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# Marine and Hydrology licence

**Schedule 1**

**Contractor Licence for the use of Products**

This Contractor licence is made between:

1. Natural England Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX. (the Licensee); and
2. ................................................................................................................................ (the Contractor).

**Background**

A The Licensee has acquired a licence from the Secretary of State (SoS) to use the Products (as defined in Schedule 2) for its own Licensed Use.

B The Licensee wishes to provide such Products to the Contractor to enable the Contractor to [describe of purpose of licence]

**Operative Terms**

The Licensee has authority from the SoS to grant a licence to the Contractor in respect of the Products on the limited terms of this Contractor Licence.

**1. Definitions**

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| Confidential Information  | means the Intellectual Property in the Products supplied and any other material notified to the Contractor deemed to be confidential and marked as such. |
| Intellectual Property Rights  | means copyright, patent, trademark, design right, topography right, database right, trade secrets, know how, rights of confidence, broadcast rights and all other similar rights anywhere in the world whether or not registered and including applications for registration of any of them.  |
| Licensed Use  | means use in connection with [describe purpose of the licence] as further specified in Schedule 1 of this Contractor Licence.  |
| Products Updates  | means updates, revisions and amendments to the Products provided by the SoS to the Licensee and which may be passed to the Contractor.  |

1.1 Unless the context otherwise requires, each reference to a particular clause shall be a reference to that clause contained in this Contractor Licence.

1.2 Headings are inserted for convenience only and shall not affect the interpretation of any provision of this Contractor Licence.

1.3 Unless the contrary intention appears, words importing the masculine gender shall include the feminine and vice versa and words in the singular include the plural and vice versa in this Contractor Licence.

1.4 A reference to any statute or statutory provision includes a reference to that statute or statutory provision as amended, extended or re-enacted from time to time in this Contractor Licence.

1.5 The Contractor acknowledges that, apart from the Contractor, no person, firm, company or organisation (including without limitation any company or organisation which is under common or partly under common ownership with the Contractor) shall have any rights whatsoever under this Contractor Licence.

**2. Grant of Licence and Consideration**

2.1 In consideration for the Contractor's agreement to [describe purpose of the licence] the Licensee hereby agrees to license the Products on the terms of this Contractor Licence, subject to the termination provisions contained in this Contractor Licence.

**3. Certain Restrictions on Licence**

3.1 The licence granted pursuant to clause 2 shall be a non-exclusive, non-transferable licence to use the Products solely for the Licensed Use. The Contractor may not use the Products in any way or for any purpose other than as set out in this Contractor Licence.

3.2 This Contractor Licence does not give the Contractor any right to sublicense, distribute, loan, sell or otherwise make the Products available to third parties.

3.3 The Contractor acknowledges that the SoS and/or its licensor’s have expressly reserved and retained all Intellectual Property Rights in the Products. The Contractor further acknowledges that any digital data derived from the Products is retained by the Licensee and/or the SoS.

**4. Obligations of Contractor**

4.1 The Contractor acknowledges that it shall:

4.1.1 not by itself or with others participate in any illegal, deceptive, misleading or unethical practices; and

4.1.2 not describe itself or allow itself to be described as the SoS’ agent or representative or act in any such way.

4.2 The Contractor shall notify the Licensee and SoS as soon as it suspects any infringement by a third party of any of the SoS’ Intellectual Property Rights in the Products and will give the Licensee and SoS all reasonably required assistance in pursuing any such infringement.

4.3 The Contractor acknowledges the following instructions with regard to the Products:

4.3.1 any copies of the Products made by the Contractor must carry acknowledgements identical to those on the originals first provided to the Contractor.

4.3.2 The Contractor shall use reasonable technological and security measures to ensure that all Products licensed to it (including all original and back up media and hard copies produced therefrom) are secure from unauthorised use or access including, the adoption of such reasonable measures as the SoS or the Licensee may recommend from time to time.

4.3.3 Only staff involved directly with the Licensed Use should have access to the Products.

4.3.4 Any output produced using the Products in the course of the Contractor Licence remains the property of the Licensee and must not be converted into digital form without the permission of both the Licensee and SoS.

4.3.5 If during the term of this agreement the Licensee provides the Contractor with Products Updates, all previous versions no longer required for this Contractor Licence should be deleted from the Contractor's system and the original data (including the media) should be returned to the Licensee.

