or performance
26 obligations as of the Termination Date, unless the Board takes action to terminate such Member's
27 membership, such Member's membership shall be deemed renewed for the following year,
28 notwithstanding any notice of withdrawal such Member may give, and the Sector shall have the
29 authority to file an application for a Sector allocation including such Member as a Member of the Sector.
30 Each Member hereby grants the Sector a power-of-attorney, coupled with an interest, for such

1 purposes, and authorizes each of the Sector's officers to take any and all actions and execute any and all
2 documents necessary or convenient to give effect to this provision.

3 Termination of membership shall not relieve a person or entity of any obligations under this Agreement
4 related to the period during which such person or entity was a Member, including but not limited to
5 liquidated damages obligations for breach of this Agreement, consequential damages obligations for
6 breaches resulting from acts of gross negligence or willful misconduct, or indemnification obligations
7 related to such person or entity's actions as a Member.

8 13. Expulsion. A Member may be expelled from the Sector at any time for: (i) a knowing,
9 willful breach of this Agreement; (ii) any alleged breach of this Agreement that is either not appealed
10 pursuant to Section 10.8, or is upheld by the Enforcement Committee after being appealed, and which
11 such Member fails to cure through voluntary compliance approved by the Enforcement Committee
12 pursuant to Section 10.9, or by paying liquidated damages in accordance with Section 10.10; (iii)
13 perpetrating a fishery regulation violation that exposes Sector Members to joint liability for such
14 violation. A Member shall be immediately and automatically expelled from the Sector if such Member
15 ceases to be eligible to participate in the Sector or if such Member engages in conduct that exposes the
16 Sector or other Sector Members to antitrust or unfair trade practice liability. As of the date of expulsion,
17 the expelled Member shall lose all rights to harvest any portion of the Sector's ACE unless the expelled
18 Member is re-admitted. Expulsion shall not relieve a Member of the obligation to pay fees that were
19 levied prior to the date of expulsion, or to pay liquidated damages and costs and fees related to an
20 action or omission by the expelled Member that preceded the date of expulsion. The Sector shall notify
21 NMFS immediately upon a Sector Member's expulsion; by electronic email, followed by posted mail.

22 14. Stop Fishing Order; Injunctive Relief. Sector members may be held jointly and
23 severally liable if (a) a Sector exceeds its ACE, (b) a Sector member discards legal-sized fish, or (c) a
24 Sector member misreports landings or discards. If a Sector exceeds its ACE in a given fishing year, the
25 Sector's allocation may be reduced by the overage in the following fishing year, and the Sector, each
26 vessel, and vessel operator and/or vessel owner participating in the Sector may be jointly and severally
27 liable for civil penalties and permit sanctions pursuant to 15 C.F.R. Part 904 in connection with such
28 overage. In addition, if a Sector exceeds its ACE in more than one (1) fishing year, NMFS may
29 permanently reduce the Sector's ACE or withdraw the Sector's authorization to operate.

1 The Sector will exceed its ACE only if one or more members overharvest their Harvest Share, as (subject
2 to the provisions of Section 7.1, above) the Sector's ACE, less the Reserve, is fully distributed to the
3 Members as their Harvest Shares. A Member's overharvest of its Harvest Share would be a breach of
4 this Agreement for which a Member would be liable for damages. Because each incident of ACE
5 overharvest would constitute a separate violation of the Amendment 16 regulations, and because each
6 such incident would be treated as a prior violation by NMFS for purposes of determining appropriate
7 fines, penalties and forfeitures in connection with a subsequent violation, the damages suffered by the
8 Sector as a result of an overharvest by one or more Members that resulted in the Sector overharvesting
9 its ACE would be consequential and irreparable.

10 In consideration of these circumstances, and in consideration for the Sector waiving its right to require
11 each Member to obtain a security bond or pledge collateral to secure its obligation to the Sector to limit
12 its harvest of Sector ACE to such Member's Harvest Share, which consideration each Member agrees it
13 has received and is sufficient, the Members hereby agree as follows.

14 14.1. The Sector, acting through the Manager, has the authority to issue to any
15 Member that the Manager determines is in breach a Stop Fishing Order, and upon such issuance, such
16 Member shall immediately cause all vessels harvesting its Harvest Share to cease doing so, and such
17 Member shall not permit the vessels harvesting its Harvest Share to resume doing so unless and until
18 the Manager rescinds the Stop Fishing Order. Each Member hereby releases the Sector, all other
19 Members and the Manager from any and all liability of any nature whatsoever, including but not limited
20 to both contractual and tort liability, for any direct or indirect, incidental or consequential losses or
21 damages that a Member may suffer as a result of complying with a Stop Fishing Order.

22 14.2. If any vessel(s) harvesting a Members' Harvest Share does not immediately
23 comply with a Stop Fishing Order in accordance with its terms, the Sector may exercise remedies of self
24 help and take any and all other action as the Sector determines necessary to enforce the Stop Fishing
25 Order and this Agreement, including injunctive relief. In seeking injunctive relief, the Sector Manager's
26 burden of proof (if any) shall be satisfied by A. (production of a copy of the Stop Fishing Order) and B.
27 (evidence that the vessel continued to fish thereafter).

28 The Member shall be liable to the Sector for all losses, costs, damages, fees and expenses incurred by
29 the Sector in connection with enforcement, including but not limited to, the costs of obtaining any bond
30 the Sector may be required to post, whether or not the Sector prevails.

1 15. Permit Transfer/Sale. A Member may transfer a Permit to a party other than a
2 Member, subject to a Right of First Refusal (the “ROFR”), which may be adopted or amended from time
3 to time by the Board, in favor of **Active Members** of the Sector, **Active Members** of other Northeast
4 Fishery Sectors, and certain other parties. No Member may transfer such Member’s “LA MS” permit or
5 “MRI” permit to a person who is not an **Active Member** unless such person assumes all of the
6 transferring Member’s obligations under this Agreement as of the effective date of such transfer. A
7 person other than a Member who receives a Member’s “LA MS” permit or “MRI” permit from a Member
8 in accordance with this Section 15 (a “Transferee”) shall only be eligible to participate in the Sector for
9 the balance of the fishing year during which the transfer occurs, and thereafter may only remain a
10 Sector Member if such Transferee applies for and is admitted to Sector membership in accordance with
11 Section 2, above.

12 15.1. The Transferee shall be deemed a **Non-Active Member** of the Sector, with
13 no rights to harvest any Sector ACE, including but not limited to the ACE allocated to the Sector in
14 connection with the assets acquired under the Permit Offer. A Transferee wishing to acquire **Active**
15 **Member** status during the fishing year in which the permit transfer occurred must submit a written
16 request to the Board for consideration. The Board will have the authority to approve, conditionally
17 approve or deny such request.

18 16. Release and Waiver of All Claims against Sector Manager; Indemnification and Hold
19 Harmless. Each Member acknowledges that the effectiveness of this Agreement depends on the
20 Manager exercising reasonable independent business judgment in good faith in reviewing and approving
21 or disapproving Members’ fishing plans, monitoring harvest of the Sector’s ACE, and enforcing the terms
22 and conditions of this Agreement. Each Member hereby waives and releases any and all claims against
23 the Manager arising out of or relating to Manager’s performance under this Agreement, other than
24 those arising solely from the gross negligence or willful misconduct by the Manager, as conclusively
25 determined by a court of final and competent jurisdiction. The Sector and the Members agree to jointly
26 and severally indemnify, defend and hold the Manager harmless from and against any third party claims,
27 damages, fines, penalties and liabilities of any kind whatsoever asserted against the Manager in
28 connection with the Manager’s performance under this Agreement, other than those arising out of gross
29 negligence or willful misconduct by the Manager.

30 17. Sector Membership Fees. At least thirty (30) days prior to the Effective Date, and at
31 least thirty (30) days prior to each annual Termination Date thereafter, the Board shall notify the

1 Members in writing of the amount of Sector membership fees that the Board has adopted for the
2 upcoming year of Sector operations.

3 18. Binding Arbitration. Each Member and the Sector agree to exercise their best good
4 faith commercially reasonable efforts to resolve any disputes arising under this Agreement through
5 direct negotiations. Breaches of this Agreement which are not resolved through direct negotiation shall
6 be submitted to binding arbitration upon the request of any party at interest. Any person nominated as
7 an arbitrator hereunder by any person shall be a person of mature, sound and reasonable business
8 judgment and experience and either have (a) held a federal fishing master license for at least ten (10)
9 years, or (b) been an attorney at law practicing in the area of fisheries for at least ten (10) years.

10 The party's written request for arbitration shall include the name of the arbitrator selected by the party
11 requesting arbitration. The respondent party shall have ten (10) days to provide written notice of the
12 name of the arbitrator it has selected, if any. If the other party timely selects a second arbitrator, the
13 two arbitrators will jointly select a third arbitrator within ten (10) days. If the other party does not
14 timely select the second arbitrator, there shall be only the one arbitrator. The single arbitrator or the
15 three (3) arbitrators so selected will schedule the arbitration hearing as soon as possible thereafter. Any
16 arbitrator must have no material ties to the Sector or any Member. The decision of the arbitrator (or in
17 the case of a three (3) arbitrator panel, the decision of the majority) will be final and binding. The
18 arbitration will be conducted under the rules of (but not by) the American Arbitration Association. The
19 parties will be entitled to limited discovery as determined by the arbitrator(s) in his, her or their sole
20 discretion. All costs of arbitration shall be borne by the party requesting the same. Each party shall bear
21 its own costs of preparation and presentation, unless, in the case of the Sector, the Board determines to
22 assess such costs to the applicable Member, which costs shall be immediately due and payable. In no
23 event will arbitration be available pursuant to this paragraph after the date when commencement of
24 such legal or equitable proceedings based on such claim, dispute, or other matter in question would be
25 barred by an applicable statute of limitations.

26 The final decision of the Arbitrators shall not be subject to review or appeal by any other person,
27 including any court, with the exception of NMFS in its oversight role for the purposes of statutory and
28 regulatory compliance and consistency. Any right to any such appeal is hereby irrevocably waived and
29 relinquished. Such final decision shall bind the parties and shall not require any further action of
30 enforcement or collection once docketed with the records of the Sector. In breach by any Member of

1 performance thereof, the Manager may *sua* sponte and without any notice or hearing issues a Stop
2 Fishing Order or an Order of Expulsion respecting such Member in breach.

3 The Sector shall, without limiting the foregoing rights and procedure, also have the right to enforce
4 any decision against any Member in breach by an action for specific performance, declaratory relief, *lis*
5 *pendens* or any other action in a court of law having jurisdiction of the parties, it being understood and
6 agreed that the Federal court for the District of Massachusetts and the Massachusetts Superior Court
7 for the County where the registered office of the Sector is located shall be deemed to have such
8 jurisdiction

9 19. No Collective Marketing. The Members acknowledge that the Sector has not been
10 formed or qualified as a collective marketing association. The Members therefore agree that nothing in
11 this Agreement shall be construed as permitting or obligating Members to collaborate regarding the
12 processing, marketing or sales of the product produced from catch harvested under their Harvest
13 Shares. Each Member shall conduct all sales of such catch in competition with the other Members, and
14 shall hold ex-vessel price information as confidential from other Members until such information
15 becomes public or until such price information is six months old, unless and until the Sector is properly
16 qualified under State and Federal law as a collective marketing association.

17 20. Amendment and Incorporation by Reference. The Exhibits hereto and the collateral
18 documents referred to herein are and shall all be as the same may be amended from time to time. Any
19 amendments thereto or hereto which are approved by the Board shall, as a condition of further
20 membership of any Member in the Sector be deemed without any requirement of acceptance, consent
21 or execution by any such Member to have been adopted, ratified and confirmed by such Member.

1 **EXHIBIT A: HARVESTING RULES FOR FY 2015 and FY 2016**

2 *The Members and the Participating Vessels of **XII Northeast Fishery Sector, Inc.**, agree to be legally*
3 *bound to follow the Harvesting Rules for the Fishing Year 2015 (May 1, 2016 to April 30, 2017) as*
4 *described herein, in accordance with all provisions of the Sectors Operations Plans and Agreement*
5 *(herein "Agreement"), notwithstanding those rules and regulations applicable to the common pool*
6 *Multispecies vessels.*

7 **1. ANNUAL CATCH ENTITLEMENT:** The members agree that they will not collectively harvest more
8 than the Sector ACE, as adjusted by transfers, for any allocated groundfish stocks. Furthermore, the
9 members agree that once an annual ACE is reached no member will fish commercially with any
10 fishing gear capable of catching any of the allocated groundfish stocks or other species managed
11 under plan within the applicable area(s): except in those situations where a member is participating
12 in an exempted fishery, or if a plan submitted by the Sector under §648.87(b)(2)(xiv) in this
13 document has been approved by NMFS. The Sector members may resume fishing activities if
14 additional ACE is secured through inter-sector ACE transfer. The Annual Catch Entitlement, allocated
15 by NMFS to NEFS XII for FY 2015 & FY 2016 will be available in the Northeast Multispecies Fisheries
16 Sector Operations Plans and Contracts and Allocation of Northeast Multispecies Annual Catch
17 Entitlement Final Rule as published by NMFS.

18 **2. QUOTA MANAGEMENT:** Sector vessels, the dealers to which they are delivering fish and monitors
19 will use a PC based software for collecting data, reporting catch, landings and discards, and
20 reporting catch area information for logbook and stock attribution purposes. The Sector will utilize a
21 quota release program that sets forth overall sector quota (ACE) release targets by species and
22 individual member Harvest Share targets as they relate to the Sector targets. Interim and annual
23 targets will be considered in the development of the Sector's Fishing Plan. The Sector Manager will
24 monitor the trajectories to interim and annual targets for the Sectors ACE's as well as for the
25 individual members Harvest Shares. The Sector expects to utilize ACE Transfers to balance the
26 Sector's ACE during the fishing year to prevent exceeding Sector ACE and to assist Members Harvest
27 Share management.

