

## **MAINE COAST COMMUNITY SECTOR**

### **Fishing Year 2023 and FY 2024 (May 1, 2023 – April 30, 2024) Operations Plan and Agreement**

This OPERATIONS PLAN AND AGREEMENT (this “Agreement”) is entered into as of this 21 day of April, 2023 by and among the permit owners listed on the signature pages hereto and any other permit owners that are admitted pursuant to the terms of this Agreement (each, a “Member” and, collectively, the “Members”).

#### **RECITALS**

WHEREAS, under the Northeast Multispecies Fishery Management Plan (“Groundfish FMP”), Amendment 16 to the Groundfish FMP (“Amendment 16”), and the regulations implementing the FMP, a self-selecting co-operative, or “sector,” of fishermen is authorized to submit to the New England Fishery Management Council (the “Council”) a proposal for the allocation of catch of regulated groundfish species to such sector;

WHEREAS, the Members voluntarily formed a fishery sector through the Maine Coast Community Sector (the “MCCS” or “Sector”), for the purposes of establishing a legally responsible entity (i) to obtain an aggregate annual sector allocation (“Annual Catch Entitlement” or “ACE”) of regulated large mesh multispecies (“Groundfish”) from the Greater Atlantic Regional Fisheries Office (“GARFO”), as authorized by Amendment 16, and to sub-allocate such ACE among the Members and/or their permits and vessels, (ii) to participate in Special Access Programs (“SAPs”) or other approved measures in order to access closed areas to the extent that such SAPs or measures are available to the Sector (iii) to take such actions as may be necessary to ensure that the Sector, its Members and their vessels conduct groundfish harvesting activities in compliance with the Plan, Amendment 16, the Magnuson-Stevens Fishery Conservation and Management Act (the “MSA” or “Act”), the MSA’s implementing regulations, and other applicable laws and regulations;

WHEREAS, Amendment 16 defines a sector as a group of 3 or more persons, none of whom have an ownership interest in the other two persons in the Sector, and that documentation demonstrating that the MCCS has met this definition has been provided to GARFO as Exhibit F hereto through Permit No. 153125 (MRI 97) under the distinct ownership of Marshall Spear, Permit No. 240636 (MRI 286) under the distinct ownership of Steven Benner, and Permit No. 242844 (MRI 2341) under the distinct ownership of Bryan Bichrest, and;

WHEREAS, in connection with the formation of the Sector, the Members desire to enter into this Operations Plan and Agreement, dated April 21, 2023 (the “Agreement”) in order begin operations for the 2023 and 2024 fishing years.

NOW, THEREFORE, in consideration of the mutual agreements, covenants, rights and obligations set forth in this Agreement, the benefits to be derived therefrom and other good and valuable

consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

**Representations and Warranties of the Members.** As of the date hereof, each of the Members represents and warrants to the other Members and the Sector that:

Section 1.01. Eligibility. Each Member has been issued a valid limited access multispecies permit with documented landings of Groundfish between May 1, 1996, and April 30, 2007, which are the 1996 through 2006 fishing years (such period of time shall hereinafter be referred to as the “Qualifying Period”). Each permit that the Member intends to enroll in the Sector is listed below such Member’s name on the signature pages attached hereto identified by the Moratorium Right Identifier (MRI) (each, a “Permit”). Exhibit D includes a list of all Sector vessels, an indication of whether the vessel will fish, and all of the state and federal permits held by members with an indication whether or not those permits are enrolled in any Sector or the Common Pool. Notwithstanding the list of participating vessels set forth in Exhibit D, for purposes of this Agreement, “Participating Vessel” shall mean the vessel to which a Member’s Permit applies at any given time.

Section 1.02. Organization and Authority. Each Member (i) to the extent that it is an entity, is duly organized, validly existing and in good standing in its state of organization and (ii) has all authority, corporate or otherwise, to enter into this Agreement on its own behalf and on behalf of the Participating Vessels that it represents. This Agreement constitutes a legally valid and binding obligation of each Member, enforceable against such Member in accordance with its terms. Each of the Members represents that its Participating Vessel(s) and Permit(s) have no sanctions or other restrictions against them that would prevent such Participating Vessels and Permits from enrolling in the Sector and/or complying with the terms of this Agreement.

## **Membership**

Section 2.01. **Voluntary Membership.** Participation in the Sector is completely voluntary among the Members, their Permits, and the related Participating Vessels.

Section 2.02. Scope of Membership Obligations. The obligations of the Members set forth in this Agreement shall only apply to the Permits and Participating Vessels (and not to any other permits or vessels owned by the Members that are not enrolled in the Sector pursuant to the terms hereof) to the extent that such Permits or Participating Vessels are fishing commercially with gear that is capable of harvesting Groundfish. Notwithstanding the foregoing, the Members acknowledge and agree that the Sector and its Members may, from time to time, be permitted to participate in certain Special Access Programs (each a “SAP”) and that it may be necessary to expand the scope of the membership obligations hereunder, in order to ensure that the Sector and its Members are in compliance with the rules and regulations relating to each such SAP. Therefore, the Members hereby agree to execute any amendments or supplements to this Agreement, which may reasonably be requested by the Sector or the Sector Manager in order to comply with the rules and regulations relating to any such SAP, including, without limitation, any amendments or supplements that expand the scope of the

membership obligations hereunder to apply to vessels and/or permits that are not enrolled in the Sector.

**Section 2.03. Length of Commitment.** Each Member hereby agrees to cause each of its Permits and the related Participating Vessels enrolled in the Sector at the beginning of the fishing year following the date on which such Member enrolled in the Sector to remain enrolled in the Sector for that entirety OF two fishing years (the “Commitment Period”); provided, however, that if the Members seek to extend the terms of this Agreement consistent with Article IX below and GARFO does not approve the Sector’s Operations Plan and Agreement, as the same may be amended, for the subsequent fishing year, then the obligation of such Member under this Section 2.03 shall terminate on the last day of the existing Commitment Period. Each Member acknowledges and agrees that 50 CFR Part 648.87 requires that each of its Permits and the related Participating Vessels must remain in the Sector for the entire fishing year in which such Permits and/or Participating Vessels are enrolled in the Sector, and that each Member’s Participating Vessels may not fish outside the Sector under a multispecies DAS program during any fishing year in which its Permits and/or Participating Vessels are enrolled in the Sector.

**Section 2.04. New Members.** The owner of a permit that is eligible under the criteria set forth in Section 1.01 hereto, but that is not enrolled as a Member (and/or whose permit is not so enrolled) may apply to the Board (as hereinafter defined) for membership in the Sector. For fishing year 2012 and thereafter, such application shall be made in writing no later than 30 calendar days after the PSC letters have been mailed by GARFO for the fishing year in which he wishes to enroll and shall include evidence of eligibility. The Board shall, in its reasonable discretion, determine whether the applicant shall be admitted as a Member of the Sector and/or its permit included as a Permit. Notwithstanding the foregoing, no such admission shall be effective until such new Member has agreed in writing to be bound by, and to cause its Permit and Participating Vessel to comply with, the terms of this Agreement, and until the provisions of this Agreement shall have been amended or modified to reflect such additional Member, Permit and/or Participating Vessel.

**Section 2.05. Permit Transfers.** Each Member agrees that so long as it is a party to this Agreement, such Member (i) shall not have the authority to sell, lease or transfer the ownership of its Permit to a party that is not or does not agree in writing to be bound by this Agreement for the remainder of the fishing year in which such sale, lease or transfer is to occur, (ii) shall not transfer, lease or assign any days-at-sea allocated to its Permit by GARFO to any permit not enrolled in a sector, and (iii) shall comply with the right of first refusal provisions of Section 2.08 hereof prior to the consummation of any proposed sale, lease or transfer permitted hereunder. To the extent that a Member sells, leases or transfers its Permit to another individual or entity (a “Transferee”) in compliance with the foregoing, then (a) such Transferee shall only be permitted to participate in the Sector for the remainder of the fishing year in which the transfer occurred (the “Transfer Year”) and (b) prior to the commencement of the fishing year immediately following the Transfer Year, the Transferee must apply for admission to the Sector pursuant to the provisions of Section 2.04 hereof in order to be admitted to the Sector as a Member. For the avoidance of all doubt, for the purposes of calculating a Member’s Commitment Period under Section 2.03 hereof, no portion of a Transfer Year shall be included in such calculation.

**Section 2.06. Membership Dues.** The Sector may, to the extent necessary for the payment of the costs and expenses associated with the administration and management of the Sector (including the payment of the Manager’s salary or at sea monitoring costs), require payment by the Members of annual

membership dues and/or poundage fees. Such annual membership dues and/or poundage fees shall be fixed by resolution of the Board on a fair and equitable basis prior to the commencement of the applicable fishing year or at such other time as the Board may deem necessary or appropriate.

Section 2.07. Member Training. Each new Member shall participate in training in the Sector's operation plan, harvest plan, bylaws, and other rules prior to the start of the fishing year for which he shall enroll for the first time. Such training shall be led by the Sector Manager and may involve other qualified persons as determined by the Sector Manager or Board.

Section 2.08. Right of First Refusal for External Permit Transfers. In the event that any Member (a "Transferring Member") at any time proposes to sell, transfer or lease (a "Transfer") his Permit to any proposed Transferee outside of the sector who shall make a good faith, bona fide written offer therefore (a "Bona Fide Offer"), then the Transferring Member shall first deliver to the Sector for distribution to its Members a written notice ("First Refusal Notice") that the Transferring Member proposes to make such Transfer, which First Refusal Notice shall (i) state the identity of the prospective Transferee, (ii) state the amount of consideration for the Permit and the material terms and conditions upon which the proposed Transfer is to be made (the date on which the Sector receives the First Refusal Notice being the "First Refusal Notice Date"), (iii) represent that the Bona Fide Offer is an actual bona fide offer, and (iv) include a copy of any written proposal, letter of intent or other agreement relating to the Bona Fide Offer. The Bona Fide Offer must have a monetary amount attached to it. The Sector or any Member shall have a period of 7 calendar days following the First Refusal Notice Date (the "Election Period") in which to elect to purchase or lease the Permit at the price and subject to the same terms and conditions set forth in the First Refusal Notice (Or an equal monetary value if other material goods or services are involved in the trade). The Sector or Member shall exercise the right to purchase or lease such Permit by delivering a written notice ("Election Notice") to the Transferring Member or Sector Manager within the Election Period. In the event that the Sector or member desires to purchase the Permit, then the parties shall schedule a closing for the payment for, and the delivery of, the Permit, which shall be no later than 90 calendar days after the First Refusal Notice Date. The Transferring Member agrees to enter into and deliver an agreement for the benefit of the Sector or Member, containing standard and customary representations, warranties, covenants and indemnities by the Transferring Member for the benefit of the Sector. If the Sector or Member has not elected to purchase the Permit within the Election Period, then the Transferring Member is free to Transfer the Permit to the Transferee; provided that such Transfer is on the terms and conditions specified in the First Refusal Notice. If the proposed Transfer is not consummated within 90 calendar days following the termination of the Election Period, the Transferring Member may not Transfer the Permit without complying again with all the provisions of Section 2.05 and this Section 2.08.

Section 2.09. Right of First Refusal for ACE Transfers. In the event that any Member at any time proposes to sell, transfer or lease any portion of his ACE to any proposed Transferee who shall make a good faith, bona fide written offer therefore, then the Transferring Member shall first deliver to the Sector for distribution to its Members a written notice that the Transferring Member proposes to make such Transfer, which First Refusal Notice shall (i) state the identity of the prospective Transferee, (ii) state the amount of consideration for the ACE and the material terms and conditions upon which the proposed Transfer is to be made, (iii) represent that the Bona Fide Offer is an actual bona fide offer, and (iv) include a copy of any written proposal, letter of intent or other agreement

relating to the Bona Fide Offer. The Bona Fide Offer must have a monetary amount attached to it. The Sector or any Member shall have a period of 7 calendar days following the First Refusal Notice Date in which to elect to purchase or lease the ACE at the price and subject to the same terms and conditions set forth in the First Refusal Notice (Or an equal monetary value if other material goods or services are involved in the trade). The Sector or Member shall exercise the right to purchase or lease such ACE by delivering a written notice to the Transferring Member within the 7 day Election Period. In the event that the Sector or Member desires to purchase or lease the ACE, then the parties shall establish any necessary additional terms and conditions related to the transfer, including a schedule for payment, within a reasonable amount of time. If the Sector or Member has not elected to purchase or lease the ACE within the Election Period, then the Transferring Member is free to Transfer the ACE to the Transferee; provided that such Transfer is on the terms and conditions specified in the First Refusal Notice. If the proposed Transfer to the Sector or Member is not consummated within a reasonable amount of time after the close of the Election Period, then Transferring Member may Transfer the ACE upon complying again with all the provisions of this Section 2.09. All ACE transfers must also comply with Section 4.09 below, including those requirements for Board and GARFO approval.

**Section 2.10. Release of Confidential Data.** Pursuant to section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C §1881a(b)(1)(F), the undersigned hereby authorizes the release to the Manager, or designated sector employee(s), of the Maine Coast Community Sector of information that may be or is considered to be confidential or privileged by the Magnuson-Stevens Act or other federal law regarding the catch of various species of fish associated with the limited access Northeast multispecies permit with the Moratorium Right Identifiers (MRIs) enrolled in the sector submitted to the National Marine Fisheries Service that the undersigned has authority to access. This information includes data required to be submitted or collected by GARFO, on an individual MRI and/or aggregated scale, including but not limited to days-at-sea allocation and usage, vessel trip reports, dealer reports, Northeast Fisheries Observer Program data, catch and landings history data for all species harvested by the vessel/MRI, Sector at-sea or electronic monitoring data, protected species takes/interactions, enforcement data, vessel baseline data (length, horsepower, etc), VMS information, and all other information associated with the vessel, MRI #, and/or permit records. In addition, this information includes data for species not managed under the multispecies FMP.

The undersigned also hereby authorizes the release of information to the sector's electronic monitoring provider(s) that may be considered to be confidential or privileged by the Magnuson-Stevens Act or other federal law associated with the limited access Northeast multispecies permit with the Moratorium Right Identifiers (MRIs) enrolled in the sector's electronic monitoring program. Specifically, NOAA Fisheries is authorized to release vessel trip report data associated with the vessel, such as vessel name; vessel permit number; sail date/time; land date/time; Trip ID number; number of hauls; number of sub-trips; and other trip-related data for the purpose of facilitating trip tracking and management as required by contract and regulation.

All confidential Sector data may be released to the Sector Manager, or designated sector employee(s). This statement applies to all confidential data for a two-year time period encompassing FYs 2023 and 2024.

**Section 2.11. Code of Ethics and Conduct for Sector Members, Sector Manager, and Sector Representatives:**

MCCS believes in and values:

Professional accountability and integrity:

Accepting responsibility for professional decisions and actions while fishing, attending meetings, or engaged in projects as facilitated by MCCS. MCCS members and representatives will deal fairly, honestly and in good faith with those they work and interact with.

Non-discrimination:

Approaching those you engage with respect and cultural sensitivity.

Members are to understand that each of these core values are to be considered when making ethical and professional decisions in their capacity as sector members or representatives. These values are of equal weight and importance.

## **ADMINISTRATION**

**Section 3.01. Sector Manager.** The Board of Directors (the “Board”) of the Sector shall appoint a manager of the Sector (the “Manager”), which Manager shall have the authority to manage the day-to-day business of the Sector and to act as its designated agent for service of process. Mary Hudson of Brunswick, Maine, is the current agent for service of process and will continue in that role.

**Section 3.02. Manager Authority.** The Manager shall have the authority (i) to monitor the activities of the Members and the Participating Vessels and to take other similar actions as may be necessary to ensure compliance by the Members and their Permits and Participating Vessels with this Agreement and other Sector requirements as may be adopted under the terms of this Agreement or the Sector’s Bylaws, as well as applicable laws, rules and regulations, and (ii) subject to the authority and direction of the Board or a committee delegated thereby pursuant to this Agreement, the Sector’s Bylaws or any other agreement relating to the Sector’s internal governance, to enforce this Agreement, including specifically, without limitation, the authority to impose “stop fishing” orders and penalties as set forth in the Schedule of Penalties (as hereinafter defined). The Manager shall also act as the liaison between GARFO and the Sector.

**Section 3.03. Sector Weekly and Daily Catch Reports** The sector will submit required reports using the format and procedure prescribed by GARFO. The Manager or Sector Data Analyst will retain and maintain all sector data, paper and electronic, and shall, on a weekly basis, transmit to GARFO catch reports providing data required by GARFO that includes, but are not limited to, (i) catch data by cumulative live weight landings and discards by stock, statistical area, and status of ACE for each of the stocks allocated to the Sector; (ii) administrative data including week ending date, number of trips, gear used, submission date of report, and whether the record was new or updated; (iii) observer data including data collected on an observed trip by a Northeast Fisheries Observer Program Observer, and shall extrapolate that across the entire Sector (cumulative) in the manner prescribed by GARFO; (iv) monitoring data including catch data collected on monitored trips by independent, third-party catch monitors, with extrapolation across the entire Sector (cumulative) in the manner prescribed by GARFO; (v) issues regarding data discrepancies, such as outstanding catch records and any actions being taken to resolve such discrepancies, (vi) any enforcement or compliance issues, including issues that were resolved or issues under investigation (unless administrative only), and (vii) a list of vessels landing during the week, a summary of the at sea monitoring effort that includes the vessels monitored, the date and location of

monitoring, and any discrepancies observed.