4.3.6 Except as permitted by s.50 of the Copyright Designs and Patents Act 1988, the Contractor shall not reverse compile, reverse assemble, reverse engineer or produce source on higher level code from the whole or any part of the Products.

**5. Ownership of the Products**

5.1 The SoS is authorised by the Controller of Her Majesty's Stationery Office, which holds and exercises Crown Copyright to grant licences to use such copyrights for the use of the Products. All Products licensed under this Contractor Licence remain the property of the Crown (or, where applicable, SoS’ suppliers) and the Contractor's use or possession of any Products does not give the Contractor any ownership of or any interest in any of the Products. Title to any copies that the Contractor makes of the Products shall pass to the SoS on their creation, save that ownership of any paper copies shall pass to the Licensee. The Contractor will not retain any Intellectual Property Rights in materials created using the Products and agrees to assign any rights created to the Licensee or the SoS as requested by the Licensee or SoS, from time to time.

5.2 The Contractor shall be responsible for any misuses of or corruption to the Products from the time they are delivered to the Contractor or made available to the Contractor for collection.

5.3 The SoS shall be entitled, through an authorised representative, upon giving reasonable notice in writing to the Contractor to enter that Contractor's premises during normal working hours to check that the terms of this Contractor Licence are being observed and the Contractor hereby authorises entry to its premises by an authorised representative of the SoS for the purposes of this clause.

**6. Variation**

6.1 Any amendments to this Contractor Licence shall be mutually agreed by the Licensee and the Contractor. All amendments shall become incorporated into this Contractor Licence upon such mutual agreement.

**7. Reviewing**

7.1 The Contractor shall provide evidence of compliance with any of its obligations under this Contractor Licence to the Licensee, including without limitation in connection with the measures set out in this clause 7.

7.2 The Contractor will maintain accurate, complete and detailed records relating to all transactions arising out of this Contractor Licence. Representatives of the Licensee and the SoS shall each have the right on giving reasonable notice in writing to enter during working hours the Contractor's premises to ensure its compliance with the security and intellectual property aspects of this Contractor Licence and to take copies of any necessary records. The Contractor shall, at its own expense, make appropriate employees and facilities available to provide the SoS with all reasonable assistance.

7.3 The SoS and/or the Licensee may stipulate a range of reasonable measures to ensure the compliance of the Contractor with its obligations under this Contractor Licence.

**8. Confidential Information / Freedom of Information**

8.1 The parties recognise, notwithstanding the intentions expressed in clause 8.2 below, that the information they provide to each other may be subject to the requirements of the Freedom of Information Act (FOIA) and the Environmental Information Regulations (EIR) and shall assist and cooperate with each other to enable the other party to comply with its information disclosure obligations.

8.2 The Contractor agrees:

8.2.1 to use Confidential Information only for performing its obligations and in accordance with its rights under this Contractor Licence;

8.2.2 to keep all Confidential Information secure, and to disclose it only to those employees, consultants, directors and professional advisers who are directly involved in this Contractor Licence and who are subject to at least the same obligations of confidentiality in relation to the Confidential Information as the Contractor;

8.2.3 to notify the Licensee without delay of any unauthorised use, copying or disclosure of the Confidential Information of which it becomes aware and provide all reasonable assistance to the Licensee to stop such unauthorised use and/or disclosure;

8.2.4 that Confidential Information shall at all times remain the property of the Licensee and SoS, as the case may be. Other than as set out elsewhere in this Contractor Licence, no licence of Intellectual Property Rights is granted by any disclosure of Confidential Information. Confidential Information may not be copied or reproduced by the Contractor without the Licensee’s prior written consent, and any permitted copies are also Confidential Information; and

8.2.5 except as required by law or by governmental or regulatory requirements, not to disclose Confidential Information to any third parties without the Licensee’s prior written consent.

8.3 The obligations in this clause 8 do not apply to any information which the Contractor can demonstrate was previously known to it (unless acquired directly from the Licensee or in breach of any obligation of confidentiality) or independently developed by it without the use of any Confidential Information.

8.4 The Contractor may not divulge directly or indirectly to the press or any other third party, other than its professional advisers and the SoS and where it is required by law to do so, details of this Agreement and any dispute between it and the Licensee or involving the SoS.