28 **3. RESERVE:** For each stock held by the Sector, the quota release program will utilize an initial target
29 trajectory that is not to exceed **90%** of the current quota held by the Sector as adjusted by ACE
30 transfers. The remaining **10%** is the minimum aggregate total of the Reserve which will be set aside
31 prior to Harvest Share distribution to Members. The Sector, through their Board, may modify the
32 RESERVE holdback percentages for any or all stocks held by the Sector to prevent under or over
33 harvest of the Sector's ACE.

34 **4. SLOWING CATCH:** The quota release program will incorporate a list of thresholds for both Sector
35 ACE and member Harvest Shares, for the purposes of alerting the Sector Manager and members.
36 Thresholds to "Slow Catch", "Initiate Trading" and "Cease Fishing" will be incorporated into the
37 Sector quota monitoring system. Members Harvest Shares are net from the Reserve. Therefore,

1 Harvest Shares trajectories will be set to the Harvest Share. Once 95 % of any Sector ACE is
2 attained, slowing mechanisms such as tiered landing limits that apply differential counting of quota
3 or service fees to each tier in excess of agreed landing limits may be utilized. When such slowing
4 mechanisms are triggered or at any time during the fishing year, the Board may direct the Sector
5 Manager to seek additional ACE through an ACE transfer with other sectors.

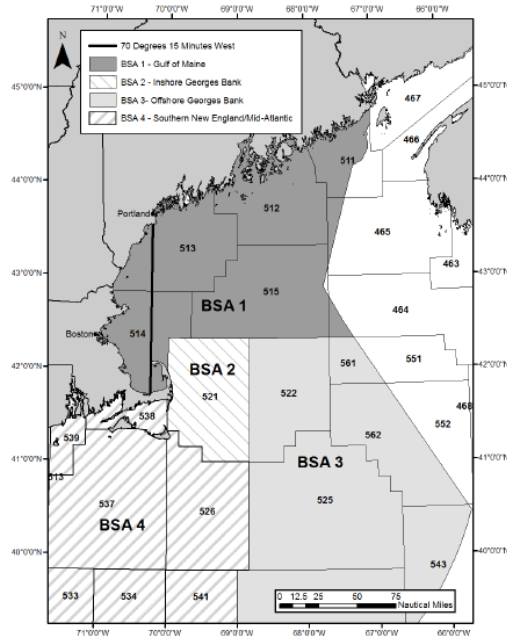
6 **5. FULL RETENTION OF LEGAL SIZED FISH:** All legal sized fish of allocated stocks harvested during the
7 fishing operations must be retained and counted against the Sector's ACE allocation, unless
8 otherwise exempted.

9 **6. DAYS AT SEA:** Each participating permit and participating vessel will be allocated Days-At-Sea (DAS)
10 by the Regional Administrator. Sector Member permits will not be subject to the DAS reduction in
11 Amendment 16 for common pool vessels. Members will be required to use a DAS, as specified in
12 controlling FMPs, when conducting fishing operations that are not exempted from DAS usage, for
13 example, when fishing under a monkfish DAS.
14

15 **7. STOCK AREA DECLARATION:** Prior to leaving port, sector vessels will declare one or more than one
16 of the four Broad Stock Areas (BSA) as identified in Amendment 16 and relating implementing
17 regulations.

18 **7.1 Inshore Gulf of Maine Declaration:** For the purpose of providing the Sector and its
19 Manager with a greater understanding of the fishing patterns conducted by their
20 members, the following reporting requirements have been crafted and adopted by the
21 Sector in collaboration with all Northeast Groundfish Sectors in the region. These
22 provisions afford Sectors an administrative tool to track fishing activity west of the 70:15.
23 The implementation of the following requirements is conditioned on the adoption by all
24 Northeast Groundfish Sectors in their FY 2016 Operations Plans. In the event this provision
25 is not adopted by all Northeast Groundfish Sectors the specifications below will not be
26 implemented by this Sector.

27 **7.1.1** For the purpose of Section 7.1 of the Harvesting Rules, the portion of BSA 1 west
28 of 70:15 to the shoreline north to the Maine Coast and South to Cape Cod would
29 be defined as **Inshore GOM**.



1
2 **7.1.2 When an Observer/Monitor is onboard.** The Sector Vessel may declare and fish
3 in all Broad Stock Areas, including the portion of BSA 1 defined as the Inshore
4 GOM defined in this section.

5 **7.1.3 When an Observer/Monitor is NOT onboard:**

- 6 **A.** If the Sector Vessels intends to fish West of the 70:15 in the area described in
7 Section 7.1.1 of these Harvesting Rules as the Inshore GOM, at any time
8 during a trip, the vessel must declare BSA 1 only and the Sector Vessel may
9 not conduct any fishing activity outside of the area defined as BSA 1 for the
10 entire trip.
- 11 **B.** If the Member Vessel declares more than one Broad Stock Area on a trip, the
12 vessel is prohibited from conducting fishing activity west of the 70:15 in the
13 area described in Section 7.1.1 of **Exhibit A: Harvesting Rules** as the inshore
14 GOM.
- 15 **C.** The Member Vessel must indicate acknowledgement of this restriction by
16 transmitting a Trip Start Hail, through their VMS unit or third party software,
17 in accordance with process established by the Sector Manager and Board of
18 Directors.

19
20 **7.1.4 XII,** Northeast Fishery Sector Board of Directors reserves the right to remove
21 and/or modify this Inshore GOM Declaration provision at any time during the
22 2016 Fishing Year.

23
24 **8. TRIP HAIL:** Sector vessels will comply with any Hail requirements established by the Sector and/or
25 Agency.

- 1 **8.1 METHOD OF TRANSMISSION HAILS:** The sector vessels will be transmitting HAILS (Trip
2 Start and Trip End) electronically via the email messaging component of their VMS units.
3 All data necessary to the requirements will be sent in compressed formats to minimize
4 characters and maximize message capacity directly to the Sector’s Server which will
5 collect, store, convert and relay all data elements necessary to meet various requirements.
6 The Sector will relay required HAILS (Trip State and Trip End) to NMFS, immediately upon
7 receipt. In the event that the primary system is unavailable, Sector Vessels will utilize a
8 backup system, including but not limited to, direct cell phone or radio transmission
9 between the vessel and NMFS OR a relay through the Sector Manager.
- 10 **8.2 TRIP START HAIL:** If required when using a Sector Exemption or notified by the Sector
11 Manager that a Trip Start Hail must be completed such hail shall be made prior to leaving
12 port on a trip in which the catch of allocated stocks will count against the Sectors ACE i.e. a
13 sector trip, each Active Vessel must notify their Sector Manager that the vessel is
14 departing on a sector trip by completing a Trip Start Hail. The Trip Start Hail (“TSH”) must
15 include:
- 16 **8.2.1** Operator’s Permit Number
 - 17 **8.2.2** Vessel Trip Report (VTR) serial number
 - 18 **8.2.3** Whether an Observer (NEFOP) or At-Sea Monitor (ASM) is onboard
 - 19 **8.2.4** Usage of specific sector exemptions which require identification in the TSH
 - 20 **8.2.5** Usage of specific sector plan provisions which require identification in the TSH
 - 21 **8.2.6** Landing Port City
 - 22 **8.2.7** Landing State (abbreviation)
 - 23 **8.2.8** Estimated time and date of arrival in port
 - 24 **8.2.9** Estimated time and date of offloading (required **only** for trips less than 6 hours in
25 duration **or** if fishing within 6 hours of the offload port)
 - 26 **8.2.10** Any comments as directed by the Sector Manager or NMFS Regional
27 Administrator
- 28
- 29 **8.3 TSH FOR TRIPS LESS THAN SIX HOURS OR OCCURRING WITHIN SIX HOURS OF PORT:** For
30 trips less than six hours in length or occurring within six hours of port, the estimated time
31 of arrival to port, offload location and estimated offload time will be provided in the Trip
32 Start Hail (TSH). The Trip End Hail (TEH) will be sent upon completion of the last tow with
33 required updated information. An alternative timing for the TEH may be implemented
34 during FY 2016 if agreed upon by the Sector, and NMFS.
- 35 **8.4 TSH FOR TRIPS LESS THAN SIX HOURS OR OCCURRING WITHIN SIX HOURS OF PORT:** For
36 trips less than six hours in length or occurring within six hours of port, the estimated time
37 of arrival to port, offload location and estimated offload time will be provided in the Trip
38 Start Hail (TSH). The Trip End Hail (TEH) will be sent upon completion of the last tow with
39 required updated information. An alternative timing for the TEH may be implemented
40 during FY 2016 if agreed upon by the Sector, and NMFS.

- 1 **8.5 TRIP END HAIL:** The trip-end hail report must be submitted at least 6 hours in advance of
2 landing for all trips at least 6 hours in duration or occurring more than 6 hours from port.
3 For shorter trips, , i.e. trips less than 6 hours in length or occurring within 6 hours of port,
4 the trip end hail will be sent upon completion of the last tow or haul An alternative timing
5 for the trip end hail may be implemented during FY 2016 if agreed upon by the sector, the
6 monitoring provider, and NMFS. The trip end hail must include the following:
7 **8.5.1** Operator’s Permit Number
8 **8.5.2** Vessel Trip Report (VTR) serial number
9 **8.5.3** First landing port city
10 **8.5.4** First landing State (abbreviation)
11 **8.5.5** Dealer/Offload Location
12 **8.5.6** Estimated time and date of arrival
13 **8.5.7** Estimated time and date of offload
14 **8.5.8** Second offload port city
15 **8.5.9** Second offload State (Abbreviation)
16 **8.5.10** Total Groundfish Kept in pounds
17 **8.5.11** Total non-Groundfish kept in pounds
18 **8.5.12** Any comments as directed by the Sector Manager or NMFS Regional
19 Administrator
20
21 **9. VESSELS FISHING MULTIPLE STOCK AREAS:** If a vessel declares into multiple stock areas the vessel
22 will complete a catch report each time the vessel changes areas.
23
24 **10. FISHING IN US/CA AREAS:** When fishing in the US/CA area, a sector vessel that fishes in more than
25 one US/CA area or more than one of the four stock areas will complete a catch report each time the
26 vessel changes areas. Sector vessels will track their Eastern US/CA sub-ACE for Cod and Haddock
27 separately while fishing in the Eastern Area. Sector vessels may fish in all US/CA areas as well as
28 Open areas in the same trip. In addition to VMS declaration requirements, the vessel will declare
29 the stock areas (of the Four A16 reporting areas) intended to be fished prior to starting a trip.
30
31 **11. CLOSED AREAS:** Participating vessels may fish in closed areas to the extent authorized by NMFS.
32
33 **12. CATCH REPORTS:** All Active Member vessels fishing groundfish will be required to submit complete
34 catch records to the Sector Manager electronically via VMS email or other electronic means prior to
35 entering port to end a trip. Catch reports will include, at a minimum, all data elements of a fully
36 compliant VTR logbook record/s. The Sector Manager may modify, at his/her discretion, the
37 frequency of reporting transmissions to meet programmatic needs, such as, but not limited to,
38 participation in a SAP, or internal quota management requirements. In the event a Member vessel is

1 unable to submit his catch records electronically, the Member, will have no more than twenty-four
2 (24) hours to provide such reports to the Sector Manager, upon completion of vessel offload.
3

4 **13. VESSEL LOGBOOKS (VTRs/e-VTR):** All sector members will comply with applicable reporting
5 requirements including submission of Vessel Trip Reports (VTRs). If Electronic Vessel Trip Reports (e-
6 VTRs) are approved by the Regional Administrator, Sector Members will submit e-VTRs in the format
7 required by NERO. Sector Members will execute all documents necessary to meet legal
8 requirements for the purpose of facilitating e-VTR service.
9

10 **14. WEEKLY/DAILY REPORTS:** The Sector Manager, or his/her designated representative, will submit
11 weekly or daily Sector Reports of all landings and discards by sector vessels, to NMFS. The Sector
12 will submit required reports, using the format and procedures prescribed by NMFS. The reports
13 required by NMFS are the *Sector Manager ACE Status Report, Sector Manager Detailed Report, and*
14 *Sector Manager Trip Issue Report* as codified in §648.87(b)(1)(vi)(B). Specifically, the *Sector Manager*
15 *Detailed Report* provides information down to the sub-trip level about each sector trip for a given
16 week, regardless of completeness of the data. The information includes stock, gear, mesh
17 categories, landing amounts, discards and total catch. The *Sector Manager Trip Issue Report*
18 provides information about the sector trips for a given week that have enforcement or other issues.
19 The *Trip Issue Report* allows the sector to briefly describe to NMFS any enforcement or reporting
20 compliance issues, violations of the Sectors operations plan and regulation, and general problems
21 with monitoring or sector operations during the reporting period. One *Trip Issue Report* is
22 submitted per reporting period. The *Sector Manager ACE Status Report* documents the ACE status
23 calculations, which allows NMFS to cross check totals as stipulated in Amendment 16. In the event
24 that the Sector triggers daily reporting for a specific allocated stock, the *Sector Manager Daily ACE*
25 *Status will* provide the mean for a sector manager to report their Sectors ACE status calculations on
26 a daily basis if the “trigger point” i.e. thresholds specified in 14.1 have been reached during the
27 current Fishing Year. These reports are cumulative in nature from the start of the fishing year until
28 the current reporting week and are adjusted retroactively as data becomes available or issues
29 documented in JIRA are resolved. JIRA is an issue tracking application implemented by NMFS, which
30 should be used to report all data quality issues to the appropriate people for research and
31 correction process.
32

33 **14.1 REPORTING THRESHOLDS THAT TRIGGER DAILY REPORTING:** The reporting frequency for
34 the sector manager’s ACE Status Report will be increased to daily when 90% of any of the
35 sector’s ACEs is reached. The Sector Manager, or a designated representative, must notify
36 NMFS immediately by email if the threshold that triggers daily reporting has been
37 reached. During the period when a sector has reached or exceeded 90% of any of its ACEs,
38 daily ACE Status and Detailed Reports must be submitted only on a day when a member
39 vessel lands, or when the sector engages in an ACE transfer of a stock that is exceeding the
40 90% threshold.