This information will be organized and contained in the following weekly reports:

1. Sector Manager ACE Status Report: The ACE Status Report provides the sector managers ACE status calculations. This will allow GARFO to cross-check totals, as stipulated in Amendment 16. Information includes the original ACE at the start of the fishing year, the current ACE, harvested ACE, and the percent harvested to date.
2. Sector Detail Report: The Sector Detail Report includes information down to the sub-trip level about each sector trip for a given week, regardless of the completeness of the data. The information will include stock, gear, mesh categories, landing amounts, discards, and total catch.
3. Sector Trip Issue Report: The Sector Trip Issue Report provides information about sector trips for a given week that have enforcement, data quality, or other issues. The sector manager or data analyst will submit one Issue Report per reporting period. Weekly reports must include any enforcement or reporting compliance issues, including violations of sector operations plans (exclusive of defined administrative provisions), violations of regulations, or general problems with monitoring or sector operations during the reporting period.

The reporting frequency for the sector manager's ACE Status Report will be increased to daily when 90% of any of the sector's ACEs is reached. The Sector Manager, or a designated representative, must notify NOAA Fisheries immediately by email if the threshold that triggers daily reporting has been reached. During the period when a sector has reached or exceeded 90% of any of its ACEs, a daily ACE Status Report must be submitted only on a day when a member vessel lands, or when the sector engages in an ACE transfer of a stock that is exceeding the 90% threshold. The Manager shall include in such notice whether it intends to distribute the ACE reserve, consistent with sections 4.03 and 4.04.

The Sector will submit all data quality issues through the GARFO JIRA issue tracking application for research and correction.

Section 3.04. Annual Report. The Manager shall prepare and submit to the Council and GARFO an annual year-end report on the fishing activities of its Members, including the harvest levels of all species by Sector vessels (landings and discards by gear type), the number of sector vessels that fished for regulated groundfish, and the permit and MRI numbers associated with those vessels (except when this would violate protection of confidentiality), the number of vessels that fished for other species, the method used to estimate discards, the landing ports used by Sector vessels while landing regulated groundfish, any enforcement actions taken against the Members, and other relevant information required by the Regional Administrator to evaluate the Sector's performance, within 60 days of the end of the fishing year.

Section 3.05. Sector Board. For FY 2023 and 2024, the MCCS board of directors, officers, and attorney are listed below. If the Sector Manager (Mary Hudson) cannot be reached GARFO may contact Ben Martens or Gerry Cushman with any sector-related business. GARFO may receive official communications on the sector's behalf from these same individuals.

MCCS Board of Directors:

Gerry Cushman

Bryan Bichrest  
Vincent Balzano  
Geoff Smith  
Alex Todd  
Dennis Robillard  
Randy Cushman

**Section 3.06. Infractions.** The Board shall oversee the handling of all infractions. The Board shall ensure fair, consistent and appropriate enforcement of this Agreement, the Harvesting Rules, the ACE (as hereinafter defined) requirements set forth on Exhibit B hereto, the Plan, Amendment 16, and other Sector requirements as may be adopted under the terms of this Agreement or the Sector's Bylaws. The Board is responsible for reviewing the "Schedule of Penalties" attached as Exhibit A and shall either approve it or, if it determines appropriate, it shall make changes to it. The Schedule of Penalties shall address any unauthorized fishing activities (whether under applicable laws, rules and regulations or otherwise) and violations of this Agreement, the Harvesting Rules, the ACE requirements, the Plan, Amendment 16, and other Sector requirements as may be adopted under the terms of this Agreement or the Sector's Bylaws. Such schedule of penalties may be based on reductions in ACE instead of or as an alternative to dollars amounts. The Board shall review and approve any Schedule of Penalties prior to the commencement of the fishing year for which such Schedule of Penalties has been prepared. In addition, the Board shall have the authority to take any number of enforcement measures against the Members for the non-payment of membership dues and/or poundage fees. Such enforcement measures may include requesting expulsion of the violating Member under Section 8.02 and issuing a stop fishing order against such Member.

**Section 3.07. Procedures for Investigations.** In addition to the Manager's authority described in Section 3.02 hereof, the Manager may, on his own, and shall, at the request of the Board or a Member, request that the Board conduct an investigation of possible infractions of the Agreement, the Harvesting Rules, the Plan, Amendment 16, or other Sector requirements as may be adopted under the terms of this Agreement or the Sector's Bylaws, by calling a meeting of the Infractions Committee and presenting it with the information that is the basis for the Manager's or Member's opinion that an infraction occurred. The Board shall operate as a "blind" committee, such that the identity of the Member, Permit and/or Participating Vessel under consideration shall only be known to the Manager. The Board may assign a number of its members, which constitutes no more than 50% of the Board, to investigate the matter further and to recommend action, if any, to the full Board. Such committee member assignments shall be rotated. If, upon the conclusion of such investigation, the Board determines by an affirmative vote of a majority (51%) of its members that a violation of this Agreement, the Harvesting Rules, the Plan, Amendment 16, or other Sector requirements (as may be adopted under the terms of this Agreement or the Sector's Bylaws) has occurred, it may, and is hereby given the authority to impose penalties consistent with those prescribed in the Schedule of Penalties, (ranging from letters of warning to fines or reductions in ACE, to stop fishing orders) or to recommend expulsion of the Member. The Board shall exercise all reasonable efforts to ensure that penalties and settlements are commensurate with the nature and extent of the violation, are designed to further the purposes of the Sector, Plan, and Amendment 16, and are uniform with those reached in similar circumstances. All appeals from such Board action shall be taken in accordance with Section 7.05 hereof. Each of the Members agrees to cooperate fully with the Manager and the Board in such investigations and procedures (including cooperation with any



requests for information or data that may be made by the Manager or the Board).

**Section 3.08. Sector Points of Contact.**

Sector Communications Contacts for Maine Coast Community Sector Fishing Year 2023 and 2024							
Name	Title	Responsibility	Email	Phone	Street Address	City/State	Zip
Mary Hudson	Sector Manager	Day-to-day sector operations, Weekly reports					
Gerry Cushman	Board Liaison	Board Contact (Emergencies Only)					

**ALLOCATION AND HARVEST**

**Section 4.01. Sector Allocation.** The Sector will be allocated an Annual Catch Entitlement (“ACE”) of all allocated groundfish stocks consistent with Amendment 16 and as set forth in Exhibit B hereto. Sector ACE for each groundfish stock will be based on the landings history of each permit during the time period FY1996-FY2006, except for GB Cod, which is allocated to certain permit/MRIs based on FY1996-FY2001 (see Amendment 16).

**Section 4.02. Annual Distribution, Consolidation, and Harvest.** Each Member hereby acknowledges and agrees that the aggregate allocation of Groundfish authorized by Amendment 16 and GARFO to the Sector (“Sector ACE”) shall be harvested in accordance with the Harvesting Rules, which are set forth as Exhibit C hereto, and the provisions for allocation set forth in Exhibit B hereto. Consistent with Exhibit B, prior to the commencement of the Fishing Year, the Board shall make an initial distribution of the Sector’s ACE to members based on the Members’ fishing history (“Individual ACE”). After the initial allocation of ACE is made, and at any time during the fishing year, Members are free to transfer, lease, or sell any Individual ACE to any other Member consistent with Section 4.09. Members with or without ownership interests in multiple Permits may consolidate ACE to harvest from a single or fewer vessels, provided that the Manager is notified and consents to such transfer. See Section 5.10 for further discussion regarding redistribution of ACE, and Exhibit B and Table B.3 for further discussion regarding consolidation of ACE.

Each Member agrees to, and agrees to cause its Participating Vessels to, exercise all commercially reasonable efforts to (i) assist in harvesting an amount of Groundfish equal to, but not greater than, the Sector ACE, as further set forth on Exhibit C, and (ii) to comply with all of the other Sector requirements set forth in Exhibit B and Exhibit C hereto. If at any time during the fishing year the Board determines that the Sector ACE may not be fully harvested, the Board shall, subject to the provisions of this Section 4.02, seek to redistribute the Sector ACE, through Individual ACE, monthly Sector ACE targets or otherwise, to ensure that the Sector ACE is fully harvested. In addition, to the extent that the Sector ACE is adjusted upward or downward after the commencement of any fishing year, whether by the authority of GARFO, by framework adjustment or by other

regulatory action, the Board shall have the authority to redistribute the adjusted Sector ACE through adjustments to Individual ACE, monthly quotas, or otherwise, to ensure that the adjusted Sector ACE is properly harvested by the Members.

**Section 4.03. Sector ACE Reserve.** Each Member agrees that the Board may, in its sole discretion, establish a reserve of each Groundfish species in order to ensure that the Sector remains in compliance with its Sector ACE limit; provided, however, that such reserve shall not exceed 10 percent (10%) of the Sector ACE. The amount of the reserve shall be deducted from the Sector ACE before such Sector ACE is distributed among the Members, their Permits and their Participating Vessels through Individual ACE, monthly quota targets, or otherwise.

**Section 4.04. Distribution of Sector ACE Reserve.** If the Board, subsequent to the establishment of a reserve pursuant to Section 4.03 hereof, determines that the Sector ACE, as adjusted pursuant to Section 4.03, will be harvested by the Participating Vessels, the Board shall release and authorize the harvesting of the reserve by the Members. Such release and authorization shall be conducted in a manner consistent with all other requirements herein and any additional Board requirements approved as part of the authorization in order to ensure the Sector ACE is not exceeded.

**Section 4.05. Research Reserve.** Each Member agrees that the Board may establish a reserve of ACE for each Groundfish species for purposes related to research. The terms and conditions for the distribution of ACE placed into the reserve shall be established through an agreement between the Board and the Member(s) electing to place ACE in the reserve. The amount of the reserve shall not exceed the ACE of such Member(s), their Permits, and their participating Vessels, and shall be deducted from the Sector ACE before such Sector ACE is distributed through Individual ACE or otherwise.

**Section 4.06. Distribution of Research Reserve.** The Board, subsequent to the establishment of a Research Reserve pursuant to Section 4.05 hereof, shall release and authorize the harvesting of the Research Reserve by the Members as specified in the agreement(s) establishing such reserve. Such release and authorization shall be conducted in a manner, consistent with this plan, that continues to ensure the Sector ACE is not exceeded.

**Section 4.07. Monitoring Costs Reserve.** Each Member agrees that the Board may establish a reserve of ACE for each groundfish species for purposes related to monitoring costs. The terms and conditions for the distribution of ACE placed into the reserve shall be established through an agreement between the Board and the Member(s) electing to place ACE in the reserve. The amount of the reserve shall not exceed the ACE of such Member(s), their Permits, and their participating Vessels, and shall be deducted from the Sector ACE before such Sector ACE is distributed through Individual ACE or otherwise.

**Section 4.08. Fishing History in Sector.** The Members agree that any fishing history, which is accumulated or established using the Individual ACE attributed to a Member's Permit while it is participating in the Sector (the "Sector History"), shall be attributed to such Member's Permit, and not to any other permits. The Members further agree that any future allocations of Groundfish made within the Sector shall be based on the fishing history of the Members' Permits that is accumulated during the

relevant Qualifying Period.

**Section 4.09. Non-Prejudicial.** It is the intent of the Members that the allocation of ACE to any Member's Permit related to the Qualifying Period, derived from reports to GARFO prior to joining the Sector, shall not be diminished or penalized as a result of participation in the Sector in lieu of participation in the multispecies DAS program.

**Section 4.10. ACE Transfer/Carryover.** The Sector may carry up to 10 percent of its unused ACE forward into the next fishing year unless a different threshold is established by GARFO. Participating Vessels and/or Permits may transfer Individual ACE to other Participating Vessels and/or Permits, or otherwise pool or redistribute Individual ACE, provided that the Manager is notified and consents to such transfer.

There is no limit on the amount of ACE that can be transferred between Sectors. This exchange can occur at any time during the fishing year and up to 2 weeks into the following fishing year. Members must notify the Manager prior to requesting a transfer of ACE to another Sector and such request must be approved by the Board prior to the Sector transmitting the ACE transfer request to GARFO. The transfer does not become effective until approved by GARFO and both Sectors are notified.

Since ACE transfers may take place after fishing has commenced and it will not be clear whether sectors are able to balance overages by acquiring ACE until all transfers have been processed, the Sector recognizes that GARFO will hold 20 percent of the Sector ACE for each stock in reserve until 61 days after the beginning of the fishing year in order to ensure that sectors will have sufficient ACE to balance overages from the previous year.

**Section 4.11. ACE Overages.** Any Sector ACE overage that is not accounted for through a subsequent ACE transfer will be considered a violation of the Plan and regulations. GARFO may hold Members and the Sector jointly and severally liable for such overage as indicated in Article VII below. If the Sector or a Member exceeds its or their allocation, the overage will be deducted the following year on a pound for pound basis, after accounting for any transfers. A permanent reduction in Sector ACE will follow any vessels that leave the Sector.

The Harvest Rules, Exhibit C, show how the Sector plans to avoid exceeding its ACE, along with actions to be taken should the ACE be exceeded. Overage penalties are identified in the schedule of penalties (Exhibit A). GARFO will withhold 20 percent of the Sector ACE at the beginning of the fishing year for a period of 61 days to allow time to process any end-of-year transfers of ACE and to determine whether any reductions in ACE are necessary due to overage in the previous year.

If an overage occurs and a vessel(s) leaves the Sector but the remaining vessels have enough ACE to cover the overage deduction, the impacts on departing Members will be determined by the Infractions Committee and Board.

If an overage occurs and the Sector disbands completely each permit will receive a percentage reduction in DAS equal to the maximum percentage overage of the Sector (e.g. The Sector goes over by 5% on stock A and 10% on stock B, therefore each permit receives a 10% DAS reduction).

If a vessel causes a Sector ACE overage, leaves the Sector, and there is insufficient ACE in year 3 to cover

the year 2 overage, consistent with Amendment 16 there will be a pound-for-pound penalty applied to that permit in the new Sector or a percentage DAS reduction if the Member joins the Common Pool.

**Section 4.12 Non-target Fisheries.** The M CCS will undertake measures to avoid or minimize catching groundfish in non-groundfish fisheries participated in by sector vessels by adhering to all monitoring and reporting requirements, using gear that minimizes groundfish bycatch such as nordmore grates and topless trawls in the shrimp fishery, and adjusting its fishing patterns (time and area restrictions) or its gear at the request of the Sector Manager if groundfish catch approaches either an individual's or the Sector's ACE. If at any point an individual or the Sector does not have ACE available and groundfish catch cannot be avoided in a non-groundfish fishery for which there is not a separate sub-ACL of groundfish, then its vessels shall not participate in such fisheries.

## **ADDITIONAL MEMBERSHIP REQUIREMENTS, RESTRICTIONS, AND EXEMPTIONS**

**Section 5.01. Letters of Authorization and Proof of Sector Membership.** Upon approval, each sector vessel will be issued a Letter of Authorization (LOA) specifying the exemptions granted. Vessels must comply with all applicable regulations stipulated in the LOA and all applicable Federal regulations and laws not specifically exempted in the LOA. Each Member agrees that its Participating Vessel(s) shall maintain on-board at all times while fishing for groundfish a LOA from GARFO verifying such Participating Vessels' participation in the Sector, contact information for the Sector Manager, and a copy of the Operations Plan and Agreement in effect for the current fishing year.

**Section 5.02. Gear Restrictions.** While the primary gears used by Participating Vessels will be otter trawls, sink gillnets, and automatic electric jigging machines there is some history of use of other gear including traps, demersal long lines and handlines. The M CCS is authorized to use any gear allowed by regulations including automated hook, jigs, handlines, Scottish seines, beam trawls, or pots.

**Section 5.03. Area Restrictions.** Each Member and Participating Vessel agrees that it shall not fish commercially with gear that is capable of harvesting Groundfish outside the Gulf of Maine Regulated Mesh Area (RMA), the Inshore Georges Bank RMA or the Offshore Georges Bank RMA, as identified in the Harvesting Rules set forth in Exhibit C hereto.

**Section 5.04. Area Declarations.** For the purpose of providing the Sector and its Manager with a greater understanding of the fishing patterns conducted by their members, the following reporting requirements have been crafted and adopted by the Sector in collaboration with **all** Northeast Groundfish Sectors in the region. These provisions afford Sectors an administrative tool to track fishing activity west of the 70:15. The implementation of the following requirements is conditioned on the adoption of all Northeast Groundfish Sectors in their FY 2023 & FY24 Operations Plans. In the event this provision is not adopted by all Northeast Groundfish Sectors the specifications below will not be implemented by this Sector.