8.5 The Contractor shall transfer to the Licensee all requests for information that it receives as soon as practicable and in any event within two working days of receiving a request for information:

 8.5.1 provide the Licensee with a copy of all information in its possession or power in the form that the Licensee requires within five (5)working days (or such other period as the Licensee may specify) of the Licensee’s request; and

 8.5.2 provide all necessary assistance as reasonably requested by the Licensee to enable the Licensee to respond to the request for information within the time for compliance set out in section 10 of the FOIA and/or regulation 5 of the EIR.

8.6 The Licensee shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contractor Licence or any other agreement whether the Contractor’s commercially sensitive information and/or any other information is exempt from disclosure in accordance with the provisions of the FOIA and/or the EIR.

8.7 In no event shall the Contractor respond directly to a request for information unless expressly authorised to do so by the Licensee.

8.8 The Contractor acknowledges that the Licensee may be obliged under the FOIA or the EIR to disclose information concerning the Contractor or the Contractor Licence in certain circumstances:

* + 1. without consulting the Contractor; or
		2. following consultation with the Contractor and having taken its views into account;

provided always that where clause 8.8.1 applies the Licensee shall, in accordance with any recommendations of the Codes of Practice under the FOIA or the EIR, take reasonable steps, where appropriate, to give the Contractor advance notice, or failing that, to draw the disclosure to the Contractor’s attention after any such disclosure.

8.9 The Contractor shall ensure that all information is retained for disclosure and shall permit the Licensee to inspect such records as requested from time to time.

8.10 The Contractor acknowledges that the Contractor’s commercially sensitive information is of indicative value only and that the Licensee may be obliged to disclose it in accordance with clause 8.8.

8.11 The Licensee and/or the SoS shall not be liable for any loss, damage, harm or other detriment suffered by the Contractor arising from the disclosure of any information falling within the scope of the FOIA and/or the EIR.

8.12 If the Contractor receives a request for information and is a person obliged to respond thereto under FOIA or EIR the provisions of this clause 8 shall not override the Contractor’s statutory obligations thereunder and any disclosure of information concerning the Licensee by the Contractor shall be subject to the same controls as apply in this clause to disclosure of information about the Contractor by the Licensee.

**9. Warranties**

9.1 The Licensee gives no warranty with regard to the quality or description of the Products but, on receipt of any notice from the Contractor with regard to any apparent defect, the Licensee's sole liability, and the Contractor's sole remedy, shall be to the effect that the Licensee shall report such matter to the SoS.

9.2 The Contractor acknowledges that no warranty is given that Intellectual Property Rights subsist in or that the Crown owns (either at all or free from encumbrances or licences) all of the Products and any condition, warranty or representation, whether express or implied, to the contrary is hereby excluded to the extent permissible by law.

9.3 The Licensee excludes, to the fullest extent permissible by law and except as expressly stated in this clause 9, all warranties, conditions, representations or terms, whether express or implied by common law, statute or otherwise, including, but not limited to, any regarding the accuracy, compatibility, fitness for purpose, performance, satisfactory quality or use of the Products.

**10. Liabilities**

10.1 The parties acknowledge that any limits and exclusions of liability in relation to each other under this Contractor Licence shall be governed by the terms and conditions of this Contractor License.

10.2 It is further acknowledged by both parties that the SoS and the Licensee shall have no liability whatsoever to the Contractor in respect of the Products or any matter or thing in connection with this Contractor Licence.

**11. Termination**

11.1 This Contractor Licence will expire upon the earliest to occur of:

a) [if the Contractor Licence has been granted (a) in relation to a tender which results in a contract to perform services (a Contract) or (b) in relation to the performance of the service by the Contractor under a contract, the date on which the services are completed in accordance with the contract or, if earlier, the date on which the contract is terminated];

b) the date of termination of the licence between the Licensee and the SoS, notice of which shall be given in writing not less than ten (10) days prior to the termination of such licence; and

c) the date which occurs ten (10) days after the date on which either of the Licensee or the Contractor gives notice in writing to the other of its intention to terminate this Contractor Licence.

11.2 Except as provided in Clause 11.3, as soon as this Contractor Licence is terminated, the Contractor shall immediately (at the Licensee’s option) either destroy (or arrange for the destruction of) all Confidential Information including the Products in all media (including without limitation any Products embedded in any paper copies and any other material) which the Contractor holds or is responsible for or return all Products and Confidential Information to the Licensee or SoS, and provide, at the request of the Licensee or SoS, written confirmation by a duly authorised executive that the Contractor no longer holds any ProdUcts or Confidential Information.