1
2 An alternative threshold for triggering daily reporting may be implemented during FY 2016
3 if agreed upon by the sector and NMFS.
4

5 **14.2 ENFORCEMENT ISSUES:** The Members acknowledge that the Sector Manager *must* include
6 any enforcement or reporting compliance issues, including violations of Operations Plan
7 (excluding those sections identified as administrative provisions in this document as
8 identified in **Exhibit F**); violations of regulations, or general problems with monitoring or
9 sectors operations in their *Trip Issue Report* which is submitted to NMFS weekly.
10

11 **15. ANNUAL REPORT:** Within sixty (60) days of the end of the fishing year the Sector Manager will
12 submit an annual report to NMFS that summarizes: fishing activities of Members, including harvest
13 levels of all species by sector vessels (landings and discards by gear types); enforcement actions; and
14 any other relevant information required to evaluate the performance of the Sector. The actual date
15 of submission will be specified by NMFS, which has been previously based in part on completeness
16 of various data sets including but not limited to final reconciliation of ACE usage and availability of
17 final fishing year data generated by NMFS. In addition, the Annual Report will report the number of
18 sector vessels that fished for regulated groundfish and their permit numbers (when such disclosure
19 does not violate protection of confidentiality); number of vessels that fished for other species;
20 method used to estimate discards; landing port used by sector vessels while landing groundfish; and
21 any other additional information requested by the Regional Administrator for inclusion in the
22 Annual Report. The Sector will submit required reports using the format and procedures prescribed
23 by NMFS.
24

25 **16. STOCK ATTRIBUTION:** The Sector Manager will utilize landings information from each trip and apply
26 logbook area information to calculate stock attribution ratios for all applicable species.
27

28 **17. DISCARD RATES AND IN-SEASON DISCARD ESTIMATES:** The Sector manager (or his/her designated
29 representative) will derive stock specific discards for each trip. If the trip is observed by either an at-
30 sea monitor or a Northeast Fisheries Observer Program (NEFOP) observer, discards will be derived
31 based on data collected during that trip and will account for all hauls (observed and unobserved) on
32 that trip. If the trip is not observed, discards will be derived using the NMFS-provided discard rate
33 resulting from the NMFS method to estimate 'in-season' discard rates, which may not include data
34 from research trips or sector trips using certain exemptions.
35

36 **18. RESERVED FOR FUTURE USE:**
37

38 **19. DATA MANAGEMENT:** The sector vessels will be transmitting catch data electronically via the email
39 messaging component of their VMS units. All data necessary for sector ACE management, including
40 all elements of VTR logbook and daily / weekly reporting requirements will be sent in compressed

1 formats to minimize characters and maximize message capacity. Notwithstanding reporting
2 requirements that cannot be altered by a sectors operations plan, the **Sector's server** will be
3 capable of collecting, storing, converting and relay all data elements necessary to meet all reporting
4 requirements in the formats required by the recipients
5

6 The Sector, acting through its Manager, will maintain database(s) of vessel trip reports (VTR), dealer,
7 At-Sea (ASM), and NEFOP Observer reports. In addition, the Sector will maintain any other database
8 it determines necessary for its operations. NMFS will maintain a NEFOP/ASM database and will
9 provide the Sector with data from NEFOP and the ASM program.

10
11 **20. PROOF OF SECTOR MEMBERSHIP:** Upon approval of the Sector, each sector vessel will be issued a
12 Letter of Authorization ("LOA"), which will specify the exemptions that have been approved for the
13 Sector. Each Member agrees that its sector vessels **must** comply with all requirements stipulated in
14 the LOA and all applicable federal regulations and laws not specifically exempted in the LOA.
15

16 Furthermore, Member agrees that its sector vessels shall maintain the LOA, and a copy of the
17 Sector Agreement and Harvesting Rules on-board at all times while fishing on a 'sector-trip'.
18

19 **21. SECTOR SPECIFIC EXEMPTIONS:** As referenced in §4.0 of this Agreement all Sectors are granted the
20 following **Universal Exemptions**.

21 **21.1** All Groundfish DAS requirements, including days-at-sea (DAS) reductions, differential
22 groundfish DAS counting, the 3/15 rule for gillnets, and 24-hour DAS counting. NE
23 multispecies (DAS) requirements to persecute other fisheries as specified in §§ 648.92
24 and 648.32, such as monkfish and skate continue to apply.

25 **21.2** Trip limits on NE multispecies stocks, except Atlantic Halibut, windowpane flounder,
26 ocean pout and Atlantic wolffish.

27 **21.3** Seasonal Closed Areas (currently Georges Bank seasonal closure in May)

28 **21.4** Additional mortality controls adopted by Amendment 16, including additional seasonal
29 or year-round closures, gear requirements, DAS reductions, differential DAS counting,
30 and/or restricted gear areas.

31 **21.5** Vessels are exempt from Gulf of Maine Cod Protection Closures IV (October) and V
32 (March), but must comply with GOM Cod Protection Closures I (May), II (June), and III
33 (November, December, and January).

34 **21.6** The 6.5" minimum mesh size restriction for trawl gear specified at § 648.80(a)(4)(i)
35 when using a haddock separator or Ruhle trawl within the GB Regulated Mesh Area
36 (RMA), provided the vessel uses a codend with at least 6" minimum mesh size.
37

38 In addition to the Universal Exemptions granted to all Sectors, as referenced above and in §4.0 of
39 this Agreement, **Members agree to abide by the following obligations as specified and**

1 authorized in their LOA, in order to utilize these Sector Specific Exemptions. Furthermore,
2 Members acknowledge that specific details pertaining to certain exemptions are located in
3 Exhibit B as required by NMFS:
4

5 21.7 120-Day Block Requirement Out of the Fishery for Day Gillnet Vessels:

6 21.8 20 Day Spawning Block:

7 21.9 Limits on the Number of Gillnet for Day Gillnet Vessels when fishing in the GB, SNE, MA
8 Regulated Mesh Area. Vessels utilizing this exemption in these areas are restricted to a
9 100-gillnet limit (of which no more than 50 can be roundfish gillnets). This exemption is
10 not available for use in the GOM RMA. *

11 21.10 Prohibition on a vessel's hauling another Vessel's gillnet gear

12 21.11 Limitation on the Number of Gillnets that may be hauled on GB when Fishing Under a
13 Groundfish/Monkfish DAS:

14 21.12 Limitation on the Number of Hooks that may be Fished:

15 21.13 Prohibition on discarding legal size fish at sea in order to discard unmarketable fish at
16 sea

17 21.14 Prohibition on Fishing Inside and Outside the CA I Hook Gear Haddock SAP while on the
18 same trip

19 21.15 Trawl Gear Requirements in the Eastern US/CA Management Area

20 21.16 6.5-inch Minimum Mesh Size Requirement to Allow 5.5-inch or greater Mesh for
21 Targeted Redfish Trips.

22 21.17 Prohibition on a Vessel hauling another vessels hook gear

23 21.18 DAS Leasing Program Length and Horsepower Restrictions

24 21.19 Requirement to declare intent to fish in the Eastern US/CA SAP and CA II YT/Haddock
25 SAP from the dock

26 21.20 Seasonal Restrictions for the Eastern US/CA Haddock SAP

27 21.21 Seasonal Restrictions for the CA II YT/Haddock SAP

28 21.22 Prohibition on Groundfish Trips in the Nantucket Lightship Closed Area*

29 21.23 Prohibition on Combining Small Mesh Exempted Fishery & Sector Trips.*

30 21.24 Daily catch reporting by Sector Managers for Sector vessels that fish in the CA I Hook
31 Gear Haddock SAP

32 21.25 Exemption from requirement to fish exclusively with 10-inch or larger mesh with gillnet
33 gear to target dogfish on groundfish trips excluded from ASM coverage.*

34
35 **Additional Provision(s)**

36
37 21.26 NA

38
39 **22. MONITORING.** The Sector will participate in the Northeast Fisheries Observer Program (NEFOP) and
40 the NMFS funded at-sea monitoring (ASM) program while they operate, in accordance with the

1 NMFS designed ASM Program as documented in Exhibit J. The Sector will transition to its approved
2 industry funded ASM program, as documented within this section, when NMFS funding for ASM
3 ends, pursuant to an independent contract between the Sector and a NMFS approved provider. The
4 ASM coverage will have vessel and trip selection coordinated through NMFS and will use approved
5 at-sea monitors. The Sector Manager will maintain a database of all catch data, including but not
6 limited to VTR, dealer, monitor and observer data. NMFS will provide the Sector with data from
7 NEFOP and the ASM program.

8 **22.1 USE OF MONITORING SERVICES.** The Members acknowledge that for the Sector to
9 function efficiently, it is essential that the Active Members conduct their fishing operations
10 such that at-sea monitoring service costs are kept as low as commercially practical amount.
11 The Active Members therefore agree to provide accurate landing time projections, to make
12 landings expeditiously, and to choose landing locations based in part on the efficiency and
13 responsiveness of the buyer receiving catch harvested under the Sector's ACE. Active
14 Members who fail to comply with the provision of this Section may be assessed the excess
15 cost of monitoring resulting from their failure to do so. Furthermore, the Sector BOD may
16 opt from time to time to modify provisions such as authorized landing ports in order to
17 ensure that the cost associated with these required programs do not become cost
18 prohibitive.

19 **22.2 COVERAGE RATES:** NEFS XII will deploy at-sea monitors in a way to achieve coverage of of
20 trips that is random and representative of the fishing activities of the sector. **The coverage**
21 **rate of groundfish trips for FY 2016, has been specified by NMFS as 14%. This coverage**
22 **rate includes ASM and NEFOP coverage, if which the cost of ASM is the responsibility of**
23 **the Sector.** A monitored trip must be a sector trip, including those taken in which a NE
24 multispecies day-at-sea is used to target other species such as monkfish or skates, unless
25 exempted by NMFS.

26 **22.3 ADDITIONAL COVERAGE:** In addition to ensuring that the coverage rates specified by
27 NMFS are meet by the ASM program the Sector may from time to time opt to have
28 additional coverage in order to fully utilize specific approved exemptions or to address
29 specific needs of the Sector.

30 **22.4 AT-SEA MONITORING PROVIDER:** The Sector will contract with one or more of the
31 companies approved by NMFS to provide At-Sea Monitoring and will notify NMFS of its
32 selection no later than May 1, 2016 via electronic mail or written mail. If a vendor in which
33 the Sector has a contractual arrangement with is decertified during the fishing year, the
34 Sector will negotiate a new contractual arrangement with another certified vendor(s) and
35 notify NMFS of these new agreements. At this time, NEFS 12 has contracted with A.I.S. Inc.,
36 to provide ASM services for FY 2016 (May 1, 2016-April 30, 2017).

1 **23. AT SEA MONITORING PROGRAM GOALS AND OBJECTIVES:** The Sector acknowledges that they have
 2 been informed that the current goals and objectives of At-Sea Monitoring (“ASM”) as codified by
 3 NMFS in 50 C.F.R 648.11(1) are:

Goal	Objectives
Improving Documentation of Catch	<ul style="list-style-type: none"> • Determine total catch and effort (for all sectors and the common pool) as accurately as possible. Leads to better understanding of how well the target or regulated species are faring. • Determine how much observer coverage is needed in order to minimize effects of potential "monitoring bias." • Maintain monitoring program flexibility in order to improve fleet viability.
Reducing Monitoring Costs	<ul style="list-style-type: none"> • Streamline data management operations and eliminate redundancies. • Explore options for cost-sharing with and deferment of cost to industry • Recognize the opportunity costs of insufficient monitoring.
Reducing Discards	<ul style="list-style-type: none"> • Determine discard rate by using the smallest possible strata while simultaneously maintaining cost-effectiveness. • Collect information by gear type in order to accurately calculate discard rates.
Getting More Data Sources to Better Assess Stocks	<ul style="list-style-type: none"> • Reduce management and/or biological uncertainty. • Perform biological sampling. That is, perform sampling if it can be used to improve the accuracy of mortality or recruitment calculations.
Improving Safety of Monitoring Program	<ul style="list-style-type: none"> • Improve the safety of the ASM program as necessary.
Performing Periodic Review Of Monitoring Program to Assess Effectiveness	<ul style="list-style-type: none"> • Periodically review the performance of the ASM program to ensure it is meeting these goals and objectives.

4
 5
 6 **24. SECTOR AT-SEA MONITORING PROGRAM:** The Sector plans on working collaboratively with
 7 certified At-Sea Monitoring Provider(s) (“Provider”) to ensure that implementation of the at-sea
 8 monitoring program adheres to applicable NMFS requirements, as well as any internal needs that
 9 the Sector deems necessary. Specific details of the Sector’s proposed At-Sea Monitoring Program
 10 are located in Exhibit J.

11 **24.1** In the event the Sectors proposed ASM Program is denied by NMFS the Sector will used
 12 the NOAA Fisheries designed ASM program as specified in Exhibit J.
 13

14 **25. RESERVED FOR FUTURE USE:**

15 **26. OFFLOADING PORTS:** The following list represents those ports where sector vessels are authorized
 16 to offload. Additionally, sector vessels are authorized to land fish to trucks within these same
 17 locations.
 18

Primary Port(s) of Landing	Secondary Port(s) of Landing
<u>Massachusetts</u> : Scituate, Marshfield, Brant Rock, Cohasset, Boston, Plymouth, Sandwich	<u>Massachusetts</u> : Hyannis, Nantucket, Chatham, Provincetown, Martha's Vineyard, Gloucester <u>New Hampshire</u> : Portsmouth <u>Maine</u> : Portland <u>Rhode Island</u> : Point Judith

1

2 **27. SAFE HARBOR PROTOCOL:** To promote safety at sea, the Sector sets forth the following protocol for
 3 variance from the landing ports listed. If for reasons beyond a vessel operators control such as
 4 severe weather, mechanical failures, compromised hull integrity, instances of pump failures and
 5 danger of sinking, crew injury or life threatening illness and any other emergency situations that
 6 may arise, a sector vessel may enter a port other than those listed as "Landing Ports" to ensure the
 7 safety of the vessel and its crew. In the event that a Sector Vessel must utilize this safe harbor
 8 protocol, they must notify their Manager and NMFS OLE of when and where they had to seek safe
 9 harbor within 6 hours of this entering the port.