For the purpose of this rule, the portion of BSA 1 West of 70:15 to the shoreline North to the Maine Coast and South to Cape Cod would be defined as **Inshore GOM**.

**When an Observer/Monitor is onboard.** The Sector Vessel may declare and fish in all Broad Stock Areas, including the portion of BSA 1 defined as the Inshore GOM in section 5.04.

**When an Observer/Monitor is NOT onboard.**

If the Sector Vessel intends to fish West of the 70:15 in the area described in Section 5.04 of this operation plan as the Inshore GOM, at any time during a trip, the vessel must declare BSA 1 only and the Sector Vessel may not conduct any fishing activity outside of the area defined as BSA 1 for the entire trip.

If the vessel declares more than one Broad Stock Area on a trip, the vessel is prohibited from conducting fishing activity West of the 70:15 in the area described in Section 5.04. as the Inshore GOM.

If the Member declares more than one BSA on the trip, the Member is prohibited from conducting fishing activity West of the 70:15 in the area described above as the Inshore GOM and the Member must indicate acknowledgement of this restriction by transmitting a Trip Start Hail, through their VMS unit or third party software, and check the “b. Inshore Gulf of Maine” from the list of Sector Ops Plan Provisions in the Trip Start Hail.

**Section 5.05. Operators.** Each Member agrees to ensure that any operators of its Participating Vessels fully comply with the obligations and restrictions set forth in this Agreement. Each Member further agrees to accept responsibility hereunder for the actions of any such operators that result in a violation of this Agreement.

**Section 5.06. Designated Landing and Departure Ports.** To enable the Members and the Manager to monitor, observe and verify catches, each Member agrees that each of its Participating Vessels will only offload fish in, and depart to fish from, the designated ports as follows (“Remote” locations are noted.):

1. Portland Harbor, Portland, ME
2. Port Clyde Harbor, Port Clyde ME (Remote)
3. Cape Porpoise Harbor, Kennebunkport, ME (Remote)
4. Kennebunkport Harbor, Kennebunkport, ME (Remote)
5. Sebasco Harbor, Phippsburg, ME (Remote)
6. Boothbay Harbor, Boothbay Harbor ME (Remote)
7. Cundys Harbor, Harpswell, ME (Remote)
8. Camp Ellis, Saco, ME (Remote)
9. South Bristol, ME (Remote)
10. Five Islands, ME (Remote)
11. Bass Harbor, ME (Remote)
12. Gloucester Harbor, Gloucester, MA (Remote)
13. Saco, ME (Remote)
14. Portsmouth, NH (Remote)
15. Boston, MA (Remote)

**Section 5.07. Landing Port Exceptions.** Landings in ports other than those listed in Section 5.06 are permitted on a temporary, case-by-case basis, subject to prior approval of the Manager; provided, that the Manager determines that the excepted landing will not impair effective enforcement and monitoring



of the Sector and this Agreement. Such exceptions may be granted at the discretion of the Manager with GARFO OLE approval of the issue prompting the exemption request. Exemptions may be granted due to weather, safety concerns, equipment malfunction, or family emergency. For the purposes of this paragraph, landing port exceptions that are of a significant or prolonged nature, would include, but not be limited to, more than two exceptions per month for a vessel, or if the timeframe for any such exception is greater than two days.

**Section 5.08. Advanced Notice of Offloading.** Consistent with the requirements of Section 6.01, vessels shall notify the Sector Manager through the vessel's Vessel Monitoring System (VMS) or other means prior to landing, Consistent with Exhibit G, each Participating Vessel operator must send a trip start hail and a trip end hail six hours before arrival, or immediately upon leaving the fishing grounds if fishing ends less than six before landing. An alternative timing for the trip end hail may be implemented during the 2023 and 2024 fishing years if agreed upon by the sector, sector monitoring provider, and GARFO. Vessels shall provide location and approximate time of landing, and estimation of pounds to be landed. The trip end hail will be sent upon completion of the last tow with required information.

**Section 5.09 Exemptions.** The MCCA is exempt from certain regulations otherwise applicable to participants in the Groundfish FMP. Upon approval, each sector vessel will be issued a Letter of Authorization (LOA) specifying the exemptions granted. Vessels must comply with all applicable Federal regulations and laws not specifically exempted in the LOA.

### **Universal Exemptions**

Following are the universal exemptions.

1. Exemption from trip limits on stocks for which a sector receives an allocation, except for the following:
  - a. Halibut: Trip limit would continue to be one fish per trip;
  - b. No vessel, whether in the Common Pool or in any sector, will be allowed to possess any windowpane flounder (both stocks), ocean pout, or wolffish on board at any time. When caught, these species must be discarded.
2. Exemption from the Gulf of Maine Cod Protection Closures IV and V.
3. Exemption from groundfish DAS requirements other than those required to comply with effort controls in other fisheries.
4. Exemption from the requirement to use 6.5-inch mesh in the codend in haddock separator trawl/Ruhle trawl when targeting haddock in the Georges Bank Regulated Mesh Area to use 6-inch mesh in the codend.
5. Exemption from the minimum codend mesh size restrictions for trawl gear when fishing in compliance with the provisions of the Redfish Exemption Program.

### **(a) Previously Approved Sector Exemptions and Justifications**

For FY 2023 – 2024 Maine Coast Community Sector is requesting all the following previously approved exemptions with the exemption of the #16 redfish exemption.

1. 120-Day Block Requirement Out of the Fishery for Day Gillnet Vessels.

This measure was implemented in 1997 under FW 20 (62 FR 15381, April 1, 1997) to help ensure that management measures for Day gillnet vessels were comparable to effort controls placed on other fishing gear types (the proposed rule for this action erroneously stated that this action had been implemented in 1996 under Amendment 7). Regulations at § 648.82(j)(1)(ii) require that each NE multispecies gillnet vessel declared into the Day gillnet category declare and take 120 days out of the non-exempt gillnet fishery. Each period of time taken must be a minimum of 7 consecutive days, and at least 21 of the 120 days must be taken between June 1 and September 30. This measure was designed to control fishing effort and, therefore, is no longer necessary for sectors because sectors are restricted to an ACE for each groundfish stock, which limits overall fishing mortality. Because sector vessels are prohibited from discarding all legal-sized allocated fish when on a sector trip, and are restricted by their ACE, vessels will likely fish more selectively, which in turn, can increase each vessel's catch per unit of effort (CPUE) and reduce the number of days that fixed gear is in the water. Similarly, protected species (such as harbor porpoise and humpback whales) may benefit from less fishing effort and fewer gear days.

2. 20-Day Spawning Block

Regulations at § 648.82(g) require vessels to declare out and be out of the NE multispecies DAS program for a 20-day period each calendar year between March 1 and May 31, when spawning of cod is most prevalent in the GOM. While this measure was designed to reduce fishing effort on spawning fish stocks, sector vessels will utilize an ACE to restrict their fishing mortality. Undersized fish caught by sector vessels cannot be kept and, additionally, the catch will count against the sector's ACE. This creates a strong incentive for sectors to avoid catching undersized fish. In addition, there are minimal temporal and spatial restrictions associated with this regulation, and allowing vessel owners to select any 20-day period out of the fishery does not necessarily prevent them from harvesting spawning fish.

3. Limitation on the Number of Gillnets for Day Gillnet Vessels Outside the Gulf of Maine

Vessels are allowed to fish up to 150 gillnets (any combination of flatfish or roundfish nets) in each GB, SNE, and MA regulated mesh areas (RMAs). Current gear restrictions in the RMAs restrict Day gillnet vessels from fishing more than: 100 gillnets (of which no more than 50 can be roundfish gillnets) in the GOM RMA (§ 648.80(a)(3)(iv)(B)(2)); 50 gillnets in the GB RMA (§ 648.80(a)(4)(iv)(B)(2)); and 75 gillnets in the SNE and MA RMAs (§ 648.80(b)(2)(iv)(B)(1), and § 648.80(c)(2)(v)(B)(1), respectively). Regulations require nets to be marked with either one or two tags per gillnet depending on the type of net and RMA fished, for the purpose of enforcing gillnet limits. These restrictions were implemented in 1996 under Amendment 7 and revised in Amendment 13 to prevent an uncontrolled increase in the number of nets being fished, thus undermining the applicable DAS effort controls.

Because this measure was designed to control fishing effort, NMFS believes that a net restriction is no longer necessary, since the sector is confined to an ACE for each stock, which caps overall fishing effort. Vessels are also exempt from the current tagging requirements and, instead, will be required to mark their gear with one tag per net. An LOA issued to the sector vessels that qualify for this exemption will specify the tagging provisions to ensure it is an enforceable provision. This exemption does not apply to the GOM RMA.

4. Exemption from the Day Gillnet Limit in the Gulf of Maine.

In FY 2018 we granted an exemption that allows Day gillnet vessels to fish above the 100 gillnet limit, up to 150 nets total. Any nets above the existing 100-net limit must have a minimum mesh size of 10.0 inches (25.4 cm) and must be fished east of 70 degrees West longitude. Vessels are limited to no more than 50 roundfish gillnets. Vessels must comply with the net tagging requirements at § 648.80(a)(3)(iv)(B)(4), which requires roundfish gillnets to be tagged with two tags per net, while flatfish gillnets may be marked with one tag per net; all gillnets fished must be tagged.

5. Prohibition on a Vessel Hauling Another Vessel's Gillnet Gear

This exemption allows one vessel to hauling another vessel's gillnet gear (§§ 648.14(k)(6)(ii)(A) and 648.84). These sectors argued that the regulations pertaining to gear-marking controls, setting, and hauling responsibilities are no longer necessary, because the sector would be confined to an ACE for each stock, and that "community" fixed gear would allow vessel owners greater flexibility. In addition, the sectors argued that shared fixed-gear fishing effort could potentially reduce the amount of gillnet gear in the water and minimize the use of gear to "hold" additional bottom ground. Sectors specify in their operations plans that all vessels participating in community fixed gear will be held jointly liable for any violations associated with that gear. An LOA issued to the sector vessels that qualify for this exemption will specify the tagging provisions to ensure it is an enforceable provision.

6. Limitation on the Number of Gillnets That May Be Hauled on GB When Fishing Under a Groundfish/Monkfish DAS

This is an exemption from the limit on the number of gillnets that may be hauled on GB when fishing under a groundfish/monkfish DAS. Current regulations at § 648.80(a)(4)(iv)(B), which prohibit Day gillnet vessels fishing on a groundfish DAS from possessing, deploying, fishing, or hauling more than 50 nets on GB, were implemented as a groundfish mortality control under Amendment 13. This exemption would increase efficiency of gillnet vessels by allowing them to haul additional nets per trip—nets which are already permitted in the water under the Monkfish FMP. This exemption allows nets deployed under existing net limits in the NE Multispecies and Monkfish FMPs to be hauled more efficiently by vessels dually permitted under both FMPs.

7. Limitation on the Number of Hooks that May Be Fished

This is an exemption from the number of hooks that a vessel may fish on a given fishing trip. This measure, which was initially implemented through an interim action (67 FR 50292; August 1, 2002) and made permanent through Amendment 13, was designed to control fishing effort and, therefore, is no longer necessary because the sector is confined to an ACE for each stock, which restricts fishing mortality. Current regulations (§648.80) prohibit vessels from fishing or possessing more than 2,000 rigged hooks in the GOM RMA, more than 3,600 rigged hooks in the GB RMA, more than 2,000 rigged hooks in the SNE RMA, or more than 4,500 rigged hooks in the MA RMA. The potential for gear interactions between protected resources and longline/hook gear is much lower than the interaction potential from bottom trawl or gillnet gear. In addition, the use of longline/ hook gear minimizes fishing impacts on benthic habitat.

8. Length and Horsepower Restrictions of the DAS Leasing Program



While Amendment 16 exempts sector vessels from the requirement to use NE multispecies DAS to harvest groundfish, some sector vessels will still need to use NE multispecies DAS under specific circumstances; for example, when fishing for monkfish. This is an exemption from the DAS Leasing Program length and horsepower restrictions. Sector ACEs eliminate the need to use vessel characteristics to control fishing effort and that removal of this restriction would allow sector vessels more flexibility. Leasing under this exemption is without regard to baseline characteristics and only occurs between vessels of the same sector or vessels of any other sector that is also granted this exemption.

9. Prohibition on Discarding

Current regulations prohibit sector vessels from discarding legal-sized fish of any of the 14 stocks allocated to sectors while at sea (§ 648.11(l)(9)). Amendment 16 contained this provision to ensure that the sector's ACE is accurately monitored. NMFS approved a partial exemption from the requirement to retain all legal-sized fish, which allows sector vessels to discard legal-sized, unmarketable fish (LUMF). NMFS defined "unmarketable" fish as "any legal-sized fish the vessel owner/captain elects not to retain because of poor quality as a result of damage prior to, or from, harvest," and the determination of what fish should be discarded under this exemption is at the discretion of the vessel operator, but must be based on physical damage to the fish. The definition of unmarketable fish is included in the sector's LOA. All vessels in a sector opting for this exemption will be required to discard legal-sized unmarketable fish at sea on all trips (i.e., not just on select trips), with the exception of vessels that have declared a redfish or small-mesh exemption trip or enrolled in a maximized retention EM program. Vessels enrolled in a maximized retention EM program must handle and report any LUMF catch in accordance with the vessel monitoring plan (VMP). Refer to the EM guidance ([Attachment 3b](#)) for further information.

10. Trawl Gear Requirements in the U.S./Canada Management Area

Current regulations require that a NE multispecies vessel fishing with trawl gear in the Eastern U.S./Canada Area must fish with a Ruhle trawl, a haddock separator trawl, or a flounder trawl net. The final rule implementing Amendment 13 clarified that the restriction to use a haddock separator trawl or a flounder trawl net was designed to "ensure that the U.S./Canada TACs are not exceeded. The requirement to utilize a Ruhle trawl in the Eastern U.S./Canada Area was implemented through several in-season actions, and made permanent in Amendment 16. These gear restrictions were authorized to allow the targeting of haddock, an under-harvested stock, while reducing bycatch of cod and yellowtail flounder stocks, which were identified as overfished. NMFS approved an exemption from these gear requirements, noting that any trawl gear not currently approved for the U.S./Canada Management Area, but utilized under this exemption, will be included in the standard otter trawl discard rate strata.

11. Prohibition On a Vessel Hauling Another Vessel's Hook Gear

Current regulations prohibit one vessel from hauling another vessel's hook gear (§ 648.14(k)(6)(ii)(B)). The regulations were developed to facilitate the enforcement of existing hook regulations that were created as effort and mortality controls, and no provisions exist in the regulations allowing for multiple vessels to haul the same gear. The increased flexibility afforded by this exemption may increase efficiency. An exemption from the prohibition on a vessel hauling another vessel's hook gear was approved. This exemption will allow fishermen from within the same sector to haul each other's hook gear. The exemption from hook limits

and implementation of ACE as a mortality control make it unnecessary to prevent a vessel from hauling another vessel's gear as an effort control. Consistent with the exemption approved for community gillnets, all vessels utilizing community hook gear will be jointly liable for any violations associated with that gear. This joint liability would assist in the enforcement of regulations. Additionally, each member intending to haul the same gear will be required to mark the gear, consistent with §§ 648.14(k)(6)(ii)(B) and 648.84(a).

12. Requirement to Declare Intent to Fish in the Eastern U.S./Canada Haddock SAP and the CA II Yellowtail Flounder/Haddock SAP Prior to Leaving the Dock

NE multispecies vessels are required to declare that they will be fishing in either the Eastern U.S./Canada Haddock SAP or the CA II Yellowtail Flounder/Haddock SAP prior to leaving the dock (§§ 648.85(b)(8)(v)(D) and 648.85(b)(3)(v)). This measure was included in the final rule implementing Framework 40A to ensure that vessels fishing exclusively in those areas could be credited DAS for their transit time to and from these SAPs. Because sector catch is limited by ACE, DAS credit for trips in these SAPs is no longer necessary. An exemption from the requirement to declare intent to fish in the Eastern U.S./Canada Haddock SAP and the CA II Yellowtail Flounder/Haddock SAP prior to leaving the dock was granted to allow sector vessels to declare their intent to fish in these SAPs while at sea.

13. Seasonal Restriction for the Eastern U.S./Canada Haddock SAP

The Eastern U.S./Canada Haddock SAP consists of a portion of the Eastern U.S./Canada Area and a portion of CA II. We implemented this SAP in FW 40A to provide a vessel with additional opportunity to target haddock while fishing on a Category B DAS in, and near, CA II (69 FR 67780; November 19, 2004) while reducing the catch of cod and other stocks of concern. In FW 42 (71 FR 62156; October 23, 2006), we extended the approval of this SAP and shortened the season to August 1 through December 31 to further reduce cod catch.