11.3 The Contractor shall be entitled to retain one paper-based archive copy and one digital based archive copy of any Products which is relevant and necessary for [insert description – this should relate to the permitted use].

11.4 Notwithstanding the termination of this Contractor Licence, the following clauses shall survive termination and shall continue in full force and effect: Clauses 1, 5, 7, 8, 9, 10, 11.2, 11.3, this 11.4, 13, 14, 15, 16, 18 and 19.

**12. Assignment, subcontracting and sublicensing**

12.1 The Contractor shall only be entitled to subcontract, assign, transfer or novate rights and/or obligations under this Contractor Licence with the prior written consent of both the Licensee and SoS.

**13. Entire Agreement**

13.1 The parties agree that this Contractor Licence and any documents referred to in it constitute the entire agreement with regard to the Contractor's right to have access to the Products for the Licensed Use. This Contractor Licence supersedes all prior understandings, representations and agreements made between the parties concerning such matters. However, neither party seeks to exclude liability for any fraudulent misrepresentations.

**14. Waiver**

14.1 The waiving (which must be in writing and signed by an authorised representative of the relevant party) on a particular occasion by either party of rights under this Contractor Licence does not imply that other rights will be waived.

14.2 If a party has a right arising from the other party's failure to comply with an obligation under this Contractor Licence and delays in exercising or does not exercise that right, such delay in exercising or failure to exercise is not a waiver of that right or any other right.

**15. Severability**

15.1 Each term of this Contractor Licence is a separate term and is intended to stand alone. Should any provision of this Contractor Licence be held to be invalid or unenforceable, such provision shall be severed from the remainder of this Contractor Licence, which will continue to be valid and enforceable to the fullest extent permitted by law.

**16. Further assurance**

16.1 The parties shall do and execute all such further acts and things as are reasonably required to give full effect to the rights given and the transactions contemplated by this Contractor Licence.

**17. Notices**

17.1 Any notice required to be given for the purposes of this Contractor Licence shall be given in writing by sending the notice by either:

17.1.1 prepaid first class post;

17.1.2 recorded delivery;

17.1.3 facsimile; or

17.1.4 delivery by hand.

17.2 Any notice shall be sent to the address/fax number or other contact details:

17.2.1 For the Licensee:

Contact: Andrew Lee

Address: Natural England.

Email this licence to your Natural England project officer for the data request.

17.2.2 For the Contractor:

Contact:

Address:

Tel:

Or such other contact details as either party shall notify to the other in writing.

17.2.3 For SoS:

Address: House of Commons, London. SW1A 0AA

17.3 Any notice sent by prepaid first-class post or recorded delivery shall be deemed to have been served two business days after posting. Any notice sent by facsimile shall be deemed to have been served on the next business day following sending, provided that electronic confirmation of transmission has been received. Any notice delivered by hand shall be deemed to have been served on the same day if received before 4:00 pm on a business day or on the next business day if received after 4:00 pm.

**18. Contracts (Rights of Third Parties) Act 1999**

18.1 The SoS shall have the right to enforce any of the terms in this Contractor Licence which expressly benefit the SoS or to take any appropriate legal action in any situation involving the misuse of or corruption to the Products, or the infringement of the SoS’ Intellectual Property Rights.

18.2 Apart from the SoS and the Controller of Her Majesty's Stationery Office, a person who is not a party to this Contractor Licence has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any terms of this Contractor Licence, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

**19. Jurisdiction and governing law**

19.1 This Contractor Licence will be governed by and construed in accordance with English law. The parties confer exclusive jurisdiction on the English courts in respect of any proceedings issued by either party in connection with this Contractor Licence.

**20. Signing**

In witness whereof the hands of the duly authorised representatives the day and year first above written.

For Licensee:

Name: Andrew Lee

Title: Senior Data Manager, Natural England, Data Science Services Team.

**[Date as below]**

 For Contractor:

Signature:

Name:

Title:

Date:

**Schedule 1 - Licensed Use**

(Explanatory note: Describe the extent the Contractor is entitled to use the Products, ensuring this use is within that permitted under the main licence agreement).

**For the project as described in the accompanying NE Contractor Data Request Form.**

**Schedule 2 - Products Supplied**

(Explanatory note: Please list only the products to be used by the Contractor on your behalf).

**Admiralty Charts (vector) from UKHO**

Please return this form to your Natural England Project Officer.