10 **28. SECTOR UNDERSTANDING AND ACKNOWLEDGMENTS:** Sector Members understand and
 11 acknowledge that the following provisions have been interpreted by NMFS as applicable to all
 12 operating sectors. Sector Members acknowledge this applicability and where appropriate utilize
 13 these universal interpretations within their sector management and operations:

14 **28.1 INTRA-SECTOR DAYS AT SEA (DAS) LEASING:** Days at Sea may be leased intra-sector
 15 (between members) within the guidelines and procedures contained in the FMP and as
 16 amended by Amendment 16. The Sector would accept any future relief in the length and
 17 horsepower constraints of the program that may be authorized by the RA in the future.

18 **28.2 INTER-SECTOR DAYS AT SEA (DAS) LEASING:** Members who wish to lease Days-at-Sea
 19 (DAS) outside of the Sector are authorized under this provision to do so, only with
 20 Members of other Sectors whom are similarly exempt. Members acknowledge that such
 21 DAS leasing would not be exempted from existing length and horsepower constraints as
 22 currently contained in applicable regulations.

23 **28.3 PAPER VTR:** Members acknowledge that they are bound to all applicable reporting
 24 requirements. Sector vessels shall continue using paper VTRs for FY 2015 & 2016, as
 25 required by regulations. However, electronic vessel trip reporting (e-VTR) systems for
 26 transmission and submission of required VTR reports have been authorized by the
 27 Regional Administrator using a phased implementation process. The Sector and its
 28 Members may utilize e-VTR in accordance with the phased implementation process.

1 **28.4 ADDITIONAL EXEMPTIONS:** Members note that NMFS is generating one Environmental
2 Assessment for all sectors seeking authorization for Fishing Year 2016, and that NMFS
3 communication has stated that if an exemption is approved for one Sector, all other
4 authorized Sectors can be similarly approved for that specific exemption based on the
5 terms and conditions of the originally requesting sector. In light of this understanding,
6 NEFS XII will request authorization for such exemptions it deems beneficial for its
7 operations, prior to the publication of the final authorizing rule.

8 **29. MODIFICATION OF HARVESTING RULES:** Members acknowledge that from time to time, the Sector
9 Manager in collaboration with Board of Directors, and at times Membership, may adopt additional
10 requirements or restrictions on the internal reporting requirements or fishing activities of all
11 members in order to ensure effective utilization and management of the Sector’s ACE. These
12 modifications may include, but are not limited to, additional notification of planned fishing activity
13 to the Manager, additional internal reporting requirements, gear requirements, and restrictions on
14 locations where fishing may occur during specific times of the year or with specific gear. When such
15 modifications are implemented, all Members will be notified in writing.

16
17

1 **Exhibit B: Additional Details Regarding Specific Approved Sector Exemptions**

2
3 **Nantucket Lightship Closed Area**

4
5 This exemption allows sector vessels to access portions of the Nantucket Lightship Closed Area to
6 provide additional opportunities to target monkfish, dogfish, and skates.

7 A trawl vessel may fish in the Western Exemption Area with any legal trawl gear. A trawl vessel fishing
8 in the Eastern Exemption Area is restricted to approved selective trawl gear, including the separator
9 trawl, the Ruhle trawl, or the rope trawl. Flounder nets are prohibited in the Eastern Exemption Area. A
10 hook vessel is permitted in both areas. A gillnet vessel is restricted to fishing 10-inch (25.4-cm), or
11 larger, diamond mesh in both areas. A gillnet vessel must use pingers when fishing in the Western
12 Exemption Area from December 1 – May 31, because this area lies within the existing Southern New
13 England Management Area of the Harbor Porpoise Take Reduction Plan.

14
15 The Western and Eastern Nantucket Lightship Closed Areas are defined by lines connecting the points
16 listed below in the order stated.

17
18 **Western Nantucket Lightship Closed Area**

19

20 POINT	LATITUDE	LONGITUDE
21 A	40°50'N	70°20'W
22 B	40°50'N	70°00'W
23 C	40°20'N	70°00'W
24 D	40°20'N	70°20'W
25 A	40°50'N	70°20'W

26
27 **Eastern Nantucket Lightship Closed Area**

28

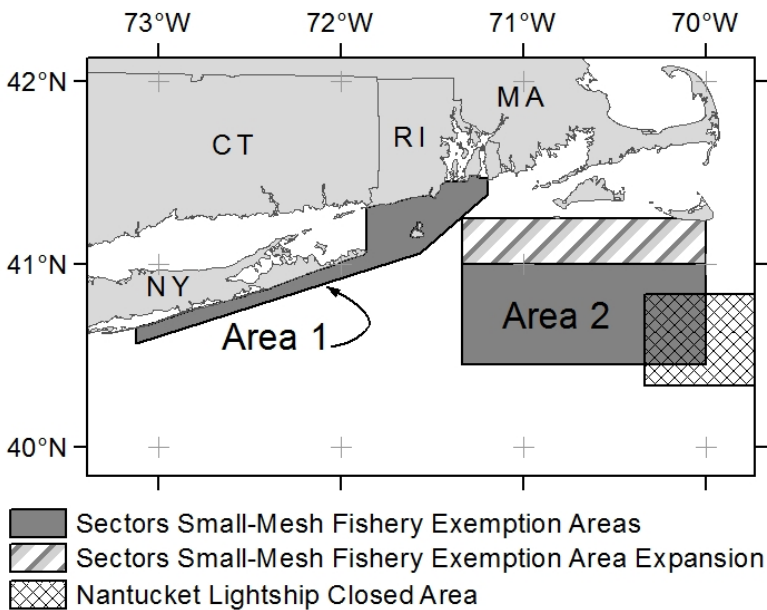
29 POINT	LATITUDE	LONGITUDE
30 A	40°50'N	69°30'W
31 B	40°50'N	69°00'W
32 C	40°20'N	69°00'W
33 D	40°20'N	69°30'W
34 A	40°50'N	69°30'W

35
36 Any vessel that intends to access the Western or Eastern Nantucket Lightship Closed Areas must declare
37 a closed area trip through the VMS trip start hail by checking the box next to “Closed Area Trip” under
38 sector exemptions. Trip Start Hails must be submitted prior to departure. The sector must follow any
39 additional trip declaration or reporting requirements that NMFS implements during the fishing year.

40 **Prohibition on combining small-mesh exempted fishery and sector trips**

41
42 The exemption applies to sector trips only and is intended to allow a vessel to catch some small-mesh
43 species after targeting groundfish. A vessel could land whiting, longfin squid, mackerel, herring and
44 other small-mesh species, provided the vessel still meets the requirements of those fisheries. Because
45 of declaration, observer, and reporting requirements in other fisheries, a vessel may not be able to
46 target groundfish and catch more than incidental amounts of small-mesh species. A sector vessel must

1 fish with trawl nets that meet current regulatory requirements and sector exemptions during the first
 2 part of the trip, but may switch to modified small mesh gear for the second portion of the trip. The
 3 small-mesh portion of the trip must be fished in Small Mesh Areas 1 and 2, described below and must
 4 use the modified small mesh gear described below.



5
 6
 7 Sector Small-Mesh Fishery Exemption Area 1 is bounded by the following coordinates connected in the
 8 order listed by straight lines, except where otherwise noted:
 9

Point	N. Latitude	W. Longitude	Note
A	40°39.2'	73°07.0'	
B	40°34.0'	73°07.0'	
C	41°03.5'	71°34.0'	
D	41°23.0'	71°11.5'	
E	41°27.6'	71°11.5'	(1)
F	41°18.3'	71°51.5'	
G	41°04.3'	71°51.5'	(2)
A	40°39.2'	73°07.0'	

10
 11 (1) From POINT E to POINT F along the southernmost coastline of Rhode Island and crossing all bays and
 12 inlets following the COLREGS Demarcation Lines defined in 33 CFR part 80.

13
 14 (2) From POINT G back to POINT A along the southernmost coastline of Long Island, NY, and crossing all
 15 bays and inlets following the COLREGS Demarcation Lines defined in 33 CFR part 80.

16
 17 Sector Small-Mesh Fishery Exemption Area 2 is bound by the following coordinates connected in the
 18 order listed by straight lines. Sector vessels cannot fish the small-mesh portion of their trip using this
 19 exemption in the Nantucket Lightship Closed Area where the two areas overlap.

Point	N. Latitude	W. Longitude
-------	-------------	--------------

H	41°15.0'N	71°20.0'W
I	41°15.0'N	70°00.0'W
J	40°27.0'N	70°00.0'W
K	40°27.0'N	71°20.0'W
H	41°15.0'N	71°20.0'W

The modified small mesh gear must contain either:

- A drop chain sweep with a minimum drop of 12 inches (30.48 cm) in length, with a 24-inch headrope setback; or
- a large mesh belly panel with a minimum mesh size of 32 inches (81.28 cm), with the meshes hung on the half (a hanging ratio of 2:1); or
- an excluder grate secured forward of the codend with an outlet hole forward of the grate with bar spacing of no more than 1.97 inches (5.00 cm) wide.

In order to use this exemption, the following additional conditions and restrictions apply:

1. Prior to leaving the dock, the vessel must declare a small mesh trip through the VMS trip start hail by checking the box next to “Other Exemption (when directed by NMFS)” under sector exemptions.
2. A vessel declaring this exemption must render its small mesh gear not available for immediate use, as defined by 50 C.F.R. § 648.2, when using large-mesh gear during the first portion of the trip.
3. Upon completing the large-mesh portion of the trip, the vessel must submit a Multispecies Catch Report via VMS with a good faith estimate of all catch on board and with Step 5 completed.
4. The date-time stamp of the Multispecies Catch Report indicates to Enforcement that the vessel is now in the second portion of the trip and is prohibited from redeploying its large-mesh gear.
5. Following submission of the Multispecies Catch Report, the vessel may deploy its modified small mesh gear in the areas described above and is prohibited from fishing outside of the small mesh exemption areas. All other applicable regulations apply to this portion of the trip.
6. The vessel must comply with the remaining requirements of a sector trip, including the submission of VTRs, a trip end hail, and a final Multispecies Catch Report.
7. A vessel fishing with this exemption must retain and land all legal-sized groundfish on both the regulated mesh and small mesh portions of the trip.

Limits on the number of sink gillnets for Day gillnet vessels in GB, SNE, and MA RMAs

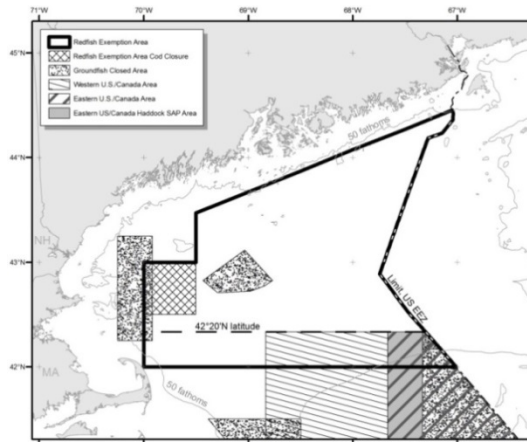
1 Day gillnet vessels using this exemption in these areas may fish up to 150 roundfish or flatfish nets, but
2 may not exceed 150 nets total. Vessels must tag both roundfish gillnets and flatfish gillnets with one tag
3 per net.

4
5 This exemption does not apply in the GOM RMA. Day gillnet vessels in the GOM RMA are restricted to
6 100 gillnets (of which no more than 50 can be roundfish gillnets). Roundfish gillnets must be tagged
7 with two tags per net, while flatfish gillnets can be marked with one tag per net.

8
9 **6.5-Inch Minimum Mesh Size Requirement to Allow 5.5-inch or greater Mesh for Targeted Redfish**
10 **Trips:**

11 This exemption allows a sector vessel to fish for Acadian redfish in the designated Redfish Exemption
12 Area, described below, using nets with codend mesh no smaller than 5.5 inches. When fishing inside the
13 Redfish Exemption Area all other restrictions applicable to trawl nets still apply. In order to use this
14 exemption, a vessel must strictly adhere to the following conditions and restrictions:

- 15
16 1. The vessel must declare its trip in PTNS under standard requirements, there is no additional at-
17 sea monitoring coverage required above the target coverage level for the sectors (i.e., ~24% in
18 fishing year 2015).
- 19
20 2. Prior to leaving the dock, the vessel must declare its intent to use the redfish exemption on the
21 trip through the VMS trip start hail by checking the box “Redfish Trip” under sector exemptions.
22
- 23 3. The vessel must submit a Multispecies Catch Report through its VMS system, each day for the
24 **entire trip**, including Parts 1 and 2 of the trip as described below, even if the vessel has declared
25 the exemption, but does not target redfish. The vessel must submit Multispecies Catch Reports
26 through VMS in 24-hr intervals for each day of the fishing trip. The report must be submitted by
27 0900 hr (9:00 a.m.) on the date following the date the fish were caught. The report must provide
28 a good faith estimate of the amount each regulated species caught on each day of the trip.
29
- 30 4. In accordance with the restriction stated herein, the vessel may use a codend with 5.5-inch
31 mesh and greater within the Redfish Exemption Area. The northern boundary ensures that the
32 exemption is used in deeper water (i.e., greater than 50 fathoms). Vessels cannot use the
33 exemption in the “cod closure” (block 131) during February and March.
34



1
2
3
4
5

The Redfish Exemption Area is bounded on the east by the U.S.-Canada Maritime Boundary, and bounded on the north, west, and south by the following coordinates, connected by straight lines in the order listed:

Point	N. Lat.	W. Long.
A	44°27.25'	67°02.75'
B	44°16.25'	67°30.00'
C	44°04.50'	68°00.00'
D	43°52.25'	68°30.00'
E	43°40.25'	69°00.00'
F	43°28.25'	69°30.00'
G	43°00.00'	69°30.00'
H	43°00.00'	70°00.00'
I	42°00.00'	70°00.00'
J	42°00.00'	67°00.63' ¹

¹The intersection of 42°00' N. latitude and the U.S.-Canada Maritime Boundary, approximate longitude in parentheses.