Because a sector's catch is restricted by ACE, seasonal restrictions can be viewed as an unnecessary effort control. However, based on concern for spawning NE multispecies stocks, specifically GB winter flounder in March and April and GB cod between February and April, we approve an exemption to extend the SAP season to allow access to this area from May 1 through December 31.

14. Seasonal Restriction for the CA II Yellowtail Flounder/Haddock SAP

We implemented the CA II Yellowtail Flounder SAP through Amendment 13 in 2004 to provide an opportunity for vessels to target yellowtail flounder in CA II on a Category B DAS. In 2005, we extended the approval of this SAP through FW 4, but shortened the season to July 1 through December 31 to reduce interference with spawning yellowtail flounder (70 FR 31323; June 1, 2005). Through Amendment 16, we further revised this SAP in 2010 by opening the SAP to target haddock while avoiding cod from August 1 through January 31, when the SAP is not open for targeting of GB yellowtail flounder. We implemented gear requirements to limit vessels from catching yellowtail flounder when the SAP was open only for targeting haddock. Because a sector's catch is restricted by ACE, seasonal restrictions can be viewed as an unnecessary effort control. However, based on concern for spawning NE multispecies stocks, specifically GB winter flounder in March and April and GB cod between February and April, we approve an exemption to extend the SAP season to allow access to this area from May 1 through December 31.

## 15. Sampling Exemption

Conducting scientific research on regulated fishing trips may require special permits, depending on the activities proposed. A temporary research permit authorizes a federally permitted fishing vessel that is accompanied by a research technician, typically staff for the principal investigator, to temporarily retain fish that are not compliant with applicable fishing regulations to collect catch data such as length and weight. Under a temporary possession permit, a vessel may be exempt from specific regulations, including minimum fish sizes,

closures, and possession limits. Sampled fish are returned to the sea as soon as practicable after sampling. Some sectors proposed independent sampling programs, where data would be collected from fish that otherwise must be immediately discarded. We approved an exemption for temporary possession permits for research purposes for sectors with approved research activities to streamline the application and documentation process.

## 16. Redfish Exemption [Revoked effective July 27, 2021]

## 17. Prohibition on Combining Small Mesh Exempted Fishery and Sector Trips

In FY 2014, we approved an exemption that would allow vessels to possess and use small-mesh and large-mesh trawl gear on a single trip within portions of the SNE RMA with modifications intended to address our concerns. First, we required that vessels used one of the following trawl gear modifications (suggested by sectors) when using small mesh in the two permitted areas: Drop chain sweep with a minimum of 12 inches (30.48 cm) in length; a large-mesh belly panel with a minimum of 32-inch (81.28-cm) mesh size; 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. These gear modifications, when fished properly, have been shown to reduce the catch of legal and sublegal groundfish stocks. Requiring these modifications is intended to also reduce the incentive for a sector vessel to target groundfish when fishing with small mesh on these trips. Finally, we approved monitoring a vessel using this exemption with the same NEFOP and ASM coverage as a standard groundfish trip. In FYs 2015 and 2016 we approved a revised version of this exemption that expanded the geographic area where vessels could participate in the small-mesh exempted fishery. In FY 2017, we further expanded the geographic area, and combined the two allowable areas into one area.

## 18. Exemption from Requirement to Fish Exclusively with 10-inch, or Larger, mesh gillnets when Targeting Dogfish on Groundfish Trips Excluded from At-Sea Monitoring (ASM) Coverage

Starting in FY 2016, sector trips fishing with extra-large mesh gillnets (10 inches or greater) exclusively in the Southern New England/Mid-Atlantic and Inshore GB Broad Stock Areas are not subject to ASM. This exemption allows a sector vessel on these non-ASM sector groundfish trips to also target dogfish using 6.5-inch mesh gillnet gear within the footprint and season of either the Nantucket Shoals Dogfish Exemption Area (June 1 through October 15), the Eastern Area of the Cape Cod Spiny Dogfish Exemption Area (June 1 through December 31), or the Southern New England Dogfish Gillnet Exemption Area (May 1 through October 31). This exemption is not applicable to EM vessels. For vessels enrolled in an EM program, the EM system must be operational on 100 percent of sector EM trips and the vessel operator and crew must abide by the catch handling requirements described in the vessel's VMP.

19. Exemption from VMS Requirements for Handgear A vessels fishing in a single BSA.

In FY 2017, we granted an exemption that allows Handgear A permitted vessels to fish in a single BSA on a sector trip without carrying a VMS. This exemption does not waive requirements to carry or report using a VMS unit when fishing in multiple BSA's, in the U.S/Canada Management Areas, or under any other requirements associated with using other sector exemptions or participating in Special Access Programs.

**Section 5.10. Potential Redirection of Effort.**

During FY 2021 and 2022, the Maine Coast sector experienced a redistribution of effort in both directions. Some businesses moved out of groundfish and into other fisheries, while others diversified into groundfish for the first time. Over the past two fishing seasons some MCCA fishermen shifted all or a portion of their business to:

- Lobster
- Scallop
- Menhaden
- Monkfish

This is largely due to increasing constraints on white hake quotas and poor market prices. Because of these constraints, many MCCA fishermen are looking for other avenues to survive considering cuts they will be facing next year. On the flip side, current happenings with off-shore wind and right whale regulations have lobstermen looking to diversify their businesses, and as a result we have had new members actively groundfishing; some for the first time, some after a five to ten year absence.

During FY 2023 and 2024, the Maine Coast sector anticipates similar redistribution of effort as to what occurred in FY21 and 22.

The Sector Manager will monitor trends and report to GARFO in the Sector's Annual Report should a significant and adverse shift in effort occur. The Sector Manager may establish additional area or gear restrictions designed to mitigate the adverse impacts of such shifts, including bycatch issues (marine mammal or otherwise) should they occur do to spatial shifts in effort or increases in soak times. In addition to the other monitoring requirements contained in this Operations Plan, the Manager will also monitor any redirection of effort and will include that information in the Manager's reports to GARFO. Members that violate related provisions will be subject to penalties in accordance with Exhibit A of the Operations Plan. Further, any increase in "equity" issues would be addressed by the Board, which will be comprised of both gillnet and trawl fishermen.

Further, the Members acknowledge that limited redirection of fishing effort onto stocks not managed under the Plan could occur as a result of insufficient ACE for a directed fishery on regulated groundfish species. If any redirection occurs, they will not redirect effort onto stocks which are overfished or for which overfishing is occurring. Any redirection of effort into other fisheries where non-specified gear is used will be closely monitored throughout the year and reported in the Annual Report. Through the reporting requirements contained in this Agreement, the Manager will monitor any redirection of effort and include that information in the Manager's Annual Report to GARFO. Members that violate this provision will be subject to penalties in accordance with Exhibit A.

## CATCH MONITORING AND VERIFICATION

**Section 6.01. Sector Hails/Reporting.** Consistent with Exhibit G, each Participating Vessel operator must send a trip start hail when required by GARFO and a trip end hail six hours before arrival, or immediately upon leaving the fishing grounds if fishing ends less than six before landing. An alternative timing for the trip end hail may be implemented during the 2023 and 2024 fishing years if agreed upon by the sector, sector monitoring provider, and GARFO.

A vessel must submit a trip-start hail report prior to departing port at the beginning of each trip notifying the sector manager. The trip start hail will be sent as an email through VMS to the sector manager and/or GARFO. The message will contain:

- Operator's Permit Number
- VTR serial number
- Whether an observer/at-sea monitor was deployed on board
- Usage of specific sector exemptions
- Usage of specific operations plan provisions
- Landing port city
- Landing state (abbreviation)
- An estimate of the date and time of arrival to port;
- An estimate of the date and time offload (conditionally required)
- Comments
- and any other information as instructed by the Regional Administrator or sector manager.

The trip end hail will also be sent as an email through VMS to the sector manager. The message will contain:

- Operator's Permit Number
- Vessel Trip Report (VTR) serial number
- First landing port city
- First landing state (abbreviation)
- Dealer/Offload Location
- Estimated time and date of arrival
- Estimated time and date of offload
- Second offload port city
- Second offload state (abbreviation)(if used)
- Total groundfish kept in pounds
- Total non-groundfish kept in pounds
- Comments (required as directed by the sector manager or Regional Administrator)

In accordance with and defined by Amendment 16, all Sector vessels will also be required to make a declaration to GARFO via VMS prior to departing port identifying whether they intend to fish in one broad reporting area or multiple reporting areas. Vessels that fish in multiple areas will be required to provide additional daily reports to GARFO as required by Amendment 16.

For trips less than 6 hours in length or occurring within 6 hours of port, the estimated time of arrival to port must be provided in the trip start hail. The trip end hail will be sent upon completion of the last tow with required updated information. An alternative timing for the trip end hail may be implemented during FYs 2023-2024 if agreed upon by the sector, the monitoring provider, and GARFO.

The sector will submit required reports using the format and procedure prescribed by GARFO.

**Section 6.02. Participating Vessel Catch Reports.** To enable each Member and the Sector to monitor the Members' compliance with this Agreement, each Member agrees to report each of its Participating Vessels' entire catch by species on a landing-by-landing basis, by providing the Manager with a copy of the official Vessel Trip Report, Electronic Vessel Trip Report (EVTR), or other reporting document authorized by GARFO within 24 hours of offloading retained catch or prior to departing on a subsequent trip, whichever occurs first, in the form and manner prescribed by the Manager. Vessels will either submit an electronic VTR or a paper VTR. As provided in Section 3.05, the sector manager will retain and maintain all sector data, including records of all paper and electronic VTRs. All trips, even those that have no landings, that take place while declared in the multispecies fishery *must* be accompanied by a paper or electronic VTR.

The Members agree that these records shall be maintained by the Manager. The Manager shall provide such Member with the Sector's catch information that is generated from such records as described in Exhibit C, or upon the request of any Member. As described in Section 3.05 the Manager shall, on a weekly basis, transmit to GARFO the Sector ACE Reports generated from such information along with Vessel Trip Reports or other documents required by GARFO.

**Section 6.03. Dealer Reporting.** Each Member agrees to (i) sell the landings of its Participating Vessels only to a dealer licensed under the Plan by GARFO and (ii) cause any such dealer to provide the Manager with a copy of the official dealer weigh out slip or other official reporting document required by GARFO on a weekly basis, or if pursuant to Section 3.05 daily reporting is required by GARFO, within 24 hours. Each Member further acknowledges and agrees that (a) it is responsible for ensuring timely dealer reporting in accordance with the provisions of this Section 6.03 and (b) failure of the dealer to timely deliver the reports for a Member's Participating Vessel in accordance with this Section 6.03 shall be deemed a breach of this Agreement by such Member. It is the responsibility of the Member to ensure that a dealer is licensed and Member shall provide evidence of such licensure to Manager upon request.

**Section 6.04. Catch Verification.** The Manager shall, and each Member shall ensure that the Manager does compare, verify and validate each Participating Vessel's landings records with the dealer reports for such Participating Vessel on a continuing and frequent basis. If the Manager identifies a discrepancy, he shall immediately notify the affected Member and seek to resolve the discrepancy. If the Manager is unable to satisfactorily reconcile the catch records, he shall notify the Committee of the discrepancy for its consideration and resolution. Each Member further agrees to cooperate fully with any requests for information or data that are made by the Manager or the Committee in an effort to resolve such discrepancy.

**Section 6.05 Offloading Catch.** The designated ports for offloading fish are identified in section 5.05. The

ports of Portland, Gloucester, and Port Clyde have a dealer, but some fish offloaded in Port Clyde is trucked to Portland, as is fish offloaded in the “remote ports” of Cape Porpoise, Sebasco Harbor, Camp Ellis, Boothbay Harbor, Cundys Harbor and Kennebunkport. Remote ports (ports where there is no licensed dealer, regardless of whether there is a scale for weighing fish), may require two monitored events; the vessel offload and the dealer (truck) offload. Section 5.06 discusses exceptions to offloading at designated ports.

**Section 6.06. At-Sea Monitoring (ASM) Program.**

The Maine Coast Community Sector will participate in the Northeast Fisheries Observer Program (NEFOP) and the NMFS-designed at-sea monitoring (ASM) program. Any additional coverage beyond the NMFS designed At-Sea Monitoring program will not be allowed to replace or interfere with either the coverage of NEFOP or the NMFS-designed ASM program. The Sector manager will maintain a database of all catch data, including but not limited to VTR, dealer, monitor, and observer data. The Sector will use the NMFS-designed ASM program. GARFO will provide the Sector with data from NEFOP and ASM program. Please see exhibit G for a more detailed description of the NMFS-designed At-Sea Monitoring program.

**Section 6.07 Electronic Monitoring (EM) Program.** The Maine Coast Community Sector will also participate in the NMFS-designed Electronic Monitoring program. See EM program description attachment for more details.

**Section 6.08 Observer Safety.** The Sector Manager will work with the at sea monitoring Vendors and Participating Vessels to ensure they meet the minimum safety standards.

**Section 6.09 Pre-trip Notification.** The designated ports for departure are identified in section 5.05. GARFO will continue to operate the Pre-trip Notification System (PTNS) to make selection for NEFOP (NMFS funded program) and ASM (Industry funded program). For the pre-trip at sea monitoring notification, the Sector Vessels will notify NEFOP a minimum of 48 hours prior to deployment and shall occur via a telephone call or online. Day boats may notify NEFOP for all trips up to 10 days in advance. The Vendor is required to be capable of taking telephone calls 24hrs per day, 7 days per week. Once the Vendor receives notice of a trip, they shall notify the Sector Manager, NEFOP and OLE via electronic mail or telephone whether or not they are assigning a monitor to the trip selected by PTNS. Exhibit H provides further details of related protocols.

**Section 6.10 Electronic Data Transfers.** Data from observed trips shall be provided electronically to the Vendor, the Sector Manager, the NEFSC and in a format approved by NFMS, as it becomes available.

**Section 6.11 Discard Rates.**

The Sector manager will derive stock specific discards for each trip. The methodology for calculating discards will vary by monitoring type.

For vessels enrolled in an ASM program:

If the trip is observed by either an at-sea monitor or a Northeast Fisheries Observer Program (NEFOP) observer, discards will be derived based on data collected during that trip and will account for all hauls (observed and unobserved) on that trip. For unobserved trips taken by vessels enrolled

in an ASM program, discards will be derived using the NOAA Fisheries-provided discard rate resulting from the NOAA Fisheries method to estimate 'in-season' discard rates, which may no

For vessels enrolled in a maximized retention EM program:

If the trip is observed by a Northeast Fisheries Observer Program (NEFOP) observer, discards will be derived based on data collected during that trip and will account for all hauls (observed and unobserved) on that trip. For trips taken by vessels enrolled in a maximized retention EM program without a NEFOP observer onboard, discards will be derived using the NOAA Fisheries-provided discard rate resulting from the NOAA Fisheries method to estimate 'in-season' discard rates, which may not include data from research trips or sector trips using certain exemptions. In-season discard rates for allocated groundfish stocks will be set to zero at the start of the fishing year, consistent with maximized retention EM requirements. In-season discard rates for unallocated groundfish stocks will be based on NEFOP data for the fishery.

For vessels enrolled in an audit model EM program:

If the trip is observed by a Northeast Fisheries Observer Program (NEFOP) observer, discards will be derived based on data collected during that trip and will account for all hauls (observed and unobserved) on that trip. If the trip is observed using electronic monitoring, discards will be derived based on data collected during that trip to account for observed hauls only. For unobserved trips or hauls taken by vessels in an audit model EM program, discards will be derived using the vessel's self-reported discards as adjusted based on the vessel's historical reporting accuracy.

**Section 6.12 ASM Program Adjustments.** The Sector Manager will work with the Vendor and NEFSC on an ongoing basis to improve all aspects of its ASM Program, including making any necessary adjustments to achieve desired levels of coverage while meeting other Program requirements.

## **ENFORCEMENT**

**Section 7.01. Agreement Enforcement.** Each Member agrees that the Sector, by or through its representatives, and/or any other Member may enforce this Agreement on behalf of the Sector and/or its Members. Each Member agrees to take all actions and to execute all documents necessary or convenient to give effect to the enforcement procedures contemplated by this Agreement, the Harvesting Rules, and any Schedule of Penalties.