6
7
8
9
10
11
12

Due to concerns about GOM cod, block 131 is closed for February and March. The area is bounded on the east, north, west, and south by the following coordinates, connected by straight lines in the order listed:

Point	N. Lat.	W. Long.
G	43°00.00'	69°30.00'
H	43°00.00'	70°00.00'
K	42°30.00'	70°00.00'
L	42°30.00'	69°30.00'
G	43°00.00'	69°30.00'

13
14
15
16

5. During a Redfish Exemption Trip, any codend that is only authorized on a Redfish Exemption Trip must be stowed below deck and can only be retrieved after completing the requirements identified in paragraph 8 below.

1
2 **Part 1 of Redfish Exemption Trip**
3

- 4 6. When a vessel declares a “Redfish Trip” via VMS, it may fish outside the Redfish Exemption Area
5 during Part 1 of the Redfish Exemption Trip in accordance with otherwise applicable regulations
6 and sector exemptions. However, fishing outside of the Redfish Exemption Area first is optional.
7 A vessel may choose to immediately transit to the Redfish Exemption Area and begin fishing.
8
9 7. Any catch thresholds do not apply for Part 1 of the trip.

10
11 **Part 2 of Redfish Exemption Trip: Switching Codends**
12

- 13 8. When the vessel plans to target redfish, it must travel to the Redfish Exemption Area. Once the
14 vessel is in the Redfish Exemption Area, immediately before switching codends, it must send a
15 Multispecies Catch Report via VMS. This report is in addition to the daily Multispecies Catch
16 Reports that are required when utilizing this exemption. The Multispecies Catch Report a vessel
17 must send before switching codends must provide a good faith estimate of all fish caught by the
18 vessel that day between 12:01 AM and the time of the report, and must fill out Step 5 indicating
19 that it intends to use the exemption immediately after sending the report. After the vessel is in
20 the Redfish Exemption Area and submits the required catch report, it may retrieve the 5.5-inch
21 mesh codend from below deck and begin using it. The vessel may use a 5.5-inch mesh codend
22 (or greater) for the remainder of the trip in Redfish Exemption Area.
23
24 9. Once a vessel sends the Multispecies Catch Report via VMS indicating that it is switching to the
25 smaller mesh codend (Step 5), it is prohibited from fishing outside the Redfish Exemption Area.
26
27 10. The vessel must submit a final Multispecies Catch Report, in addition to other required
28 Multispecies Catch Reports, and a Trip End Hail via VMS once it stops fishing and begins its
29 return to port.

30
31 **Summary Of All Redfish Exemption Trip Reporting Requirements**
32

- 33 1. Submit a trip start hail declaring a redfish trip
34 2. Submit VTRs when switching chart area, gear, and/or mesh size.
35 3. Submit daily catch reports of all kept fish by 9 AM the following day.
36 4. Send a catch report of all kept fish since 12:01 AM of that day, with Step 5 completed.
37 5. Submit a final catch report and Trip End Hail at the end of the trip.
38

39 **Monitoring Catch Thresholds**
40

41 For all trips declaring the redfish exemption and targeting redfish under Part 2 of the trip, at least 50% of
42 the total groundfish kept must be redfish. For observed trips (NEFOP/ASM) declaring the redfish
43 exemption and targeting redfish under Part 2 of the trip, total groundfish discards (including redfish)
44 may not exceed 5% of all kept fish. If after at least one month, it is determined that the sector is not
45 meeting one of these two thresholds, NMFS will notify the sector and be given 30 days to modify fishing

1 behavior in order to meet both thresholds. NMFS retains the authority to rescind the exemption if
2 either threshold is not being met.

3
4 **Exemption from Requirement to Fish Exclusively with 10-inch, or Larger, mesh gillnets to Target**
5 **Dogfish on Groundfish Trips Excluded from At-Sea Monitoring (ASM) Coverage**

6
7 Sector trips fishing with extra-large mesh gillnets (10 inches or greater) exclusively in the Southern New
8 England/Mid-Atlantic and Inshore GB Broad Stock Areas are not subject to ASM. This exemption allows
9 a sector vessel on these non-ASM sector groundfish trips to also target dogfish using 6.5-inch mesh
10 gillnet gear within the footprint and season of either the Nantucket Shoals Dogfish Exemption Area
11 (June 1 through October 15), the Eastern Area of the Cape Cod Spiny Dogfish Exemption Area (June 1
12 through December 31), or the Southern New England Dogfish Gillnet Exemption Area (May 1 through
13 October 31). The vessel must submit a vessel trip report (VTR) to document catch on the extra-large
14 mesh portion of the trip, and a separate VTR for the portion of the trip in which the vessel deploys 6.5-
15 inch mesh gillnet gear within the footprint and season of the existing dogfish exempted areas. The
16 following requirements apply:

- 17
18 1. The vessel must declare its trip into the Pre-Trip Notification System consistent with current
19 requirements.
- 20
21 2. The vessel must declare its trip in the Vessel Monitoring System (VMS) consistent with current
22 requirements, including the intention to use gillnet gear and fish entirely within the SNE/MA
23 and/or Inshore GB BSAs.
- 24
25 3. The vessel may only fish with gillnets with meshes that are 10 inches or greater during the first
26 portion of the trip, and must complete a VTR for that portion of the trip before deploying 6.5
27 inch mesh gillnet gear.
- 28
29 4. After the vessel completes a VTR for the extra-large mesh portion of the trip, the vessel may
30 deploy 6.5-inch mesh gillnet gear exclusively within the footprint and season of the existing
31 dogfish exempted areas (listed above).
- 32
33 5. The vessel must submit VTRs to NMFS for the first and second portion of the trip in accordance
34 with current requirements. The vessel must also submit the required Multispecies Catch Report
35 and a Trip End Hail for total catch on the trip via VMS once it stops fishing and begins its return
36 to port.

37
38 **Prohibition on Hauling another vessel's trap gear**

39 Vessels participating in NEFS XII may haul another sector vessel's groundfish trap gear, provided that
40 each vessel adheres to the gear marking requirements specified at § 648.84(a). Gear must be tagged by
41 each vessel that intends to haul the gear.

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4

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Exhibit C:

Sector Membership Fishing Year 2016 (May 1, 2016 to April 30, 2017)

SECTOR MEMBERS: The following table identifies The NEFS XII Members:

MRI	Owner/Entity
135	Kevin R. Shea
190	Ocean Harvest Inc.
211	Philip M. Lynch
216	Philip M. Lynch
380	Kevin Norton
398	Ronald Gustafson
482	Thomas J. Bell
491	Boat Kathleen A. Mirarchi Inc.
1262	Robert James Roche
1277	Ocean Harvest Inc.
1444	Thomas J. Bell
1512	CRAIG R. KEEFE
1537	Timothy Caldwell
1669	Ames Fisheries Inc.
1831	Timothy Caldwell
1851	Philip M. Lynch
2166	Philip M. Lynch
2189	Lance Ricci
47900	Thomas J. Bell

1
2

ACTIVE MEMBERS:

Vessel Permit No	Vessel Name	Vessel Reg No
149951	MISS EMILY	MS2892BE
250468	CHERYL ANN	610571
232093	SARAH C	601134
250541	MICHAEL BRANDON	626829
241633	PATTI M	636803
125520	C W GRISWOLD	ME0780T
250525	MARY ELIZABETH	624744
251005	PAULA LYN	943258
128572	SILVER ROSE	MS7498JH

EXHIBIT D

Sector Member and Vessel Permits Amendment 16 Disclosure Requirements Fishing Year 2016 (May 1, 2016 to April 30, 2017)

Sector Members have enrolled all eligible Limited Access Multispecies Permits into the Sector.

Additional Information on State permits associated with Sector Vessels and Sector Members:

Permit Holder on May 1st	DOGFISH	FLUKE	FED. REPORTING VESSEL	LOBSTER	SCUP	SEA BASS	SEA SCALLOP SHUCKING	STRIPED BASS	SURFACE GILLNET	GILLNET	CAP SQUID	SEA HERRING	SHELLFISH	MENHADEN	NORTHERN SHRIMP	SEA URCHIN DIVER	SEA URCHIN DREDGE	INSHORE NET	SW	GROUNDFISH	PAPER REPORTING	RI MULTS	
OCEAN HARVEST INV.																							RI
KEVIN SHEA	M A	M A	M A		M A	M A		M A					M A										
OCEAN HARVEST INV.																							
PHILIP M LYNCH	M A		M A				M A																
PHILIP M. LYNCH		M A			M A	M A	M A						M A		M A	M A	M A						
MOTOR VESSEL YANKEE ROSE INC	M A	M A	M A		M A	M A	M A																
RONALD GUSTAFSON	M A	M A	M A		M A	M A	M A				M A	M A	M A										
THOMAS BELL			M A					M A	M A														
BOAT KATHLEEN A MIRARCHI INC																							
ROBERT ROCHE	M A	M A		M A						M A			M A	M A				M A	M A	M A			
THOMAS BELL	M A	M A	M A					M A	M A	M A													

Permit Holder on May 1st	DOGFISH	FLUKE	FED. REPORTING VESSEL	LOBSTER	SCUP	SEA BASS	SEA SCALLOP SHUCKING	STRIPED BASS	SURFACE GILLNET	GILLNET	CAP SQUID	SEA HERRING	SHELLFISH	MENHADEN	NORTHERN SHRIMP	SEA URCHIN DIVER	SEA URCHIN DREDGE	INSHORE NET	SW	GROUNDFISH	PAPER REPORTING	RI MULTS	
CRAIG R. KEEFE																							
TIMOTHY CALDWELL																							
AMES FISHERIES INC	M A	M A	M A	M A		M A	M A	M A					M A										
TIMOTHY M CALDWELL																							
PHILIP LYNCH	M A	M A	M A		M A	M A	M A	M A			M A		M A	M A	M A	M A	M A						
PHILIP LYNCH	M A		M A				M A						M A										
JOHN HUNT	M A																						
THOMAS BELL	M A		M A					M A															

1

2

Additional Information on federal permits associated with Sector Vessels and Sector Members:

Permit Holder on May 1st	American Lobster	AMERICAN LOBSTER TRAP	Atlantic Mackerel	Black Sea Bass	Blue Fish	Herring	Monkfish	NE Multispecies	Ocean Quahog	Red Crab	Scallop	Scup	Skate	Spiny Dogfish	Squid/Butterfish	Summer Flounder	Surf Clam	Tilefish	Atlantic Tunas	Swordfish	Shark	
OCEAN HARVEST INV.								HOOK GEAR (CPH)														
KEVIN SHEA																						
OCEAN HARVEST INV.		AREA2 /OUTER CAPE (CPH)						INDIV. DAS (CPH)														
PHILIP M LYNCH							CPH	CPH														
PHILIP M. LYNCH	CPH		CPH (TIER 3)				CPH	CPH			CPH (LAGC /NGO M)											
MOTOR VESSEL YANKEE ROSE INC	NON-TRAP		X	COMM. MORT	COMM. M	OPEN ACCESS POSS. LIMIT	INCIDENT. CAT. E	INDIV. DAS	X	OPEN ACCESS INCIDENT. BYCATCH	LAGC INCIDENT	COMM. MORT	X	COMM. M.	INCIDENT	COMM. M. MORT.	X	COMM./INCIDENT				
RONALD GUSTAFSON	NON-TRAP				COMM. M.	OPEN ACCESS/POSSES. LIMIT	INCIDENT. CAT. E	INDIV. DAS	X		LAGC INCIDENT		X	COMM. M.			X	COMM./INCIDENT				

Permit Holder on May 1st	American Lobster	AMERICAN LOBSTER TRAP	Atlantic Mackerel	Black Sea Bass	Blue Fish	Herring	Monkfish	NE Multispecies	Ocean Quahog	Red Crab	Scallop	Scup	Skate	Spiny Dogfish	Squid/Butterfish	Summer Flounder	Surf Clam	Tilefish	Atlantic Tunas	Swordfish	Shark
	P																				
THOMAS BELL	NON-TRAP	AREA 1	X		COMM.		CAT. D	LG. MESH INDIV. DAS					X	COMM.	INCIDENT.			COMM/INCIDENT.			
BOAT KATHLEEN A MIRARCHI INC	CPH						CPH	CPH			CPH (LAGC)	CPH				CPH					
ROBERT ROCHE	NON-TRAP		X		X			INDIV. DAS					X	COMM.	INCIDENT.						
THOMAS BELL	NON-TRAP	AREA 1	X		COMM.	OPEN ACCESS/POSSES. LIMIT	CAT. D	INDIV. DAS		OPEN ACCESS/INCIDENT. BYCATCH	LAGC INCIDENT		X	COMM.	INCIDENT			COMM/INCIDENT.			
CRAIG R. KEEFE		AREA 1	X				INCIDENT. CAT. E	INDIV. DAS					X	COMM.	INCIDENT.						

Permit Holder on May 1st	American Lobster	AMERICAN LOBSTER TRAP	Atlantic Mackerel	Black Sea Bass	Blue Fish	Herring	Monkfish	NE Multispecies	Ocean Quahog	Red Crab	Scallop	Scup	Skate	Spiny Dogfish	Squid/Butterfish	Summer Flounder	Surf Clam	Tilefish	Atlantic Tunas	Swordfish	Shark
TIMOTHY CALDWELL	N O N- T R A P		T I E R 3	C O M M. O R I T.	C O M M.	A R E A 2 & 3 P O S S. L I M I T	C A T. C	I N D I V. D A S	X	O P E N A C C E S S/ I N C I D E N T. B Y C A T C H	L A G C/ N G O M	C O M M. M O R I T.	X	C O M M.	I N C I D E N T.		X	C O M M./ I N C I D E N T.			
AMES FISHERIES INC																					
TIMOTHY M CALDWELL																					
PHILIP LYNCH	N O N- T R A P	A R E A 1	X		C O M M.	O P E N A C C E S S/ P O S S. L I M I T	I N C I D E N T. C A T. F	I N D I V. D A S	X	O P E N A C C E S S/ I N C I D E N T. B Y C A T C H	L A G C/ N G O M		X	C O M M.	I N C I D E N T.	C O M M. M O R I T.	X	C O M M./ I N C I D E N T.	X	X	X
PHILIP LYNCH	N O N- T R A P	A R E A 1	X		C O M M.	O P E N A C C E S S/ P O S S. L I M I T	I N C I D E N T. C A T. E	I N D I V. D A S	X	O P E N A C C E S S/ I N C I D E N T. B Y C A T C H	L A G C/ N G O M		X	C O M M.	I N C I D E N T.	C O M M. M O R I T.	X	C O M M./ I N C I D E N T.	X	X	
JOHN HUNT																					
THOMAS BELL			X		C O M M.	O P E N A C C E S S/ P O S S. L I M I T		L A/ H A N D G E A R		O P E N A C C E S S/ I N C I D E N T. B Y C A T C H			X	C O M M.	I N C I D E N T			C O M M./ I N C I D E N T.			