**Section 7.02. Liability.** The Members acknowledge and agree that the Sector itself is a legal entity, and therefore may be held liable for violations of the law, applicable regulations, and this Agreement committed by its members. Each Member participating in the Sector must comply with all applicable requirements and conditions of this Agreement and their Letter(s) of Authorization. It shall be unlawful and subject to enforcement by GARFO for the Sector or any Members to violate any such conditions and requirements unless they are identified as exclusive to the administration of the Sector. Those conditions and requirements that are considered to be exclusive to the administration of the Sector which are contained in the following sections:

- **Section 1.02. Organization and Authority**
- **Section 2.01. Voluntary Membership**
- **Section 2.02. Scope of Membership Obligations**



- Section 2.03. **Length of Commitment**
- Section 2.04. **New Members**
- Section 2.05. **Permit Transfers**
- Section 2.06. **Membership Dues**
- Section 2.08. **Right of First Refusal for Permit Transfers**
- Section 2.09. **Right of First Refusal for ACE Transfers**
- Section 2.10. **Release of Confidential Data**
- Section 3.01. **Sector Manager**
- Section 3.02. **Manager Authority**
- Section 3.04. **Procedures for Investigations**
- Section 3.07 **Sector Board and Officers**
- Section 4.01. **Sector Allocation**
- Section 4.02. **Annual Distribution, Consolidation, and Harvest**
- Section 4.03. **Sector ACE Reserve**
- Section 4.04. **Distribution of Sector ACE Reserve**
- Section 4.05. **Research Reserve**
- Section 4.06. **Distribution of Research Reserve**
- Section 5.04. **Operators**
- Section 5.10. **Potential Redirection of Effort**
- Section 6.04. **Catch Verification**
- Article VII. **ENFORCEMENT (Except Section 7.03.)**
- Article VIII. **EXPULSION OF MEMBERS**
- Article IX. **TERM/TERMINATION**
- Article X. **MISCELLANEOUS**

**Section 7.03. Joint and Several Liability and Restrictions on Fishing Activity.** The Members also acknowledge and agree that a violation of this Agreement or applicable federal fishery regulations by one or more Members (or the Members' Permits, Participating Vessels or Participating Vessels' operators, if any) that causes the Sector to exceed its ACE for any species, or a hard total allowable catch or "hard-TAC", or results in the discarding of legal sized fish or the misreporting of catch (landings or discards), could subject the Sector and its Members to joint and several liability for civil penalties and permit sanctions pursuant to 15 C.F.R. Part 904.

The Members further acknowledge and agree that monetary penalties could be inadequate recourse under such circumstances and that consistent with Amendment 16 if an ACE or hard-TAC is exceeded in more than one fishing year, the Sector's share may be permanently reduced or the Sector's authorization to operate may be withdrawn. Therefore, the Members acknowledge and agree that each of them will (and will cause their Permits, Participating Vessels and Participating Vessels' operators, if any, to) comply with a "stop fishing" order from the Sector, which shall be issued by the Board, the Manager or the Committee, and each of the Members further agrees that if any Member (or its Permits, its Participating Vessels or the Participating Vessels' operators) fails to comply with such order, the Sector shall have the authority to obtain an injunction, restraining order or other equivalent form of equitable relief to give effect to such "stop fishing" order.

**Section 7.04. Penalties for Violations.** Any penalties that are imposed upon a Member by the Sector pursuant to the terms of this Agreement shall be in addition to, and not in lieu of, any other potential state or federal penalty that may be imposed upon such Member.

**Section 7.05. Appeal from Infractions Committee Decision.** If the Infractions Committee (i) has determined, pursuant to the procedures set forth in Section 3.04 hereof, that a Member has violated this Agreement or (ii) makes any other determination with respect to a Member under this Agreement (including, specifically, without limitation Section 5.03 hereof), such violating Member shall have five business days following the date of notice of the Infractions Committee's determination to request reconsideration of the enforcement or other action and/or propose an alternative form of penalty. Such request shall be made in writing and shall be addressed to the Board. The Board may, in its sole discretion, grant or deny any request for reconsideration and may, in its sole discretion, approve or disapprove any alternative form of penalty; provided, that the Board shall exercise all reasonable efforts to ensure that penalties and settlements are commensurate with the nature and extent of the violation, are designed to further the purposes of the Sector, Plan, and Amendment 16, and are consistent with those reached in similar circumstances.

**Section 7.06. Penalties and Attorneys' Fees.** Penalties for any violations of this Agreement shall, to the extent addressed in the Schedule of Penalties, be limited to the amounts set forth on the Schedule of Penalties plus all costs, fees and expenses, including attorney's fees, incurred by the Sector or, in a case in which the Sector does not take enforcement action, by the Members bringing such action, in enforcing the provisions of this Agreement. To the extent the Schedule of Penalties addresses such matter, the Members and the Sector hereby waive any claims to actual, direct, or indirect damages, and instead agree that payment of the amounts set forth on the Schedule of Penalties and costs of enforcement shall be their sole remedy for breaches of this Agreement. In connection with any legal proceeding related to this Agreement, the non-prevailing party shall pay the prevailing party's reasonable costs and attorney's fees associated with the proceeding.

**Section 7.07. Application of Penalties, Fines and Damages.** All penalties, fines and/or other damages paid to the Sector shall, first, be applied to the cost of enforcement of such violations and, second, any remaining amounts shall be applied to the costs and expenses of the administration, management and preservation of the Sector. Any funds remaining after the application of the foregoing sentence shall be used to further research into efficient management of groundfish stocks for the benefit of the resource and those that harvest the resource; provided that any such use of funds shall comply with all applicable laws, including the provisions of the Internal Revenue Code, as amended, that may apply to the Sector from time to time.

**Section 7.08. Dispute Procedures.** Notwithstanding the provisions of Section 7.01 hereof, prior to instituting any litigation or other dispute resolution, the parties shall follow any applicable procedures set forth in this Agreement, including specifically Sections 3.04, 6.04, and 7.03, for the resolution of such dispute. Any litigation taken with respect to any dispute that arises in connection with this Agreement shall be taken in the federal district court in Maine or, if said court does not have jurisdiction, in such courts in the State of Maine that do have jurisdiction.

**Section 7.09. Specific Performance.** In furtherance and not limitation of Section 7.03 hereof, each of

the Members and the Sector shall have the right to have any provision of this Agreement specifically enforced, through injunction, restraining order or other form of equitable relief.

**Section 7.10. Indemnification.** Each party that violates this Agreement (the “Indemnitor”) hereby severally agrees to indemnify, defend and hold harmless the other parties hereto (each, an “Indemnatee”) in respect of their respective Losses; provided, that such Losses result or arise from a third party claim or governmental proceeding brought against or involving the Indemnatee, which is based on or relates to such Indemnitor’s (or its Permits’, its Participating Vessels’ or such Participating Vessels operators’, if different from such Indemnitor) (i) violation of applicable laws, rules or federal fishery regulations or (ii) breach of any covenant, agreement or obligation contained in this Agreement, the Harvesting Rules or other Sector requirements as may be adopted under the terms of this Agreement or the Sector’s Bylaws. The indemnification obligations of the parties hereto shall be several and not joint and several. For the purposes of this Section 7.10, “Losses” shall mean any and all claims, liabilities, obligations, judgments, liens, injunctions, charges, orders, decrees, rulings, damages, dues, assessments, taxes, losses, fines, penalties, expenses, fees, costs, amounts paid in settlement (including reasonable attorneys’ and witness fees and disbursements in connection with investigating, defending or settling any action or threatened action) arising out of any claim, complaint, demand, cause of action, action, suit or other proceeding asserted or initiated or otherwise existing. The obligations under this Section 7.10 shall survive the termination of this Agreement and the expulsion of any Member pursuant to Article VIII.

## **EXPULSION OF MEMBERS**

**Section 8.01. Cause.** The Members agree that any Member, its Permits and/or its Participating Vessels may be expelled from the Sector if (i) the actions of such Member and/or its Participating Vessels (or the Participating Vessels’ operators) seriously undermine and threaten the existence of the Sector, (ii) the actions of such Member and/or its Participating Vessels (or the Participating Vessels’ operators) have exposed other Members of the Sector to monetary penalties and/or legal actions, (iii) such Member has been convicted of a serious crime, or (iv) such Member has not paid its membership dues and/or poundage fees as required by Section 2.06.

**Section 8.02. Procedure.** Any Member, the Infractions Committee or the Manager may submit to the Board a request to have a Member, its Permits and/or its Participating Vessels expelled from the Sector (the “Expulsion Request”). Such Expulsion Request shall be in writing and shall include an explanation of the basis for expulsion. The Board shall vote on such Expulsion Request within fourteen (14) days of receipt of such Expulsion Request. The affirmative vote of three-fourths (75%) of the members of the Board shall be required in order to expel a Member, its Permits and/or its Participating Vessels. Expulsion shall be effective immediately upon the receipt of the requisite vote by the Board. As required by 50 CFR Part 648.87 and Amendment 16, a Member, its Permits and/or its Participating Vessels expelled during any fishing year may not fish outside of the Sector under a multispecies DAS program, participate in another groundfish sector, or lease or transfer any DAS or ACE assigned to that Member’s Permits or Participating Vessels during the remainder of such fishing year. Upon expulsion of any Member, its Permits and/or its Participating Vessels, the Manager shall immediately notify GARFO via certified mail that the Member’s Permits and/or Participating Vessels are no longer included in the Sector.

## **TERM/TERMINATION**

This Agreement takes effect upon the approval hereof by the Regional Administrator in accordance with 50 CFR Part 648.87 and terminates on April 30<sup>th</sup>, 2025 (the “Term”). The Term of this Agreement may be extended by the written consent of the Members. Such written consent to extend the Term of this Agreement shall be given 20 calendar days in advance of the date by which the Sector’s Operations Plan and Agreement for the upcoming fishing year must be submitted to GARFO. Notwithstanding the foregoing, if GARFO shall not approve the Sector’s Operations Plan and Agreement, as the same may be amended, for any fishing year during the Term or any extension thereof, then this Agreement shall terminate on the last day of the last fishing year for which the Sector’s Operations Plan and Agreement shall have received approval from GARFO.

## **MISCELLANEOUS**

**Section 10.01. Entire Agreement.** This Agreement, including the Exhibits hereto, the Schedule of Penalties and any other documents incorporated by reference herein, constitutes the entire agreement among the parties and supersedes any prior understandings, agreements, or representations by or among the parties, written or oral, to the extent they related in any way to the subject matter hereof.

**Section 10.02. Succession and Assignment.** This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party, including by operation of law, without the prior written consent of the Manager, such consent not to be unreasonably withheld or delayed, nor is this Agreement intended to confer upon any person except the parties hereto any rights, interests, benefits, obligations or remedies hereunder. Any assignment in contravention of this Agreement shall be null and void.

**Section 10.03. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**Section 10.04. Notices.** All notices, requests, demands, consents, claims and other communications hereunder shall be deemed duly given (i) one business day following the date sent when sent by overnight delivery, (ii) five business days following the date mailed when mailed by registered or certified mail return receipt requested and postage prepaid, and (iii) upon delivery confirmation when sent by facsimile, at the contact information provided by each such Member to, and maintained by, the Manager.

**Section 10.05. Governing Law.** This Agreement shall be governed by and construed in accordance with federal fisheries laws and, to the extent that federal fisheries laws do not apply, with the domestic laws of the State of Maine without giving effect to any choice of law provision or rules (whether of Maine or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Maine.

**Section 10.06. Change in Law.** If and to the extent that any laws or regulations that govern any aspect of this Agreement shall change, so as to make any aspect to this Agreement unenforceable, then the parties agree to make such modifications to this Agreement as may be reasonably necessary for this Agreement to accommodate any such legal or regulatory changes, without materially changing the

overall benefits or consideration expected hereunder by the parties.

**Section 10.07. Consent to Jurisdiction and Venue.** Subject to and without limiting the dispute resolution procedures set forth in Article VI, each of the Members consent to the exclusive jurisdiction and venue of the federal district court in Maine or, if said court does not have jurisdiction, in such courts in the State of Maine that do have jurisdiction, for adjudication of any suit, claim, action or other proceeding at law or in equity relating to this Agreement. Each of the Members accepts, generally and unconditionally, the exclusive jurisdiction and venue of the aforesaid courts and waives any objection as to venue, and any defense of *forum non conveniens*.

**Section 10.08. Amendments and Waivers.** No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each of the Members.

**Section 10.09. Severability.** Any term or provision of this Agreement that is held invalid or unenforceable in any situation shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation.

**Section 10.10. Expenses.** Except as otherwise provided herein, each of the members shall bear its own costs and expenses (including legal and accounting fees and expenses) incurred in connection with this Agreement.

**Section 10.11. Incorporation of Exhibits and Other Documents.** The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the undersigned party has executed the Maine Coast Community Sector Operations Plan and Agreement for Fishing Year 2023 and 2024, as of the date written above with the understanding that membership is binding for one fishing year and will be established with a follow up contract for FY 2023.

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

The undersigned also hereby authorizes the release of information to the sector's electronic monitoring provider(s) that may be considered to be confidential or privileged by the Magnuson-Stevens Act or other federal law associated with the limited access Northeast multispecies permit with the Moratorium Right Identifiers (MRIs) enrolled in the sector's electronic monitoring program. Specifically, NOAA Fisheries is authorized to release vessel trip report data associated with the vessel, such as vessel name; vessel permit number; sail date/time; land date/time; Trip ID number; number of hauls; number of sub-trips; and other trip-related data for the purpose of facilitating trip tracking and management as required by contract and regulation.

All confidential Sector data may be released to the Sector Manager, or designated sector employee(s). This statement applies to all confidential data for a two-year time period encompassing FYs 2023 and 2024.

**The electronic copy of the signatures is attached in a separate file**

Signature: \_\_\_\_\_

Name/Company: \_\_\_\_\_

MRI #: \_\_\_\_\_

If you have multiple permits you will be enrolling in the sector please use the space below.

Signature: \_\_\_\_\_

Name/Company:\_\_\_\_\_

MRI #:\_\_\_\_\_

Signature:\_\_\_\_\_

Name/Company:\_\_\_\_\_

MRI #:\_\_\_\_\_

**EXHIBIT A**

Maine Coast Community Groundfish Sector Penalty Schedule			
VIOLATION	FIRST*	SECOND*	THIRD*
<b>VIOLATIONS REGARDING THE INDUSTRY-FUNDED AT-SEA MONITORING PROGRAM, REPORTING, DOCUMENTATION, EXEMPTION PERMIT REQUIREMENTS</b>			
Violations including but not limited to: interference with or intimidation of monitor, monitor refusal, failure to pay ASM fees, noncompliance with cancellation policy, or interference with vessel selection.	Up to \$100 (and/or stop fishing order)	\$100-\$500 (and/or stop fishing order)	\$500+ (and/or stop fishing order)
<b>VIOLATIONS REGARDING PERMITS, REPORTING, DOCUMENTATION, EXEMPTION PERMIT REQUIREMENTS</b>			
Violations including but not limited to: late or non-reporting; Discarding of legal sized fish.	Up to \$100 (and/or stop fishing order)	\$100-\$500 (and/or stop fishing order)	\$500- (and/or stop fishing order)
Violations including but not limited to: providing false	Up to	\$5,000-	

statements or supporting documentation on applications or reports to the Sector; failure to comply with a permit condition/ restriction/ letter of authorization or exemption issued by the Sector; providing false statements; failure to participate in the Sector Catch Monitoring Program; interfering with onboard data collectors; or failing to comply with VMS/DAS requirements. NOTE: While technical and minor violations may result in a letter of warning, due to the critical importance of timely and accurate reporting it is likely that even first time reporting violations will result in a penalty.	\$5,000 (and/or stop fishing order)	\$15,000 (and/or stop fishing order)	\$20,000- (and/or stop fishing order)
<b>VIOLATIONS REGARDING TIME AND AREA RESTRICTIONS</b>			
Violations including, but not limited to: exemption areas, closed fisheries, closed seasons, restricted gear/management areas and ACE violations.	Up to \$50,000 (stop fishing order for 30 days)	\$50,000-\$100,000 (unable to fish for the remainder of the fishing year)	Expulsion
<b>VIOLATIONS THAT PLACE THE SECTOR AGREEMENT AT RISK</b>			
Violations including but not limited to a violation of a stop order, fishing in a closed area, transfer of fish from a non-sector vessel to a sector vessel, transferring fish to a non-Sector vessel (including a non-Sector vessel owned or operated by a Permit holder), subverting the reporting requirements (misappropriating landings) or any other action which could	Up to \$50,000 (loss of fishing rights for 365 days)	Expulsion	



cause the authorized MCCA allocation to be in violation of its agreement.			
<b>VIOLATIONS REGARDING MEMBERSHIP COMMITMENT</b>			
Violation of 50 CFR Part 48 or failing to remain in the Sector for the Commitment Period (i.e., breach of Section 2.03 of the Agreement).	\$10,000	n/a	n/a

\* Penalties may be based on reductions in ACE instead of, or as an alternative to, dollar amounts.