EXHIBIT E

NEFS XII Penalty Schedule			
VIOLATION REGARDING REPORTING, DOCUMENTATION REQUIREMENTS:			
VIOLATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
All violations including but not limited to: providing false statements or supporting documentation on applications or reports to the Sector; late reporting or non-reporting; unreasonable interference with onboard data collectors; failing to participate in Sector Catch Monitoring Programs; (technical and minor violations may result in a letter of warning).	Written Warning or up to \$5000.00	Written Warning and up to \$7,500.00.	Written Warning and up to \$10,000.00 and/or stop fishing order.
VIOLATION REGARDING EXEMPTION PERMIT REQUIREMENTS			
All violations including but not limited to: failure to comply with a permit condition/restriction/letter of authorization issued to Sector Vessels by the Regional Administrator; or failure to comply with VMS/DAS requirements. (Technical and minor violations may result in a letter of warning).	Written Warning or up to \$10,000.00	Written Warning and \$10,000.00-\$50,000.00.	Written Warning and up to \$100,000.00 and/or stop fishing order.
VIOLATION REGARDING TIME/AREA/GEAR RESTRICTIONS			
All violations including but not limited to: exemption areas, closed fisheries, closed season, restricted gear/management areas. (Technical and minor violations may result in a letter of warning).	Written Warning or up to \$20,000.00	Written Warning and \$20,000.00-\$50,000.00.	Written Warning and up to \$100,000.00 and/or expulsion.
VIOLATIONS THAT PLACE THE SECTOR AGREEMENT AT RISK			
All violations including but not limited to a violation of a stop fishing order, fishing in a closed area, transfer of fish from non-sector vessel to a sector vessel, transfer of fish from sector vessel to a non-sector vessel; subverting the reporting requirements or any other action so egregious that it would severely jeopardize the Sectors existing and future authorization(s).	Written Warning and up to \$50,000.00 or stop fishing order.	Stop fishing order or Expulsion.	Expulsion.

1 **Exhibit F:**

2 **Administrative Provisions Addendum:**

3 Notwithstanding regulatory authority granted in other regulations the following provisions represent
4 those sections of **NEFS XII** Agreement and related Exhibits & Addendums that are Administrative in
5 nature and therefore not subject to enforcement by the National Marine Fisheries Service, as required
6 to be specified by sector regulations 50 CFR 648.87(b)(2)(x).

7 **SECTOR OPERATIONS PLAN AND AGREEMENT**

8 1. Sector Name.

9 2. Sector Eligibility and Membership.

10 4. Sector Allocation and Exemptions.

11 5. Distribution of Sector ACE.

12 6. Sector Manager and Registered Agent.

13 6.1 Communication with Sector.

14 7. Consolidation Plan.

15 7.1 Harvest Share Reserve.

16 7.2 Harvest Share Use. Section 7.2 is administrative except to the extent that it applies to the
17 Sector managers ability to impose and utilize legal means to recover Liquated damages as
18 authorized in section §10.10 of this agreement, in which case NMFS enforcement procedures
19 may apply.

20 7.2.1 Non-Active Members. Section 7.2.1 is administrative except to the extent that it
21 applies to the Sector managers' ability to impose and utilize legal means to recover damages as
22 authorized in section §10.10 of this agreement, in which case NMFS enforcement procedures
23 may apply.

24 7.3 Harvest Share Transfer.

1 7.4 Harvesting Rules and Fishing Plan. Section 7.4 is administrative except to the extent that it
2 applies to Harvesting Rules Sections 1, 5, 6, 8, 11, 16, and 17, which are enforceable and
3 therefore not considered administrative under this section. This section is also administrative
4 except to the extent that it applies to Harvesting Rules Section 7 Stock Area Declaration. Sub-
5 Section 7.1 is administrative in nature.

6 7.5 Re-direction of Effort.

7 7.6 Sector Vessel Interactions with Allocated Species in Non-Amendment 16 Fisheries.

8 7.7 Consolidation and Redistribution of ACE:

9 8. Release of Catch Data.

10 9. Catch Monitoring and Reporting. Section 9 is administrative except to the extent that it applies to
11 Harvesting Rules Sections 13, 14, and 15, which are enforceable and therefore not considered
12 administrative under this section.

13 10. Breach and Remedies for Breach.

14 10.1 Liquidated Damages Schedule and Schedule Amendments.

15 10.2 Enforcement Committee.

16 10.3 Liquidated Damages Base Value and Multiplier Adoption.

17 10.4 Liquidated Damages Calculation.

18 10.5 Notice to Vessel Masters; Assumption of Liability.

19 10.6 Liquidated Damages Security.

20 10.7 Manager Action in Response to Apparent Breach.

21 10.8 Member Appeals.

22 10.9 Voluntary Compliance.

23 10.11 Consequential Damages for Gross Negligence or Willful Misconduct.

- 1 10.12 Distribution of Damages.
- 2 11. Joint Liability and Indemnification.
- 3 12. Membership Termination
- 4 15. Permit Transfer/Sale.
- 5 16. Release and Waiver of All Claims against Sector Manager; Indemnification and Hold Harmless.
- 6 17. Sector Membership Fees.
- 7 18. Binding Arbitration.
- 8 19. No Collective Marketing.
- 9 20. Amendment and Incorporation by Reference.

10

11

EXHIBIT A - HARVESTING RULES

12 2. QUOTA MANAGEMENT:

13 3. RESERVE:

14 4. SLOWING CATCH:

15 7.1 INSHORE GULF OF MAINE DECLARATION

16 12. CATCH REPORTS:

17 18. RESERVED FOR FUTURE USE:

18 19. DATA MANAGEMENT:

19 22. MONITORING: In the event that ASM is funded by NMFS, any additional coverage funded by the
20 Sector, above that which is funded and managed by NMFS, will be administrative, except in those
21 specific situations where NMFS enforcement would apply.

22 22.1 USE OF MONITORING SERVICES:

23 22.3 ADDITIONAL COVERAGE

24 23. AT SEA MONITORING PROGRAM GOALS AND OBJECTIVES

- 1 25. RESERVED FOR FUTURE USE
- 2 27: SAFE HARBOR PROTOCOL:
- 3 28. SECTOR UNDERSTANDING AND ACKNOWLEDGEMENTS
- 4 29: MODIFICATION OF HARVESTING RULES
- 5 Exhibit C – Sector Roster, as it relates to identification of Active Vessels is administrative
- 6 Exhibit D – Additional Permit Information is administrative
- 7 Exhibit E – Penalty Schedule is administrative.
- 8 Exhibit F – Administrative Addendum is administrative
- 9 Exhibit G - Explanatory Addendum is administrative
- 10 Exhibit H – Contact Info is administrative
- 11

1

Exhibit G: EXPLANATORY ADDENDUM

2 Per request by NMFS this **explanatory text** is being provided to identify in one location Right of
3 First Offer (“ROFO”) and Right of First Refusal (“ROFR”). ROFO and ROFR are two separate and
4 distinct provisions that deal with harvest share transfers and permit sales, respectively; it is
5 inaccurate to construe them as meaning the same thing. Nothing within this explanatory
6 addendum should be considered as part of the Sector governing documents which the Members
7 have agreed to follow, all questions regarding these provisions should be directed to their
8 respective sections in the governing documents:

9 § 7.3 Harvest Share Transfers: Right of First Offer i.e. ROFO will be used for intra and
10 inter sector harvest share transfers.

11 § 15 Permit Transfer/Sale: Right of First Refusal i.e. ROFR will be used for permit sales or
12 transfers.

1

Exhibit H: INFORMATIONAL ADDENDUM

2

Per request by NMFS the table below identifies specific points of contacts and their responsibilities, which the Agency may utilize to determine

3

appropriate communication stream for inquiries.

4

1

EXHIBIT I:

2

Reserved for future use

1 **Exhibit J: ASM Provisions**

2 **1. SECTOR AT-SEA MONITORING PROGRAM:** The Sector plans on working collaboratively with
3 certified At-Sea Monitoring Provider(s) (“Provider”) to ensure that implementation of the at-
4 sea monitoring program adheres to applicable NMFS requirements, as well as any internal
5 needs that the Sector deems necessary. Specific details of the Sector’s proposed At-Sea
6 Monitoring Program are located below.

7 **1.1 RANDOMIZED SELECTION OF COVERAGE PROCESS:** The Sector and ASM provider
8 acknowledge that NMFS will continue to operate the Pre-trip Notification System
9 (PTNS) to make selection for NEFOP (NMFS funded program) and ASM (Industry
10 funded program). The Sector will work with their ASM Provider(s) to ensure that
11 the selection process that is fair and equitable, distributed in a statistically random
12 manner and representative of the fishing activities and operations of all vessels
13 within the Sector throughout the fishing year.

14 **1.2 DATA COLLECTION & AT-SEA MONITORS:** The Service Provider must ensure that
15 all At-Sea Monitors are trained and equipped in accordance with NEFSC/NMFS
16 standards. At-Sea Monitors (“ASM”) primary responsibility is to collect accurate
17 actual weights on the discard portion of the catch, as well as accounting for all
18 catch (kept and discarded) on each tow/haul. Data collected by the ASM will be
19 used to quantify the discards that occur on that trip. This data will also be used to
20 estimate the discards that occur by sector vessel trips that were not selected to
21 take an ASM. The ASM will be responsible for describing various aspects of the
22 gear(s) and recording the catch composition and corresponding weights on a haul
23 by haul basis. The specific data fields to be observed and methods used to collect
24 the data are detailed in the training and published in an At-Sea Monitoring Manual
25 by NMFS. Any additional data collection requests or procedures not directly
26 related to the purpose of this program i.e. catch verification and discard
27 information must be agreed upon by the Sector and the Provider(s) prior to
28 implementation. All data must be reported electronically in a standard acceptable
29 form from the At-Sea Monitor to the Sector and NMFS within 48 hours of
30 completion of the trip. The Sector notes that for FY 2015, NMFS via the NEFSC will
31 be reviewing data submitted by ASM for quality assurance and will be computing
32 and producing both the assumed discard rates and observed discard data for the
33 Sector to use in its reports as accessible on SIMMs.. In addition to the specific
34 data fields and data collection methods specified by the NMFS at-Sea Monitoring
35 Manual and training; the Sector may from time to time working with their
36 contracted Service Provider may request additional data be collected which would
37 be approved by NMFS as required. . This data if collected will be transmitted to
38 the Sector within 48 hours upon completion of the trip in a manner agreed upon
39 between the Sector and their Service Provider.
40

41 **1.3 VESSEL OPERATIONS:**

42 **1.3.1 PRE-TRIP NOTIFICATION:** Sector Vessels will continue to comply with the
43 48 hour pre-trip notification System (PTNS) for deployment of NEFOP
44 Observers and at-sea monitors. Acceptable notification methods are
45 internet, phone or email. The Sector’s identified ASM Provider(s) shall be

1 provided with a full list of all pre-trip notifications
2

3 **1.4 AT-SEA MONITOR SELECTION PROCESS:** A determination will be made **immediately**
4 after completing a Pre-Trip Notification whether the trip in question has been
5 preliminarily selected for a NEFOP Observer. As explained by Northeast Fishery
6 Observer Program Staff, the PTNS immediately determines whether a trip has been
7 preliminarily selected for NEFOP coverage. If a trip is preliminarily selected, NEFOP
8 Providers have twelve hours to determine whether they can deploy a NEFOP
9 observer. Therefore, if the PTNS immediately determines that the trip is not
10 preliminarily selected for a NEFOP Observer, the PTNS notification and all
11 corresponding details will **immediately** be forwarded to the Sectors ASM
12 Provider(s). If the trip in question is preliminarily selected for a NEFOP Observer,
13 the NEFOP Program protocol will be followed and the Vessel will be notified in
14 accordance to the process of this program. Additionally, the ASM Provider(s) will
15 be notified **immediately** of this preliminary selection for NEFOP coverage and a
16 waiver from ASM will be provided.
17

18 **1.4.1 NOTIFICATION OF SELECTION/WAIVER FROM ASM:**

19 A. Trips Not Selected for Coverage:

20
21 i. Trip Boats: A Vessel that has completed their pre-trip
22 notification for trips which will be 48 hours or longer will be
23 notified **immediately** upon completing their pre-trip
24 notification, if not preliminarily selected for a NEFOP Observer,
25 whether the trip has been preliminarily selected for an At-Sea
26 Monitor. If the trip has been selected for an ASM the Vessel will
27 work with the Provider(s) on all details pertaining to the trip and
28 may set sail at any time as long as an ASM is onboard or a
29 subsequent waiver has been granted. If the trip has not been
30 preliminarily selected for an ASM the vessel may set sail at any
31 time up to the estimated departure date and time provided in
32 their pre-trip notification.
33

34 ii. Day-Boats: Vessels that have completed their pre-trip
35 notification for trips less than 48 hours, with potential sale
36 dates up to 9 days in advance will be notified 24 hours in
37 advance of sailing if a NEFOP or At-Sea Monitor will be onboard.
38 Upon notification that neither a NEFOP nor At-Sea Monitor will
39 be assigned, the vessel may set sail at any time up to the
40 estimated departure time provided in their pre-trip notification
41 for the trip occurring within 24 hours of notification.
42

43 B. Trips Selected for Coverage: If a vessel is selected for coverage, they
44 will be notified by either a NEFOP service provider or their Sectors ASM
45 Provider no later than 24 hours of receiving notification.
46

- 1 i. NEFOP: NEFOP Observers take precedence over all other
2 monitors. If the trip is selected for a NEFOP observer, the vessel
3 shall follow all NEFOP protocols and requirements.
4
- 5 ii. At-Sea Monitoring: If the trip is selected for coverage under the
6 ASM Program, Vessels shall follow all appropriate Sector ASM
7 Program protocols and processes as outlined in this section.
8 Sector Vessels selected for ASM coverage are not allowed to set
9 sail until the ASM arrives and is onboard or a waiver is granted
10 by the ASM Provider(s).
11
- 12 iii. Delays: If a vessel must delay a multi-day trip sail date, and has
13 been selected for an ASM, the vessel must notify their ASM
14 Provider(s) & Sector Manager immediately. Trips greater than
15 48 hours, may delay their sail date/time up to 48 hours from the
16 estimated sail date and time provided in their Pre-Trip
17 notification, provided that an ASM is still available to sail on that
18 trip or a waiver is granted.
19
- 20 iv. Cancellations: If a Sector Vessel is selected for ASM Coverage
21 and must cancel their trip, the Vessel will be automatically
22 selected for ASM Coverage on their next notified trip, or the
23 next time an ASM is available for coverage.
24
- 25 v. Notification of Delays or Cancellations: The Sectors ASM
26 Provider(s) will notify the PTNS coordinator & the Sector
27 Manager of any trip delays, cancellations, or waivers within 24
28 hours via email within 24 hours of such notification.
29
- 30 vi. Cancellations of Trips where an ASM is already present at Port
31 of Sail: In the event a Sector Vessel which was selected for ASM
32 cancels the trip and the ASM is already at the specified location
33 ready to sail the ASM may board another Vessel in this Sector,
34 regardless of Waivers already provided, that is departing from
35 the port on a Sector trip. The ASM will notify its employer
36 immediately, and the Service Provider will notify the PTNS
37 Coordinator and Sector Manager of the change in vessel
38 coverage.
39

40 **1.5 AT-SEA MONITORING OPERATIONAL STANDARDS:**

- 41 **1.5.1 Safety Requirements**: Prior to setting sail the Operator of the Sector
42 Vessel shall detail and identify any vessel safety operating procedures and
43 other important information to the assigned ASM. The Sector Member
44 acknowledges that an ASM must complete a pre-trip vessel safety checklist
45 as provided by NMFS prior to leaving port. An ASM cannot be deployed on
46

1 a vessel that has failed to review the safety issues, and such vessel is
2 prohibited from leaving port without the ASM on board (unless a waiver is
3 granted). For the safety of the vessels captain, crew and the ASM; the ASM
4 will not be allowed on deck any time that gear is being deployed.
5

6 The Sector and its Members note that each ASM must be provided with all
7 the equipment specified by the NEFOP. It is the responsibility of the
8 individual ASM and its employer to ensure that all equipment is in good
9 working order and brought to the vessel at the agreed upon time prior to
10 sailing.

11 **1.6 WAIVERS:**

12 **1.6.1 Late At-Sea Monitor:** In the event that an ASM fails to arrive at the
13 scheduled sail time and/or place; the Vessel Captain must call their
14 Providers Program Manager, prior to setting sail. The Providers Program
15 Manager will verify that proper trip information was reported. Additionally,
16 the Program Manager may issue a verbal waiver to the Captain relieving the
17 vessel of its ASM obligation for the trip in question. Immediately upon
18 issuing a verbal waiver the Program Manager must notify the Sector
19 Manager, PTNS Coordinator and the Vessel (if requested) in writing that the
20 trip was granted a waiver due to a later ASM.

21 **1.6.2 Late NEFOP Observer:** In the event that a NEFOP Observer fails to arrive
22 at the scheduled sail time and/or place; the Vessel my contact the PTNS
23 Coordinator to obtain a waiver prior to sailing.
24

25 **1.7 ELECTRONIC MONITORING** The Sector reserves the right to modify/update their At-Sea
26 Monitoring Program in the event that Electronic Monitoring (EM) is approved by
27 the Agency during the fishing year upon the discretion of the Sectors Board of
28 Directors. Upon approval by the Agency and subsequently the Sectors Board of
29 Directors, EM may be adopted by some or all Sector Vessels in accordance with EM
30 standards.

31 **2.0 NOAA FISHERIES DESIGNED ASM PROGRAM:**

32 **C.1. BACKGROUND OVERVIEW**

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

39 NMFS is responsible for the management, regulatory compliance, economic data and protection
40 of living marine resources within the United States Exclusive Economic Zone. NMFS also plays a
41 supportive and advisory role in the management of living marine resources in coastal areas

1 under state jurisdiction. It provides scientific and policy leadership in the international arena,
2 and implements international conservation and management measures as appropriate. Under
3 this mission, the goal is to optimize the benefits of living marine resources to the Nation through
4 sound science and management. This requires a balancing of multiple public needs and
5 interests in the sustainable benefits and use of living marine resources, without compromising
6 the long-term biological integrity of coastal and marine ecosystems. Many natural and human-
7 related factors affect the status of fish stocks, protected species and ecosystems. Although
8 these factors cannot all be controlled, available scientific and management tools enable the
9 agency to have a strong influence on many of them. Maintaining and improving the health and
10 productivity of these species is the heart of the NMFS mission. These activities will maintain and
11 enhance current and future opportunities for the sustainable use of living marine resources as
12 well as the health and biodiversity of their ecosystems.

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

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

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

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

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

1 overfishing and that stocks currently classified as being overfished require additional reductions
2 in fishing mortality to rebuild by the end of existing rebuilding periods.

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

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

19 C.2. AT-SEA MONITOR PROGRAM OBJECTIVES

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

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

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

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

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

6 C.3. SCOPE AND OUTCOMES

7 The contractor shall provide and retain the necessary qualified personnel, material, equipment,
8 services, and facilities (except as otherwise specified) to perform quality environmental, and
9 fisheries operations data collection, data analysis, and information dissemination for the
10 Northeast Fisheries Science Center (NEFSC) Data quality is of the utmost importance. Quality
11 data collection, analysis, and dissemination are expected to increase the critical information
12 gathered for stock assessments to manage the species.

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

15 C.3.1. Policies and Regulations

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

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

39

40 C.4. PERFORMANCE WORK STATEMENT

1 The contractor shall meet all requirements of the SOW.

2 C.4.1. Management Requirements

3 C.4.1.1. Project Management

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

13 C.4.1.2. Project Manager

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

19 C.4.1.3. Coordinators

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

26 C.4.1.4. Management Reporting and Coordination

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

32 C.4.1.5. Performance Measures

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

34 C.4.2. Operational Requirements

35 At-Sea Monitors are deployed, in accordance with coverage rates developed by NMFS and as
36 assigned through the Pre-Trip Notification System (PTNS), to vessels. Due to availability of
37 funding, changes in the fishery management, such as emergency closures, court ordered

1 closures, weather, and unforeseen events must remain flexible. Additional funding for sea days
2 may be added to the contract within the scope and maximum allowable sea days.

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

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

6 The recruitment and retention of fully qualified At-Sea Monitors is essential to successful
7 performance under the contract. At-Sea Monitors shall be employees of the contractor. The
8 contractor shall provide sufficient qualified At-Sea Monitors to complete the mandated
9 coverage requirement by selecting the best candidates. The contractor shall describe their
10 strategy for recruiting qualified candidates and retaining their services, as referenced in Section
11 F.5.4. The contractor shall manage its At-Sea Monitors to retain both experienced and new At-
12 Sea Monitors. The contractor is encouraged to provide incentives for superior performance
13 demonstrated by their work force.

14 C.4.2.2. Eligibility Requirements

15 C.4.2.2.1. Educational Qualifications

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

21 C.4.2.2.2. Non-Conflict of Interest

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

23 C.4.2.2.3. Physical/Medical Condition

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

25 C.4.2.2.4. Communication Skills

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

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

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

31 C.4.2.2.6. Statement of No Criminal Conviction

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

33 C.4.2.2.7. CPR and First Aid Requirements

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

6 C.4.2.2.8. At-Sea Monitor Standards of Conduct

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

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

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

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

21 ii. Observer/At-Sea Monitors shall collect data on fishing effort, location, retained catch
22 and discarded catch for each gear deployment that occurs while the observer/At-Sea Monitor is
23 aboard the vessel. The At-Sea Monitor Sampling Manual describes data collection protocols for
24 gear deployment that the observer/At-Sea Monitor sees as well as those not observed.

25 iii. Observer/At-Sea Monitors shall collect length samples from segments of the catch.
26 Observer/At-Sea Monitor protocols, priorities, and data/sample collection procedures are
27 detailed in the At-Sea Monitor Manual.

28 iv. Observer/At-Sea Monitors shall collect information on any incidentally captured sea
29 turtles, including, but not limited to, location of take, biopsies, measurements, photos, and any
30 other information. Observer/At-Sea Monitors shall also collect information on any marine
31 mammals or other protected species interactions. When protected species are caught, the
32 primary responsibility of the observer/At-Sea Monitor shall be to handle and release the
33 protected species.

34 v. Observers shall participate in all training, briefings and debriefings as required by the
35 COTR. Observer/At-Sea Monitors shall participate in port orientations, if offered by NMFS and
36 requested by the COTR (Section B – Supplies or Services and Prices/Costs Training CLIN 0003,
37 1003, and CLIN 2003. Debriefing of the observer/At-Sea Monitor ensures that the data are
38 complete and as accurate as possible before computer audits are run. Debriefing also provides
39 immediate feedback to the observer/At-Sea Monitor in the field and errors can be corrected

1 immediately. Debriefings shall occur on a regular basis and as frequently as possible either by
2 email, phone or in person. Debriefings shall consist of but are not limited to:

- 3 1) Reviewing sampling methods and answering observer/At-Sea Monitor questions;
- 4 2) Reviewing preliminary data;
- 5 3) Correcting any data errors;
- 6 4) Reviewing any other past errors or changes in sampling techniques or recorded on
7 forms;
- 8 5) Reviewing any logistical problems or concerns encountered by the observer/At-Sea
9 Monitor; and
- 10 6) Testing observer/At-Sea Monitor ability to adhere to sampling protocols
- 11 7) Checking gear calibration
- 12 8) Providing the observer/At-Sea Monitor with any updates on modifications to sampling
13 procedures or other program information.

14 vi. Observer/At-Sea Monitors who encounter captains or vessels' owners operating in
15 fisheries requiring mandatory observer/At-Sea Monitor coverage that refuses to accept the
16 observer/At-Sea Monitor on their vessel for deployments shall provide documentation of the
17 refusal to NMFS. This documentation shall be provided via e-mail or hard copy to the Branch
18 Chief of the Fisheries Sampling Branch on the day of the event. This documentation shall be of
19 sufficient substance and detail to be usable for NMFS enforcement actions. Narrative shall be
20 provided to completely answer the following guideline questions: who, what, when, and where.
21 This shall be reported on the Incident Report Form (Section J, Attachment 8, Incident Report
22 Form).

23 vii. Observer/At-Sea Monitors may be asked to perform various program support tasks
24 (industry outreach activities, industry meetings, observer/At-Sea Monitor training sessions, port
25 orientations, reconnaissance, other research project needs, etc.). Each observer/At-Sea Monitor
26 should attend at least one (1) Fishery Council Meeting each year in their assigned area. The
27 contractor shall invoice NMFS separately for these hourly costs in Section B Supplies or Services
28 and Prices/Costs Hourly Rate observer/At-Sea Monitor CLINS 0004, 1004 and 2004, and travel
29 costs in Section B Supplies or Services and Prices/Costs Travel CLINS 0002, 1002, and 2002.

30 viii. Observer/At-Sea Monitors shall send in the whole animal or take a photo of all species
31 encountered the Species ID Verification Program quarterly to NMFS (Section J, Attachment 9,
32 Species Verification Program). Failure to do so may result in an observer/At-Sea Monitor's
33 change in status (i.e., pre-probation, probation, and decertification).

34 (b) Fishery Observer/At-Sea Monitor I – Performance Requirements and Labor Category
35 Definition - The Fishery observer/At-Sea Monitor I shall meet and perform all the General
36 Requirements specified in C.4.3.2a and the following:

- 37 1. Performs routine tasks associated with recurring and continuing work according to
38 prescribed or established procedural standards and technical methods assigned.
- 39 2. Assures that tasks are completed, data developed, methods used in securing and
40 verifying data are technically accurate and in compliance with instructions and established
41 procedures.
- 42 3. Makes estimates of amounts and species composition of fish caught, retained and
43 discarded, using at a minimum, simple, single stage sampling techniques and dichotomous keys.

- 1 4. According to established standards and detailed procedures, records data on
- 2 appropriate forms and logs, some of which may be electronic.
- 3 5. Maintains field equipment and supplies.
- 4 6. Collects scientific, management, compliance information, and make observations of
- 5 fishing operations.
- 6 7. Use and complete a pre-boarding vessel safety checklist.
- 7 8. Measures selected portions of catch including incidentally caught marine mammals, sea
- 8 birds and sea turtles.
- 9 9. Uses calculator and/or PC for calculations and recording data.
- 10 10. Obtains, enter and transfer data electronically.
- 11 11. Obtains and record information on gear characteristics of fishing gear types while
- 12 working either on board vessels, on an alternative platform, or at a shore-based facility.
- 13 12. Use interpersonal and communication skills to contact fishermen and schedule
- 14 observer/At-Sea Monitor sampling trips.
- 15 13. Observes and documents compliance with fishery regulations, and write affidavits as
- 16 required.
- 17 (c) Fishery Observer/At-Sea Monitor II - The Fishery observer/At-Sea Monitor II shall meet
- 18 and perform all the General Requirements specified in C.4.3.2a, perform all duties of Fishery
- 19 observer/At-Sea Monitor I and the following additional duties:
 - 20 1. Independently executes duties, while learning when and how to resolve exceptions and
 - 21 special problems.
 - 22 2. Estimate amounts and species composition of fish caught, retained and discarded,
 - 23 utilizing knowledge of various statistically valid sampling methods and dichotomous keys.
 - 24 3. Measure selected portions of catch including incidentally caught marine mammals, sea
 - 25 birds and sea turtles.
 - 26 4. Uses calculator and/or PC for calculations and recording data.
- 27 (d) Fishery Observer/At-Sea Monitor III - The Fishery Observer/At-Sea Monitor III shall meet
- 28 and perform all the General Requirements specified in C.4.3.2a, perform all duties of Fishery
- 29 observer/At-Sea Monitor II and the following additional duties:
 - 30 1. May act as field coordinator of lower graded fishery observer/At-Sea Monitors.
 - 31 2. Demonstrates extensive familiarity of methods, procedures and management to ensure
 - 32 proper day-to-day operations.
 - 33 3. Shifts from one type of responsible technical assignment to other types, which are
 - 34 different in terms of equipment used, of data used, and uses to which data will be put.
 - 35 4. Makes estimates of amounts and species composition of fish caught, retained and
 - 36 discarded, utilizing knowledge of various statistically valid sampling, sub-sampling methods and
 - 37 dichotomous keys.