## **EXHIBIT B**

### **SECTOR AND INDIVIDUAL ACE ALLOCATION**

#### **Fishing Year 2023**

#### **Maine Coast Community Groundfish Sector (“MCCS” or “Sector”)**

As determined in Groundfish Amendment 16, “Sector ACE” will be based on the landings history of each permit brought into the Sector for the time period FY1996-FY2006 (the “Potential Sector Contribution” or “PSC”). The Sector ACE, therefore, is the sum of all of the individual permit ACE’s brought into the Sector. As determined by MCCS Members, the initial individual allocation of the Sector ACE to its Members will be equal to each Member’s individual Potential Sector Contribution, and is referred to as an “Individual ACE”. Individual ACE allocations will be received and maintained by each individual Member and the Sector Manager. The ACE, allocated by GARFO to MCCS for FY 2023 & FY 2024 will be available in the Northeast Multispecies Fisheries Sector Operations Plans and Contracts and Allocation of Northeast Multispecies Annual Catch Entitlement Final Rule as published by GARFO.

As indicated in section 4.09 and Exhibit C, ACE may be pooled or transferred within the Sector. In addition, transfers of ACE between Sectors must also be authorized by GARFO. The Members of the MCCS are all smaller-scale fishermen from coastal Maine, an area that has already experienced substantial consolidation. Nonetheless, there may be some redistribution of ACE within the Sector.

#### **Consolidation and Redistribution of ACE**

In FY 2022, 42% of the permits enrolled in the Maine Coast Community Sector for FY 2023 and 2024 are attached to vessels actively fishing for NE multispecies. For FY 2023 and 2024, the Maine Coast Community Sector has 112 permits currently enrolled. Of those permits 47 are anticipated to be attached to vessels actively fishing for NE multispecies in FY 2023 and 2024.

While these numbers may change, the Maine Coast Sector expects that there will be no change from the consolidation that previously occurred among the members beginning in FY 2023. The member permits that are not attached to active NE multispecies vessels in FYs 2023 and 2024 are the same permits that did not fish in FY2022. In most cases, a member who owns multiple permits fished the ACE of all those permits on fewer hulls and will now continue to fish the ACE contributed by all those permits on fewer hulls resulting in little additional consolidation.

## **EXHIBIT C**

### **HARVESTING RULES**

#### **Fishing Years 2023 and 2024**

#### **Maine Coast Community Groundfish Sector (“MCCS” or “Sector”)**

The Members and the Participating Vessels of the Sector agree to be legally bound to follow the Harvesting Rules for the fishing year 2023 and 2024 as described herein notwithstanding those rules and regulations applicable to Common Pool multispecies vessels.

### **QUOTA MONITORING**

1. Sector ACE Allocation: The National Marine Fisheries Service (“GARFO”) will determine the MCCS’s Northeast Multispecies (“Groundfish”) Annual Catch Entitlement (“Sector ACE”) for each species<sup>1</sup> (Exhibit B).

2. Individual ACE Allocation: Each participating Permit and Participating Vessel will receive its “Individual ACE” allocation as set forth in Exhibit B to the Agreement. This allocation will be maintained by each individual Member and the Sector Manager.

3. ACE Limit: The Members agree that they will not harvest more Groundfish than their Individual ACE and that they will not collectively harvest more Groundfish than the Sector ACE for allocated species. Once a Member’s Individual ACE allocation is reached for any species, or if the Sector ACE for any species is reached, such Member or Members shall not fish commercially in that stock area with any fishing gear capable of catching Groundfish unless additional ACE for that species is acquired. Consistent with Amendment 16 and Section 4.09, ACE transfers are allowed within the MCCS and between the MCCS and other sectors, and carryover of up to 10 percent of the Sector ACE is permitted.

4. Monthly Quota Targets: The Sector Manager may impose monthly quota targets to slow down harvest rates if the board and Sector Manager deem it necessary

---

<sup>1</sup> Note that NMFS will not assign ACE for Atlantic halibut, ocean pout, northern windowpane flounder, southern windowpane flounder, Atlantic wolfish, and southern New England winter flounder (*see* Exhibit B above).

5. Weekly quota targets: In addition to the monthly quota targets, the Manager may impose weekly or trip target quotas to help slow down harvest rates. If such target quotas are imposed, Sector members agree to adjust their fishing operations to avoid exceeding these quotas.

6. Additional Measures to Prevent ACE Overages: The Sector Manager will provide Sector Members with a monthly report detailing their remaining Individual ACE for each stock and the remaining Sector ACE for each stock for the Sector. In addition, when an individual Member's remaining Individual ACE reaches less than 50 percent for any stock, or when the Sector's remaining Sector ACE for a stock reaches less than 50 percent, the Sector Manager will provide Members with a report detailing their remaining Individual ACE and the Sector's remaining Sector ACE at the conclusion of each trip.

The reporting frequency for the sector manager's ACE Status Report will be increased to daily when 90% of any of the sector's ACEs is reached. The Sector Manager, or a designated representative, must notify GARFO immediately by email if the threshold that triggers daily reporting has been reached. During the period when a sector has reached or exceeded 90% of any of its ACEs, a daily ACE Status Report must be submitted only on a day when a member vessel lands, or when the sector engages in an ACE transfer of a stock that is exceeding the 90% threshold.

Members shall stop fishing prior to exceeding their allocation (unless they acquire additional Individual ACE). If the Sector ACE for a stock is exceeded, the sector must cease operations in that stock area until it can acquire additional ACE through a transfer with another Sector to balance the catch, and the sector also must comply with other overage penalties that may be applicable.

7. Sector Hails: consistent with the operations Plan, each Participating Vessel must hail in to the Manager or his designated representative, and GARFO Office of Law upon returning to port when using fishing gear capable of catching Groundfish.

8. ACE Transfers and Pooling: Participating Vessels and/or Permits may transfer ACE to other Participating Vessels and/or Permits, or otherwise redistribute or pool ACE to other Participating Vessels and/or Permits, provided that the Manager is notified and provides his consent to such redistribution or pooling. A Participating Vessel and/or Permit may only transfer or lease ACE to vessels or permits participating in other sectors after meeting the right of first refusal requirements contained in Section 2.09 of the Operations Plan and Agreement and receiving approval from the MCCA Board. All transfers to or from vessels or permits participating in other sectors must be approved by the Regional Administrator, as required by Amendment 16 and its implementing regulations.

9. Length and Horsepower Leasing Exemption: If approved by GARFO, Participating Vessels are not required to adhere to the length and horsepower restrictions contained in the DAS Leasing Program.

10. Full Retention of Legal-Size Groundfish: All legal size Groundfish harvested during any fishing operation must be retained and counted against the Sector and Individual ACE, unless otherwise accounted for through a sub-ACL, except that ocean pout, northern windowpane flounder, southern windowpane flounder, Atlantic wolffish and southern New England winter flounder shall not be retained, and there will be a 1 fish per trip limit on Atlantic halibut, as required by Amendment 16 and its implementing regulations.

11. Species Trip Limits: Participating vessels are exempt from trip limits on stocks for which the Sector receives an allocation. Participating vessels are subject to any trip limits required by GARFO for non-allocated species.

## **ADMINISTRATIVE**

**Sector Manager.** The Board of Directors (the “Board”) of the Sector shall appoint a manager of the Sector (the “Manager”), which shall have the authority to manage the day-to-day business of the Sector and to act as its designated agent for service of process. Mary Hudson of Brunswick, Maine, is the current agent for service of process.

**Manager Authority.** The Manager shall have the authority to monitor the activities of the Members and the Participating Vessels and to take other similar actions as may be necessary to ensure compliance by the Members and their Permits and Participating Vessels with Sector requirements and bylaws, as well as applicable laws, rules and regulations

To enforce this all Sector rules the Manager has the authority to impose “stop fishing” orders and issue penalties as set forth in the Schedule of Penalties. The Manager shall also act as the liaison between GARFO and the Sector.

**Scope of Membership Obligations.** The obligations of the Members set forth in the Sector Operations Plan and Agreement shall only apply to the Permits and Participating Vessels (and not to any other permits or vessels owned by the Members that are not enrolled in the Sector pursuant to the terms hereof) to the extent that such Permits or Participating Vessels are fishing commercially with gear that is capable of harvesting Groundfish.

**Length of Commitment.** Each Member hereby agrees to cause each of its Permits and the related Participating Vessels enrolled in the Sector at the beginning of the fishing year following the date on which such Member enrolled in the Sector to remain enrolled in the Sector for that entire (one) fishing year. For more details on the membership commitment please see section 2.03 of the Sector Operations Plan and Agreement.

**Right of First Refusal.** To the extent that a Member sells, leases or transfers its Permit or Allocation to another individual or entity outside of the sector in compliance with section 2.04 of the Sector Operations Plan the Maine Coast Community Sector and Sector Members shall have seven (7) days to execute a right of first refusal. For an allocation lease, the right of first refusal will be executed at the agreed upon price by letting the Sector Manager know of the intent to pick up that right of first refusal. For a sale of a permit outside of the sector, the right of first refusal begins once the sector manager receives a bonafide offer from the purchaser. Please see section 2.08 and 2.09 of the Sector Operations Plan and Agreement for more details on the right of first refusal.

Section 2.06. Membership Dues. The Sector may, to the extent necessary for the payment of the costs and expenses associated with the administration and management of the Sector (including the payment of the Manager’s salary or at sea monitoring costs), require payment by the Members of annual membership dues and/or poundage fees. Such annual membership dues and/or poundage fees shall be fixed by resolution of the Board on a fair and equitable basis prior to the commencement of the

applicable fishing year or at such other time as the Board may deem necessary or appropriate. For fishing year 2023 dues will be paid in the form of poundage fees of 1% landings value on all groundfish landed and \$0.001 fee per pound of initial ACE on members' permits.

## **GEAR REQUIREMENTS**

12. Gear Requirements: While it is anticipated that Sector members will fish primarily with otter trawls and sink gillnets, Participating Vessel may fish for Groundfish with any legal gear including hook and line gear (demersal longlines, automated hook, jigs, and handlines), Scottish seines, beam trawls and pots. All Participating Vessels are subject to the same gear restrictions, such as marking, tagging, mesh size, and number of gillnets, applicable to common pool vessels using the same type of gear.

13. Gillnet Block Requirement Exemption: If approved by GARFO, Participating Vessels are not required to adhere to those provisions of 50 CFR 648.82(j)(1)(ii) requiring that during each fishing year, day gillnet vessels must declare, and take, a total of 120 days out of the non-exempt gillnet fishery. Participating Vessels must continue to comply with all other applicable Spawning Season Restrictions and other gillnet requirements not specifically noted as exempted herein, in accordance with the groundfish FMP and GARFO regulations.

14. Spawning Block Exemption: If approved by GARFO, Participating Vessels are not required to comply with the 20-day spawning block (March–May) requirement. Participating Vessels must continue to comply with all other applicable spawning season restrictions not specifically noted as exempted herein, in accordance with the groundfish FMP and GARFO regulations.

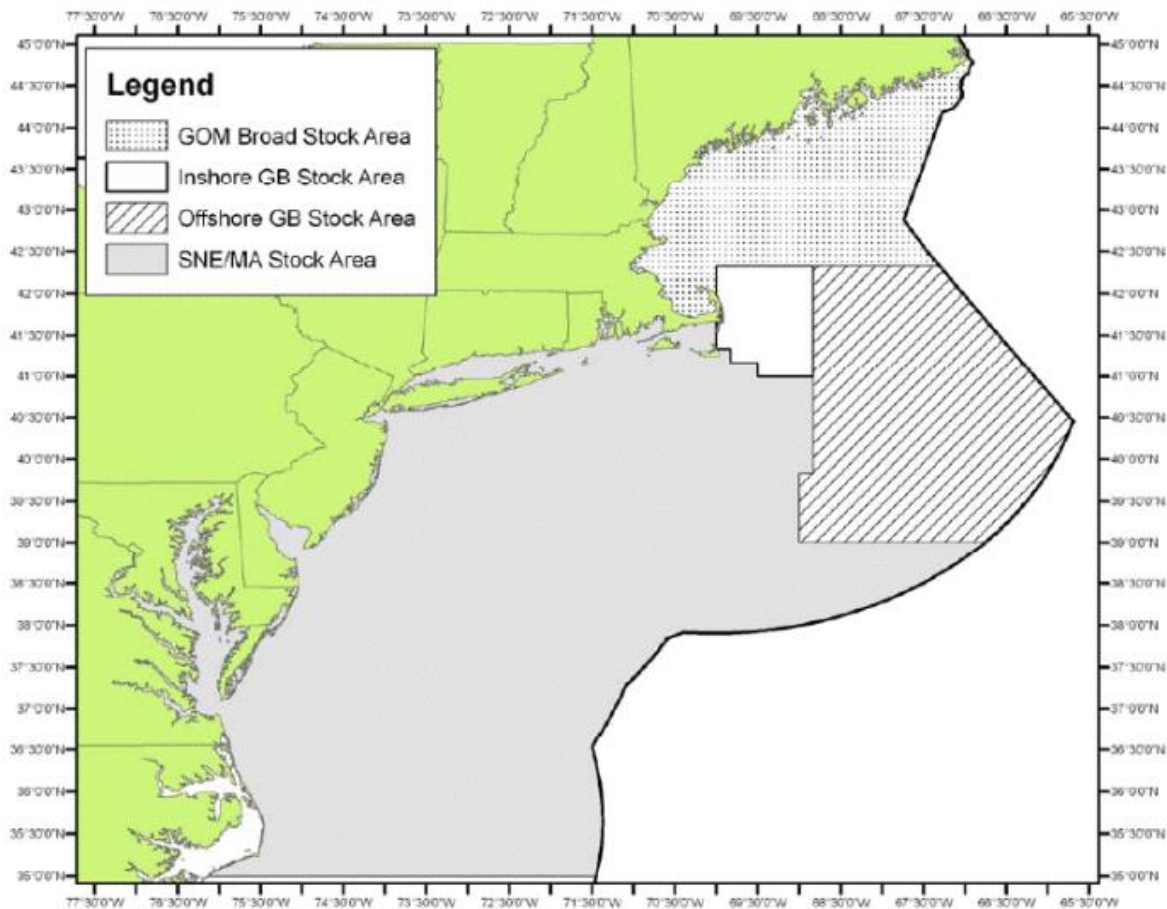
15. Day Gillnet Limit Exemption: If approved by GARFO, Participating Vessels are not required to adhere to the regulatory limitation on the number of gillnets for day gillnet vessels. A sector vessel may fish up to 150 roundfish or flatfish nets in any of the RMAs, not to exceed 150 nets total, and must tag both roundfish and flatfish nets with one tag per net and is subject to net restrictions as specified by GARFO in its Letter of Authorization. In block 124 and 125 in May and blocks 132 and 133 in June may be fished with only 100 nets.

16. Gear Hauling Exemption: If approved by GARFO, Participating Vessels may haul another vessel's gillnet gear.

17. Hook Limitation Exemption: If approved by GARFO, Participating Vessels are not required to adhere to the regulatory limitation on the number of hooks that may be fished.

18. Operating Area: Participating vessels are restricted to fishing in the Gulf of Maine Regulated Mesh Area or Georges Banks, Inshore Georges Bank Stock Area, and the Offshore Georges Bank Stock Area when using fishing gear capable of catching any regulated species managed under the Groundfish Plan. The geographic boundaries of the management area are, shown in the chart below.

## New England Groundfish Stock Areas



## MONITORING

**Area Declarations.** For the purpose of these Harvesting Rules, Broad Stock Area (BSA) 1—West of 70:15 to the shoreline North to the Maine Coast and South to Cape Cod is to be defined as **Inshore GOM**. For the 2023 and 2024 fishing season the following declarations must be made before fishing. For more details of this rule, please see EXHIBIT H to this document.

**When an Observer/Monitor is onboard.** The Sector Vessel may declare and fish in all Broad Stock Areas, including the portion of BSA 1 defined as the Inshore GOM in section 5.04.

**When an Observer/Monitor is NOT onboard.**

If the Sector Vessel intends to fish West of the 70:15 in the area described in Section 5.04 of this operation plan as the Inshore GOM, at any time during a trip, the vessel must declare BSA 1 only and the Sector Vessel may not conduct any fishing activity outside of the area defined as BSA 1 for the entire trip.

If the vessel declares more than one Broad Stock Area on a trip, the vessel is prohibited from conducting fishing activity West of the 70:15 in the area described in Section 5.04. as the Inshore GOM.

**Monitoring**

Dockside: The Maine Cost Community Sector will not be participating in a dockside monitoring program for the fishing year 2023 and 2024.

At Sea Monitoring Program:

See at sea monitoring description in Exhibit G.

Electronic Monitoring

See Exhibit H



**EXHIBIT D****MAINE COAST COMMUNITY SECTOR MEMBERS' PERMITS AND VESSELS**

The following table includes all Federal and state permits held by persons participating in the sector, and indicates whether each permit is enrolled and will actively fish in a sector, or will be subject to the provisions of the common pool.