1 5. According to established standards and detailed procedures, records data on
2 appropriate forms and logs, some of which may be electronic and provide recommendations for
3 updates.

4 6. Oversees the maintenance of field equipment and supplies.

5 7. Collect scientific, management, compliance information, observations of fishing
6 operations, measure selected portions of catch including incidentally caught marine mammals,
7 sea birds and sea turtles.

8 C.4.2.3.1. Data Deliverables

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

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

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

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

19 At-Sea Monitors shall send any written data and biological specimens directly to NMFS. The
20 Government will provide shipping and supplies. At-Sea Monitors shall assure that biological
21 samples or whole animals requiring freezing are received by the nearest NMFS freezer facility
22 within twenty-four (24) hours of vessel landing. NMFS has freezers located in major fishing
23 ports (Section J, Attachment 10, Freezer Locations). The transfer or transport of the frozen
24 samples or animals must be received by NMFS (At-Sea Monitor Training Center) within 5
25 calendar days of the trip landing, unless a delay is authorized by the COTR. Costs for travel
26 associated with transport of biological samples will be reimbursed under the travel provision
27 section herein (Section B Supplies or Services and Prices/Costs Travel CLINS 0002, 1002 and
28 2002).

29 C.4.2.3.2. At-Sea Monitor Communication

30 At-Sea Monitors shall maintain regular contact with their assigned NMFS editor/debriefer. All
31 At-Sea Monitors shall call their editor/debriefer prior to making a trip in a fishery or program
32 covered for the first time or as requested. At-Sea Monitors shall return phone calls or reply to
33 email questions as soon as realistically possible (i.e., before departing on a multi-day trip).
34 NMFS can request that an in-person meeting occur with an At-Sea Monitor at any time. These
35 meetings will take priority over accomplishment of the sea day schedule. All travel costs
36 associated with required in person debriefings, exit interviews and meetings with NMFS will be
37 reimbursed under the travel provision section herein (Section B Supplies or Services and
38 Prices/Costs Travel CLINS 0002, 1002 and 2002) and the At-Sea Monitor hourly rate will be

1 reimbursed under the hourly rate provision section herein (Section B Supplies or Services and
2 Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004).

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

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

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

13 C.4.3. At-Sea Monitor Support Services

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

15 The contractor shall provide complete logistical and operational support to At-Sea Monitors
16 throughout their employment. The contractor's approach to supporting At-Sea Monitors shall
17 be detailed in the proposal.

18 C.4.3.2. Training and Debriefings

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

23 Training costs are reimbursable and are intended to include all costs associated with At-Sea
24 Monitor training (both initial training and refresher trainings), including, but not limited to,
25 salary during the training period, per diem (meals & reimbursements and lodging),
26 miscellaneous equipment for use during training (as authorized or requested by the
27 Government – Section B Supplies or Services and Prices/Costs Training CLINS 0003, 1003 and
28 2003).

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

1 Three trainings are scheduled for each year (planned trainings will be posted on the FSB
2 website). The contractor shall provide NMFS with at least 45 calendar days prior notice when a
3 training session is needed and identify any foreign nationals that may be attending training (it
4 takes a minimum of 30 working days for foreign national clearance) as referenced in Section
5 F.5.9. For extenuating circumstances, additional trainings may be scheduled at the
6 Government's discretion. Attendance by a key personnel at training is required for at least two
7 days each week of training.

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

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

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

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

24

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

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

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

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

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

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

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

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

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

40 Compensation for the At-Sea Monitor's time at the refresher training and all other training as
41 well as meals & reimbursement (M&I) and lodging will be reimbursed by NMFS (Section B –

1 Supplies or Services and Prices/Costs Training CLINS 0003, 1003, and 2003). Costs for travel to
2 and from the training center will not be covered by NMFS.

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

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

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

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

24 The contractor shall make At-Sea Monitors available to NMFS (Enforcement and FSB staff) for
25 the purposes of routine debriefings, requested meetings regarding data quality issues,
26 investigating circumstances of alleged refusals by vessels to take an At-Sea Monitor or other
27 violations of the Magnuson-Stevens Fishery Conservation Act (MSA), Marine Mammal
28 Protection Act (MMPA), or the Endangered Species Act (ESA) recorded by the At-Sea Monitor in
29 the course of his/her duties (Section B Supplies or Services and Prices/Costs Training CLINS 0003,
30 1003 and 2003) and hourly wages associated with the training (Section B Supplies or Services
31 and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004). All At-Sea Monitors
32 shall call their editor/debriefer prior to making a trip in a fishery or program covered for the first
33 time.

34 C.4.3.3. Data Quality Control

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

37 The overall goal of quality control is to ensure the effectiveness and efficiency of collection
38 efforts as well as the quality of data collected. Data quality is of utmost importance. As such
39 the contractor shall ensure the highest quality in data collected by its At-Sea Monitors. NMFS
40 will provide a data quality rating of At-Sea Monitors to the provider on a bi-annual basis (Section

1 J, Attachment 19, Data Quality Rating). The contractor shall use the data quality rating of At-Sea
2 Monitors in their Quality Assurance Plan (F.5.3).

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

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

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

16 C.4.3.5. Travel and Lodging

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

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

25 Coordinator and support staff travel (related to At-Sea Monitor deployment) to and from vessels
26 and to and from the port are reimbursable if travel meets Government Travel Regulations and
27 At-Sea Monitor travel costs under CLINS 0002, 1002, and 2002. The contractor shall submit a
28 travel voucher (Section J, Attachment 21, At-Sea Monitor Travel Voucher) clearly documenting
29 all travel logistics and associated costs to the COTR.

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

33 C.4.3.6. Vessel Selection

34 The contractor shall strictly adhere to all sampling design requirements specified for the
35 Northeast Fisheries At-Sea Monitor Program (ASM). NMFS will provide the contractor with a set
36 of specific guidelines regarding vessel selection and placement considerations by various
37 fisheries. The contractor shall make contact with vessels selected either by NMFS to arrange for
38 At-Sea Monitor coverage and deployment scheduling as necessary. When the contractor/At-Sea
39 Monitor makes initial contact with the vessel, the contractor/At-Sea Monitor shall verify with

1 the captain that he has sufficient life raft capacity for an additional person (At-Sea Monitor). If
2 not, the contractor shall immediately attempt to have one of the NMFS issued valise life rafts
3 available for the At-Sea Monitor for that trip. If one is not available, and the captain still intends
4 to sail without the At-Sea Monitor, an SDR shall be issued to the captain of the vessel (Section J,
5 Attachment 22, Safety Deficiency Report). The contractor shall assign At-Sea Monitors to
6 vessels without regard to preference expressed by vessel owners or operators with respect to
7 At-Sea Monitor race, gender, age, religion, or sexual orientation nor shall the contractor
8 consider At-Sea Monitor's expressed preference. The contractor shall not assign At-Sea
9 Monitors who are showing symptoms of illness or who may be contagious. In the event that an
10 At-Sea Monitor falls severely ill or injured at sea, and the vessel must prematurely cease fishing
11 to return the At-Sea Monitor to port, the contractor shall propose a plan on how to work out a
12 fair reimbursement for the vessel's fuel expenses.

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

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

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

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

41 Cost Reimbursement is authorized for At-Sea Monitors for the time associated with a "no
42 show". The maximum amount of time for a no show is up to 2.5 hours. The At-Sea Monitor
43 must arrive 30 minutes prior to the scheduled departure time and remain at the designated area

1 for up 2 hours following the scheduled departure time. Travel to and from the site and per diem
2 are not included unless conditions in C.4.3.5 are met. Any costs billed for a “no show” will be
3 billed against CLINS 0004, 1004 and 2004. There will be no reimbursement for situations in
4 which it is the At-Sea Monitor’s fault for missing the trip or no attempt was made to
5 communicate with the captain prior to taking the trip. A travel voucher (Section J, Attachment
6 21, At-Sea Monitor Travel Voucher) is required for proper reimbursement.

7 Cost Reimbursement is authorized for At-Sea Monitors for the time associated with a
8 “cancellation” in instances where trips are cancelled at the dock or when an at-sea monitor is en
9 route to the vessel and cancellations occurs. The maximum amount of time for a cancellation is
10 up to 2.5 hours. Travel to and from the site and per diem are not included unless conditions in
11 C.4.3.5 are met. Any costs billed for a “Cancellation” will be billed against CLINS 0004, 1004 and
12 2004. A travel voucher (Section J, Attachment 21, At-Sea Monitor Travel Voucher) is required
13 for proper reimbursement.

14 C.4.3.7. Safety Requirements

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

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

30 At-Sea Monitor safety is of paramount importance to ASM. If at any time an At-Sea Monitor
31 feels that a vessel is unsafe prior to departure, they may decline the trip and report this on the
32 Pre-Trip Vessel Safety Checklist (Section J, Attachment 23) to NMFS.

33 C.4.3.8. Communication

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

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

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

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

9 C.4.3.9. Notification of Potential Infractions

10 The contractor shall immediately notify the COTR of any potential violation of the Rules and
11 Regulations that implement the Fishery Management Plan under the Magnuson-Stevens Fishery
12 Conservation and Management Act, Marine Mammal Protection Act or Endangered Species Act
13 or any regulations that govern the At-Sea Monitor program, including but not limited to: vessels
14 failing to provide adequate notification prior to departing, failing to take an At-Sea Monitor,
15 incidents of At-Sea Monitor interference, harassment, or intimidation. The contractor shall
16 ensure that each returning At-Sea Monitor is debriefed for incidents of intimidation,
17 interference, or harassment within twelve (12) hours of trip landing as referenced in Section
18 F.5.14. Reported incidents of the vessel failing to take an At-Sea Monitor or incidences of the
19 contractor failing to handle incidents of interference, harassment or intimidation of At-Sea
20 Monitors will be investigated by NMFS.

21 C.4.3.10. Vessel Operations and Working Conditions

22 Fishing vessels routinely operate out of ports from New York to Maine (Section J, Attachment
23 24, Location of ASM Trips in 2010). Trips can range from 1-14 days in duration. The vessels
24 operate in ocean waters, 3-200 miles offshore in all weather conditions. Vessels are generally
25 30-150 feet in length. Crew members and At-Sea Monitors live and sleep in cramped quarters,
26 often in damp conditions and share common facilities. On some vessels, the crew does not
27 speak English. At-Sea Monitors must be willing to travel occasionally to cover locations other
28 than their primary ports.

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

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

4 C.4.3.11. Data Quality

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

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

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

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

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

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

29 Contractors shall compensate vessels at a rate of \$40 per day (for every completed 24 hour
30 period) to cover At-Sea Monitor accommodation and food costs while aboard the vessel for trips
31 lasting longer than one (1) day (i.e., 24 hours) (Section B Supplies or Services and Prices/Costs
32 Vessel Meal Reimbursement CLINS 0005, 1005 and 2005). The contractor shall provide NMFS
33 with an example of the vessel reimbursement form the contractor develops as referenced in
34 Section F.5.17. The contractor shall provide a report for all vessel meal reimbursements
35 provided within the last monthly period. The contractor is encouraged to make all vessel
36 compensation payments through Electronic Funds Transfer. If the contractor makes vessel meal
37 reimbursement payment through check, the contractor shall provide proof that the check has
38 been cashed within 90 days of vessel receipt of the check. If a check has not been cashed within
39 90 days of vessel receipt, the contractor shall cancel the check and provide an offset to NOAA in

1 the amount of the original check less any check cancellation fees (Section F.5.18). The
2 contractor shall provide evidence for all check cancellation fees to the COTR.

3 C.4.3.13. Contractor Standards of Conduct

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

8 C.4.3.14. At-Sea Monitor Termination Documentation

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

14 C.4.3.15. Emergency Action Plan

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

22 C.4.3.16. Quality Assurance Plan

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

29 C.5. PERFORMANCE MONITORING

30 C.5.1. Quality Assurance Surveillance Plan

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

33 C.6. SECURITY RISK LEVEL DESIGNATIONS

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

35 LABOR CATEGORY SECURITY RISK

1 Program Manager Low

2 Coordinator Low

3 Observer I, II, III Low

4 Investigation Packages

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

- 10 • 0 – 30 days = Security Worksheet, Finger Print Cards (FD 258 Cards)
- 11 • 31 – 179 days = Security Worksheet, SAC Form (OFI Form 86C), Finger Print Cards (FD
12 258 Cards)
- 13 • 180 or greater days = EQIP Package
 - 14 o Security Worksheet
 - 15 o Electronic Questionnaire (filled out after applicant has been placed in EQIP)
 - 16 o EQIP Signature pages (generated after applicant has completed Questionnaire in EQIP)
 - 17 o Declaration for Federal Employment (Optional Form 306)
 - 18 o Finger Print Cards (FD 258 Cards)
 - 19 o Fair Credit Reporting Form (filled out based on position sensitivity)

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

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

28 C.7. CLAUSES INCORPORATED BY REFERENCE

29 C.7.1. CAR 1352.237-71 SECURITY PROCESSING REQUIREMENTS—LOW RISK CONTRACTS (APR
30 2010)(Reference 48 CFR 1337.110-70)(c))

31 C.7.2. CAR 1352.237-73 FOREIGN NATIONAL VISITOR AND GUEST ACCESS TO DEPARTMENTAL
32 RESOURCES (APR 2010) (Reference 48 CFR 1337.110-70)(e))