<b>Sector</b>	<b>MRI</b>	<b>Permit #</b>	<b>Vessel Name</b>	<b>Vessel Owner</b>
Maine Coast Community Sector	5	148076	RAY OF HOPE	Bryan Bichrest
Maine Coast Community Sector	16	114846	MARIE ANN	Craig Durant
Maine Coast Community Sector	49	220149	Wrecking Havoc	Herman Coombs
Maine Coast Community Sector	87	220989	HANNAH RUTH	Scott Carter
Maine Coast Community Sector	97		Bay Drifter	Marshall Spear
Maine Coast Community Sector	112	242567	CAPT'N LEE	Justin Libby
Maine Coast Community Sector	117			TNC
Maine Coast Community Sector	122	242753	Mallary Sky	Tad Miller
Maine Coast Community Sector	130	212165	FREE BIRD	Brian Durant
Maine Coast Community Sector	149	150566		Dennis Robillard
Maine Coast Community Sector	163	149741	ROYAL AMERICAN	Kelo Pinkham
Maine Coast Community Sector	164	223592	PROVIDENCE	Willis Spear
Maine Coast Community Sector	192	232006	KATIE & SARAH	Robert Eugley, Jr.
Maine Coast Community Sector	196	150946	JETHRO	Troy Bichrest
Maine Coast Community Sector	198	231481		Hugh Bowen
Maine Coast Community Sector	207	149180	Ruby Claire	TNC
Maine Coast Community Sector	222	240081	NORTH STAR	Vincent Balzano
Maine Coast Community Sector	228			TNC
Maine Coast Community Sector	235	240143	MISTY MAE	Donald Paulsen

Maine Coast Community Sector	238			TNC
Maine Coast Community Sector	240			TNC
Maine Coast Community Sector	261	178058	Newfie Star	Willis M Spear III
Maine Coast Community Sector	268	233869	BUG CATCHA	Gerry Cushman
Maine Coast Community Sector	276	240423	MEGALTAY	Todd Watts
Maine Coast Community Sector	283	240548	Miss Whitney	Scott McGuire
Maine Coast Community Sector	286	240636	HIGH ROLLER	Steve Benner
Maine Coast Community Sector	290	152345	Flying Dutchman	Eben Nieuwkerk
Maine Coast Community Sector	297			TNC
Maine Coast Community Sector	320			TNC
Maine Coast Community Sector	338	131009	Mr Baxter	Mark Bichrest
Maine Coast Community Sector	353	149492	Pointer	Marshall Alexander
Maine Coast Community Sector	367			TNC
Maine Coast Community Sector	383	250387	ELLA CHRISTINE	Randy Cushman
Maine Coast Community Sector	402			Gary Hatch
Maine Coast Community Sector	407	250512	De Dee Mae II	Eben Nieuwkerk
Maine Coast Community Sector	408			TNC
Maine Coast Community Sector	411	150006	Water Tender	Dennis Robillard
Maine Coast Community Sector	417	321079	Delia D	TNC
Maine Coast Community Sector	419		GENERATION	Gerry Cushman
Maine Coast Community Sector	426			TNC
Maine Coast Community Sector	429	231459	Julie Ann	Tad Miller
Maine Coast Community Sector	431		LUKE AND GRACE	David Horner
Maine Coast Community Sector	455	151328	PEARLY BAKER	TNC

Maine Coast Community Sector	461	150572	THREES ENOUGH	Bryan/Troy Bichrest
Maine Coast Community Sector	489	149615		John Mitchell
Maine Coast Community Sector	490			Mark Bichrest
Maine Coast Community Sector	522	150880		Patrick Shepard
Maine Coast Community Sector	530	149504	Phillis	Mark Bichrest
Maine Coast Community Sector	532			Mark Bichrest
Maine Coast Community Sector	557	118724	Northern Lights	Vincent Balzano
Maine Coast Community Sector	670	330448	Jennifer & Emily	Mark Bichrest
Maine Coast Community Sector	747		Evangeline	TNC
Maine Coast Community Sector	831	320674		Dennis Robillard
Maine Coast Community Sector	827	152750		Dennis Robillard
Maine Coast Community Sector	851	128672	Night Owl	Mark Bichrest
Maine Coast Community Sector	1028	410574	RUTH & PAT	Mark Bichrest
Maine Coast Community Sector	1156	150287	Francis Dawn	Mark Bichrest
Maine Coast Community Sector	1227	223371	Rose Corey	Greg Decesare
Maine Coast Community Sector	1256	223471	SEA SPRAY II	John Daggett
Maine Coast Community Sector	1257	149637	Valerie	TNC
Maine Coast Community Sector	1445	221941	SHANNON DAWN	Preston Carter
Maine Coast Community Sector	1446	250907	CAROL ANN	Gary Hatch
Maine Coast Community Sector	1451	242536	Shannon Kristine	Eben Nieuwkerk
Maine Coast Community Sector	1459			Cody Nunan
Maine Coast Community Sector	1474	250558	VIOLA LEE	TNC
Maine Coast Community Sector	1482			TNC
Maine Coast Community Sector	1522	211239	Rueby	William Chaprales

Maine Coast Community Sector	1531			TNC
Maine Coast Community Sector	1570	232910	Sherm & Jake	Maynard Brewer
Maine Coast Community Sector	1578	149582	Julie Ann II	Dennis Robillard
Maine Coast Community Sector	1582		Marion Mae	Craig Mavrikis
Maine Coast Community Sector	1642	151706	ELLA O	Tad Miller
Maine Coast Community Sector	1663	231803	Lookout	Russell Brewer
Maine Coast Community Sector	1686	148069	AVA & LAURA	Brian Kelley
Maine Coast Community Sector	1723		Susan Elizabeth	Sonny Rich
Maine Coast Community Sector	1768	148049	Perfect C's	Michael Pratt
Maine Coast Community Sector	1801	150886	DELILAH JONES	TNC
Maine Coast Community Sector	1807			TNC
Maine Coast Community Sector	1809	242848	JACOB AND JOSHUA	Alexander Todd
Maine Coast Community Sector	1815	242777	PAMELA GRACE	Troy Bichrest
Maine Coast Community Sector	1823	139950	PRETENDER	Mitch Nunan
Maine Coast Community Sector	1835	140344		Gerry Cushman
Maine Coast Community Sector	1864	114793	ENDEAVOR	Dale Martel
Maine Coast Community Sector	1887			TNC
Maine Coast Community Sector	1905	123544	Excaliber	Fred Backman
Maine Coast Community Sector	1957	152172	JULIE ANN III	Dennis Robillard
Maine Coast Community Sector	1960			TNC
Maine Coast Community Sector	1973	150020		Patrick Shepard
Maine Coast Community Sector	2029	233758	Bampy	Ralph Pratt
Maine Coast Community Sector	2040	410100	WESTERN SEA	Glenn Robbins
Maine Coast Community Sector	2052	242609	Roman's Road	Cory Hawkes

Maine Coast Community Sector	2055	151622	FV PEGGY-O	TNC
Maine Coast Community Sector	2168	152390	Eleanor J	John Mitchell
Maine Coast Community Sector	2177			TNC
Maine Coast Community Sector	2178		Mary Jean II	Tim LaRochelle
Maine Coast Community Sector	2188	147517	HANNAH JO	Knoep Nieuwkerk
Maine Coast Community Sector	2204		HAVEN LYN	Bryan Bichrest
Maine Coast Community Sector	2229	138096	Lady Rebecca	Joe Letourneau
Maine Coast Community Sector	2237	149493	CUTTER	Knoep Nieuwkerk
Maine Coast Community Sector	2260	233726	Alanea Mae	Robert Bichrest
Maine Coast Community Sector	2273	220363	SARAH GALE	Cody Nunan
Maine Coast Community Sector	2320			TNC
Maine Coast Community Sector	2341	242844	SAFE HAVEN	Bryan Bichrest
Maine Coast Community Sector	2392	221064	Lauren Lindsay	Angus Crosby
Maine Coast Community Sector	2404	152100	CINDY LOU	Knoep Nieuwkerk
Maine Coast Community Sector	2465	152208	Brittany Lynn	Geordie King
Maine Coast Community Sector	4160	221579		Greg Decesare
Maine Coast Community Sector	47808		Kevin Michael	Michael Pratt
Maine Coast Community Sector	48003	152452	Figment	Keper Connell

## **EXHIBIT F**

### **OWNERSHIP INTERESTS OF AT LEAST THREE VESSELS**

[Provided in Attachment F]

**Table 1 Sector Information**

Summary of Maine Coast Community Sector and Operations Plan for Fishing Years 2023-24		
1	Sector Parameters	Description
2	Primary Fishing Locations (Broad Stock Areas)	Gulf of Maine, Inshore Georges Bank, Offshore Georges Bank
3	Gear	Trawl: 50% Gillnet: 40.9% Automatic Jigging Machine/longlining: 9.01%
4	Primary homeports and landing ports	1. Portland Harbor, Portland, ME 2. Port Clyde Harbor, Port Clyde ME 3. Cape Porpoise Harbor, Kennebunkport, ME 4. Cundys Harbor, Harpswell, ME 5. Boston, MA 6. Gloucester, MA
5	Secondary homeports and landing ports	1. Camp Ellis, Saco, ME 2. Gloucester Harbor, Gloucester, MA 3. Boothbay Harbor, Boothbay Harbor ME 4. Kennebunkport Harbor, Kennebunkport, ME 5. Sebasco Harbor, Phippsburg, ME 6. Five Islands, ME 7. Bass Harbor, ME 8. South Bristol, ME
6	Number of participants	Total permits enrolled in the

		Sector: 110 Number of active vessels: 22
Note: Active Vessels are those enrolled in this sector that intend to land groundfish during the 2023 and 2024 fishing years.		

## **EXHIBIT G**

### **MAINE COAST COMMUNITY SECTOR AT-SEA MONITORING and EM PLAN FOR 2023 and 2024**

The Maine Coast Community Sector proposes to utilize a combined electronic monitoring (EM) program and a NMFS-approved ASM program for fishing years 2023 and 2024. This ASM coverage will have vessel and trip selection coordinated through GARFO and the PTNS system and will use an approved at-sea monitor provider. The Sector manager will maintain a database of all catch data, including but not limited to VTR, dealer, monitor, and observer data. GARFO will provide the Sector with data from NEFOP and the ASM program. For FY 2023 and FY 2024, Maine Coast sector vessels not opting to employ the proposed electronic video monitoring (EM) program will use a NMFS approved ASM program with human monitors from a contracted third party.

The Maine Coast Community Sector will contract one or more of the companies approved by NMFS to provide at-sea monitoring and will notify NMFS of its selection no later than May 1, 2023. The Maine Coast Community Sector will deploy at-sea monitors to achieve 99% of trips in a way that is random and representative of fishing activities of the sector.

#### **Sector Operational and Logistical Details**

General fishing operations information for the FY 2023 and 2024 Sector is anticipated to be as follows:

Vessels will primarily depart from the following ports:

- a) Portland Harbor, Portland, ME
- b) Port Clyde Harbor, Port Clyde ME
- c) Cape Porpoise Harbor, Kennebunkport, ME
- d) Kennebunkport Harbor, Kennebunkport, ME
- e) Cundys Harbor, Harpswell, ME
- f) Boston, MA
- g) Gloucester, MA
- h) Portsmouth, NH

## **C.1 BACKGROUND OVERVIEW**

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

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

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

Many natural and human-related factors affect the status of fish stocks, protected species and ecosystems. Although these factors cannot all be controlled, available scientific and management tools enable the agency to have a strong influence on many of them. Maintaining and improving the health and productivity of these species is the heart of the NMFS mission. These activities will maintain and enhance current and future opportunities for the sustainable use of living marine resources as well as the health and biodiversity of their ecosystems.

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

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

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

1st: Increased number of coastal and marine ecosystems maintained at a healthy and sustainable level

2nd: Increased social and economic value of the marine environment and resources (e.g., seafood, recreation, and tourism)

3rd: Increased number of acres and stream-miles restored for coastal and ocean species

4th: Increased number of protected species in a stable condition or in an upward trend

5th: Increased number of managed species that are at optimum levels

6th: Improved ecological conditions in coastal and ocean protected areas



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

The Northeast Fisheries Science Center (NEFSC), National Marine Fisheries Service (NMFS) is required to collect scientific, management, regulatory compliance and economic data for fisheries by placing At-Sea Monitors aboard

U.S. domestic fishing vessels participating in the groundfish multispecies Fisheries Management Plan. These data cannot be obtained at the dock or on Government research vessels. These data are needed for the management and monitoring of Annual Catch Limits and groundfish sectors.

Every sector should equally be covered. The coverage rates apply to the trip level. At-Sea Monitors will be systematically assigned by NMFS to a vessel to ensure the coverage is fair and even. Several types of fishing gear may be used: longline, trawl, and gillnet. A monitored trip must be a trip where landings of groundfish occur (a “groundfish”, “skate” or “monkfish” trip as defined in Amendment 16). At-Sea Monitoring standards will be consistent with the final regulations implemented under Amendment 23, unless further specified by NMFS. As described in the rule, Northeast Fisheries Observer Program (NEFOP) observers take precedence over At-Sea Monitors for vessel placement when deployments overlap.

## **c.2 AT-SEA MONITOR PROGRAM OBJECTIVES**

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

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

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

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

### **c.3 SCOPE AND OUTCOMES**

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

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

#### **c.3.1 Policies and Regulations**

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

- **Magnuson-Stevens Fishery, Management, and Conservation Act (MSA)**
- **Marine Mammal Protection Act (MMPA)**
- **Endangered Species Act (ESA)**
- **Data Quality Control Act (P.L. 106-514)**
- **Information Technology Security Policy**
- **Fisheries Management Plans (FMP)**
- **Biological Opinions (BO)**
- **Take Reduction Team (TRT)**
- **NOAA Safety Standards**
- **Fair Labor Standards Act (FLSA)**

- **Service Contract Act (SCA)**
- **Department of Labor Wage Determinations**
- **Applicable Federal and State labor laws**
- **At-Sea Monitor Health and Safety regulations**
- **Federal, state, and local safety regulations**
- **Merchant Marine Act (Jones Act) and General Maritime Law**
- **U.S. Longshore and Harbor Worker's Compensation Act**

#### **C.4 PERFORMANCE WORK STATEMENT**

The contractor shall meet all requirements of the SOW.

##### **C.4.1 Management Requirements**

###### **C.4.1.1 Project Management**

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

###### **C.4.1.2 Project Manager**

The contractor shall assign a Project Manager to be the focal point for communications between NMFS and the contractor. The assigned Project Manager shall be designated as Key Personnel for this contract (per Section H.7).

Ensure that all key personnel attend any refresher trainings for At-Sea Monitors. For a specific job description see Section J, Attachment 2, Labor Category Classifications and Job Descriptions.

###### **C.4.1.3 Coordinators**

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

###### **C.4.1.4 Management Reporting and Coordination**

The contractor shall prepare and submit to the Contracting Officer (CO) , Contracting Officer's Technical Representative (COTR) a monthly Status Report, as listed in Section F.5.1, that provides

information on project status to include, contract award-to-date financial expenditures; At-Sea Monitor retention status; any problems or issues encountered; and other information as may be requested by the COTR.

#### **C.4.1.5 Performance Measures**

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

#### **C.4.2 Operational Requirements**

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

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

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

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

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

##### **C.4.2.2 Eligibility Requirements**

###### **C.4.2.2.1 Educational Qualifications**

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

###### **C.4.2.2.2 Non-Conflict of Interest**

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

###### **C.4.2.2.3 Physical/Medical Condition**

---

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

**C . 4 . 2 . 2 . 4                      Communication Skills**

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

**C . 4 . 2 . 2 . 5                      Citizenship or Ability to Work Legally in the United States**

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

#### **C . 4 . 2 . 2 . 6                      Statement of No Criminal Conviction**

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

#### **C . 4 . 2 . 2 . 7                      CPR and First Aid Requirements**

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

#### **C . 4 . 2 . 2 . 8                      At-Sea Monitor Standards of Conduct**

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

#### **C . 4 . 2 . 3                      Observer/At-Sea Monitor Duties and Data Collection Requirements**

- 1) General Observer Duties and Data Collection Requirements – Fishery Observer I, II, and III
  - a) Observers/At-Sea Monitors shall collect scientific, management, compliance, and other data at sea through interviews of vessel captains and crew; observations of fishing operations; sampling catch; measuring selected portions of the catch and fishing gear; and collecting samples. Observer/At-Sea Monitor coverage is mandated by a number of statutes and is an integral part of the regulations. These authorities empower the observer/At-Sea Monitor to perform certain functions aboard vessels as well as afford protection to the observer/At-Sea Monitor against interference and intimidation in the course of performing his/her duties.
  - b) Observer/At-Sea Monitors shall collect data on fishing effort, location, retained catch and discarded catch for each gear deployment that occurs while the observer/At-Sea Monitor is aboard the vessel. The At-Sea Monitor Sampling Manual describes data collection protocols for gear deployment that the observer/At-Sea Monitor sees as well as those not observed.
  - c) Observer/At-Sea Monitors shall collect length samples from segments of the catch. Observer/At-Sea Monitor protocols, priorities, and data/sample collection procedures are detailed in the At-Sea Monitor Manual.
  - d) Observer/At-Sea Monitors shall collect information on any incidentally captured sea turtles, including, but not limited to, location of take, biopsies, measurements, photos, and any other information. Observer/At-Sea Monitors shall also collect information on any marine mammals or other protected species interactions. When protected species are caught, the primary responsibility of the observer/At-Sea Monitor shall be to handle and release the protected species.
  - e) Observers shall participate in all training, briefings and debriefings as required by the COTR. Observer/At-Sea Monitors shall participate in port orientations, if offered by NMFS and requested by the COTR (Section B – Supplies or Services and Prices/Costs Training CLIN 0003, 1003, and CLIN 2003. Debriefing of the observer/At-Sea Monitor ensures that the data are complete and as accurate as possible before computer audits are run. Debriefing also provides immediate feedback to the observer/At-Sea Monitor in the field and errors can be corrected immediately. Debriefings shall occur on a regular basis and as frequently as possible either by email, phone or in person. Debriefings shall consist of but are not limited to:

- i) Reviewing sampling methods and answering Observer/At-Sea Monitor questions;
    - ii) Reviewing preliminary data;
    - iii) Correcting any data errors;
    - iii) Reviewing any other past errors or changes in sampling techniques or recorded on forms;
    - iv) Reviewing any logistical problems or concerns encountered by the observer/At-Sea Monitor; and
    - v) Testing observer/At-Sea Monitor ability to adhere to sampling protocol
    - vi) Checking gear calibration
    - vii) Providing the observer/At-Sea Monitor with any updates on modifications to sampling procedures or other program information.
  - f) Observer/At-Sea Monitors who encounter captains or vessels' owners operating in fisheries requiring mandatory observer/At-Sea Monitor coverage that refuses to accept the observer/At-Sea Monitor on their vessel for deployments shall provide documentation of the refusal to NMFS. This documentation shall be provided via e-mail or hard copy to the Branch Chief of the Fisheries Sampling Branch on the day of the event. This documentation shall be of sufficient substance and detail to be usable for NMFS enforcement actions. Narrative shall be provided to completely answer the following guideline questions: who, what, when, and where. This shall be reported on the Incident Report Form (Section J, Attachment 8, Incident Report Form).
  - g) Observer/At-Sea Monitors shall send in the whole animal or take a photo of all species encountered the Species ID Verification Program quarterly to NMFS (Section J, Attachment 9, Species Verification Program). Failure to do so may result in an observer/At-Sea Monitor's change in status (i.e., pre-probation, probation, and decertification).
- 2) Fishery Observer/At-Sea Monitor I – Performance Requirements and Labor Category Definition - The Fishery observer/At-Sea Monitor I shall meet and perform all the General Requirements specified in C.4.3.2a and the following:
- a) Performs routine tasks associated with recurring and continuing work according to prescribed or established procedural standards and technical methods assigned.
  - b) Assures that tasks are completed, data developed, methods used in securing and verifying data are technically accurate and in compliance with instructions and established procedures.
  - c) Makes estimates of amounts and species composition of fish caught, retained and discarded, using at a minimum, simple, single stage sampling techniques and dichotomous keys.
  - d) According to established standards and detailed procedures, records data on appropriate forms and logs, some of which may be electronic.
  - e) Maintains field equipment and supplies.
  - f) Collects scientific, management, compliance information, and make observations of fishing operations.
  - g) Use and complete a pre-boarding vessel safety checklist.
  - h) Measures selected portions of catch including incidentally caught marine mammals, sea birds and sea turtles.
  - i) Uses calculator and/or PC for calculations and recording data.
  - j) Obtains, enters and transfers data electronically.
  - k) Obtains and records information on gear characteristics of fishing gear types while working either on board vessels, on an alternative platform, or at a shore-based facility.
  - l) Uses interpersonal and communication skills to contact fishermen and schedule observer/At-Sea Monitor sampling trips.
  - m) Observes and documents compliance with fishery regulations, and write affidavits as required.
- 3) Fishery Observer/At-Sea Monitor II - The Fishery observer/At-Sea Monitor II shall meet and perform all the General Requirements specified in C.4.3.2a, perform all duties of Fishery observer/At-Sea Monitor I and the following additional duties:
- a) Independently executes duties, while learning when and how to resolve exceptions and special problems.
  - b) Estimate amounts and species composition of fish caught, retained and discarded, utilizing knowledge of various statistically valid sampling methods and dichotomous keys.
  - c) Measure selected portions of catch including incidentally caught marine mammals, sea birds and sea turtles.
  - d) Uses calculator and/or PC for calculations and recording data.
- 4) Fishery Observer/At-Sea Monitor III - The Fishery Observer/At-Sea Monitor III shall meet and perform all the General



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

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

#### **C . 4 . 2 . 3 . 1            Data Deliverables**

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

- 5)        Delivery of paper log data shall be received within 5 calendar days (120 hours) of the vessel landing as referenced in Section F.5.5.**
  
- 2)        Delivery of electronic data shall be received within 2 calendar days (48 hours) of the vessel landing as referenced in Section F.5.6.**
  
- 3)        Delivery of biological specimens (whole fish samples) shall be received within 5 calendar days (120 hours) of the vessel landing as referenced in Section F.5.7.**

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

#### **C . 4 . 2 . 3 . 2            At-Sea Monitor Communication**

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

and the At-Sea Monitor hourly rate will be reimbursed under the hourly rate provision section herein (Section B Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004). NMFS staff will provide written memo updates to the contractor regarding any new or changed sampling protocols, data collection procedures, or other collection or reporting procedures. The contractor shall make certain that At-Sea Monitors comply with changes, as applicable.

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

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

#### **C . 4 . 3        At-Sea Monitor Support Services**

##### **C . 4 . 3 . 1        Logistic and Operation Support for At-Sea Monitor Deployment**

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

#### **C.4.3.2 Training and Debriefings**

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

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

At-Sea Monitor candidates shall undergo an initial 2-week certification training session with NMFS. A series of tests will be administered during this training that candidates must pass prior to certification. Candidates must demonstrate their potential to collect accurate field data, and react to unfamiliar situations at sea in a professional manner. NMFS personnel as well as specialists in other areas such as vessel safety shall conduct training.

Refresher training sessions will be conducted when data logs or protocols change, at the discretion of the COTR, or when there has been over six months service interruption for the At-Sea Monitor. At-Sea Monitors shall be required to attend an annual refresher course for data collection, species identification, and vessel safety. In order for the At-Sea Monitor to maintain a current certification they must successfully complete the recertification training. Three trainings are scheduled for each year (planned trainings will be posted on the FSB website). The contractor shall provide NMFS with at least 45 calendar days prior notice when a training session is needed and identify any foreign nationals that may be attending training (it takes a minimum of 30 working days for foreign national clearance) as referenced in Section F.5.9. For extenuating circumstances, additional trainings may be scheduled at the Government's discretion.

Attendance by key personnel at training is required for at least two days each week of training.

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

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

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

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

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

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

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

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

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

An At-Sea Monitor's first 4 deployments and the resulting data shall be immediately edited and approved after each trip by NMFS prior to any further deployments by that At-Sea Monitor (Section J, Attachment 15, ASM Training Trip Policy). During the At-Sea Monitor's first 4 deployments, in order for them to go on their next trip, their data must be received, edited and the At-Sea Monitor must be "cleared" by NMFS to sail on their next trip. This notification will be sent via e-mail to the At-Sea Monitor's provider. The

At-Sea Monitor cannot be deployed until the e-mail notification has been sent by NMFS. If the data quality is considered acceptable the At-Sea Monitor will become certified. If the data quality is not considered acceptable, the At-Sea Monitor will not be certified by NMFS at that time.

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

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

certified as trip trainers must be geographically representative of the ports ASM At-Sea Monitors cover to accommodate all new trainees.

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

each training and all the days of refresher training.

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

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

At-Sea Monitors shall be expected to remain as active At-Sea Monitors or serve in other capacities directly related to the Northeast Fisheries At-Sea Monitor Program (e.g. program management) for at least one (1) year after training. The contractor shall reimburse the Government for training expenses for any At-Sea Monitors terminating their At-Sea Monitor employment with the contractor within one (1) year of completing the NMFS training. This will be done by issuing a credit for the next training session. For example, if three

(3) At-Sea Monitors leave the program prior to completing one (1) year of employment, at the next training, three (3) individuals' training costs (Section B Supplies or Services and Prices/Costs Training CLINS 0003, 1003, and 2003) and hourly wages associated with the training (Section B Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004) will not be billed to the Government.

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

NMFS may request an At-Sea Monitor be accompanied by a NMFS staff member on a future trip. The contractor shall assist with the setting up these shadow trips (Section J, Attachment 18, Shadow Trip Program). The contractor shall make At-Sea Monitors available to NMFS (Enforcement and FSB staff) for the purposes of routine debriefings, requested meetings regarding data quality issues, investigating circumstances of alleged refusals by vessels to take an At-Sea Monitor or other violations of the Magnuson-Stevens Fishery Conservation Act (MSA), Marine Mammal Protection Act (MMPA), or the Endangered Species Act (ESA) recorded by the At-Sea Monitor in the course of his/her duties (Section B Supplies or Services and Prices/Costs Training CLINS 0003, 1003 and 2003) and hourly wages associated with the training (Section B Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004). All At-Sea Monitors shall call their editor/debriefer prior to making a trip in a fishery or

program covered for the first time.

#### **C.4.3.3 Data Quality Control**

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

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

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

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

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

#### **C.4.3.5 Travel and Lodging**

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

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

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

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

#### **C.4.3.6 Vessel Selection**

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

Various regulated fisheries have a requirement for a vessel's representative to notify the ASM prior to making each fishing trip. Notification is required prior to the planned departure in a specific time frame, e.g., forty-eight

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

For the groundfish fishery (notifies NMFS when they are sailing), the contractor will be notified of trip selection via the website. The contractor may accept or decline trips within twenty four (24) hours. If a trip is accepted by a contractor, the contractor would make contact with the vessel for trip logistics. The COTR shall be notified all circumstances in which At- Sea Monitors were late or missed a scheduled trip for all fisheries as referenced in Section F.5.13.

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

Cost Reimbursement is authorized for At-Sea Monitors for the time associated with a "no show". The maximum amount of time for a no show is up to 2.5 hours. The At-Sea Monitor must arrive 30 minutes prior to the scheduled departure time and remain at the designated area for up 2 hours following the



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

Cost Reimbursement is authorized for At-Sea Monitors for the time associated with a “cancellation” in instances where trips are cancelled at the dock or when an at-sea monitor is en-route to the vessel and cancellations occurs.

The maximum amount of time for a cancellation is up to 2.5 hours. Travel to and from the site and per diem are not included unless conditions in C.4.3.5 are met. Any costs billed for a “Cancellation” will be billed against CLINS 0004, 1004 and 2004. A travel voucher (Section J, Attachment 21, At-Sea Monitor Travel Voucher) is required for proper reimbursement.

#### **C . 4 . 3 . 7            Safety Requirements**

Vessels must be in compliance with the At-Sea Monitor Health and Safety Regulations before an At-Sea Monitor is deployed (<https://www.federalregister.gov/documents/2007/11/01/E7-21550/magnuson-stevens-act-provisions-general-provisions-for-domestic-fisheries-observer-health-and-safety>). Vessels must pass the Pre-Trip Vessel Safety Checklist (Section J, Attachment 23) that will be performed by the At-Sea Monitor with the assistance of the captain or designee prior to deployment. If the vessel fails to pass the Pre-Trip Vessel Safety Checklist, the At-Sea Monitor shall not sail on the vessel and shall complete Safety Deficiency Report (Section J, Attachment 22, Safety Deficiency Report), which shall be provided to the captain and NMFS.

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

At-Sea Monitor safety is of paramount importance to ASM. If at any time an At-Sea Monitor feels that a vessel is unsafe prior to departure, they may decline the trip and report this on the Pre-Trip Vessel Safety Checklist

(Section J, Attachment 23) to NMFS.

#### **C . 4 . 3 . 8            Communication**

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

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

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

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

#### **C.4.3.9 Notification of Potential Infractions**

The contractor shall immediately notify the COTR of any potential violation of the Rules and Regulations that implement the Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act, Marine Mammal Protection Act or Endangered Species Act or any regulations that govern the At-Sea Monitor program, including but not limited to: vessels failing to provide adequate notification prior to departing, failing to take an At-Sea Monitor, incidents of At-Sea Monitor interference, harassment, or intimidation. The contractor shall ensure that each returning At-Sea Monitor is debriefed for incidents of intimidation, interference, or harassment within twelve (12) hours of trip landing as referenced in Section F.5.14.

Reported incidents of the vessel failing to take an At-Sea Monitor or incidences of the contractor failing to handle incidents of interference, harassment or intimidation of At-Sea Monitors will be investigated by NMFS.

#### **C.4.3.10 Vessel Operations and Working Conditions**

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

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

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

#### **C.4.3.11 Data Quality**

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

- **Failure to deliver data from an observed sea day includes:**

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

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

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

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

#### **C.4.3.12 Contractor Standards of Conduct**

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

#### **C.4.3.13 At-Sea Monitor Termination Documentation**

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

#### **C.4.3.14 Emergency Action Plan**

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

#### **C.4.3.15 Quality Assurance Plan**

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

#### **C.5 PERFORMANCE MONITORING**

##### **C.5.1 Quality Assurance Surveillance Plan**

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

#### **C.6 SECURITY RISK LEVEL DESIGNATIONS**

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

- **Program Manager**  
**SECURITY RISK = Low**
- **Coordinator SECURITY**  
**RISK = Low**
- **Observer I, II, III**  
**SECURITY RISK = Low**

#### **Investigation Packages**

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

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

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

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

**c. 7 CLAUSES INCORPORATED BY REFERENCE**

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

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

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

Reference 48 CFR 1337.110-70)(e))

**EXHIBIT H: Electronic Monitoring**

**EM Program Duration**

A vessel must opt into an EM program for an entire fishing year, with the following exceptions:

- A sector may allow a vessel a single opportunity to opt in/out of EM at any time during a fishing year. A sector must have both an approved ASM and EM plan included in its operations plan to offer its member vessels this flexibility if the vessel intends to continue fishing during the remainder of the fishing year. A vessel that opts in/out of EM mid-year should expect a transition period to accommodate changes to PTNS and other data systems, during which time it may continue fishing under its current monitoring program.
- VMPs are approved by gear type. A vessel enrolled in an EM program is expected to acquire an approved VMP for all groundfish gear types used by the vessel. A vessel owner or operator that chooses to switch gear types (e.g., gillnet to trawl) mid-year must work with their service provider to reconfigure the EM system if necessary, and develop and submit a revised VMP for approval. Depending on the extent of the changes and assuming the vessel's sector also has an ASM contract, the vessel may be temporarily categorized as an ASM vessel until the VMP authorizing the use of the new gear type is approved. Trips taken by the vessel during this time would be assigned an ASM. If the vessel's sector does not hold an ASM contract, the vessel would not be authorized to fish until the revised VMP is approved.

## EM Requirements

- The EM system must be operational on every sector EM trip taken by a vessel. A vessel may not fish a sector EM trip without an operational EM system onboard, unless:
  - Issued a waiver by NMFS: In the event that a vessel's EM system is not operational as required, the vessel operator should troubleshoot the issue as described in the vessel's VMP. If the vessel operator and/or EM service provider staff are unable to resolve the issue, they must notify NMFS and request a waiver through PTNS. Waivers will be granted at NEFSC's discretion.
  - Assigned an ASM: A vessel enrolled in an EM program that intends to fish with a gear type that it does not have an approved VMP for will be assigned an ASM. If the vessel's sector does not hold an ASM contract, the vessel would not be authorized to fish until the revised VMP is approved.
- The EM system must be operational for the entire duration of the trip.
- Vessels must conduct a system check prior to departing on a sector trip. Instructions for completing a system check, and guidance for troubleshooting issues, should be included in the vessel's VMP.
- No person may tamper with, disconnect, or destroy any part of the EM system, associated equipment, or data recorded by the EM system.

## Vessel Operator Requirements

- A vessel using EM may still be selected for NEFOP or NEFOP Limited coverage and must carry a NEFOP or NEFOP Limited observer if selected. The NEFOP program is necessary to collect biological data and satisfy Standardized Bycatch Reporting Methodology, Marine Mammal Protection Act, and Endangered Species Act requirements. The EM system must be operational and the vessel operator and crew must comply with catch handling protocols when carrying a NEFOP or NEFOP Limited observer.
- The EM system, associated equipment, vessel trips reports, VMP, and other records must be available for inspection upon request by NOAA Fisheries staff.
- A vessel operator must ensure the EM system is fully operational during a sector trip, including:
  - Maintaining power to the EM system at all times for the duration of the trip.
  - Ensuring the EM system is operating, recording, and retaining the recording for the duration of every trip.
  - Maintaining clear and unobstructed camera views at all times.
  - Ensuring lighting is sufficient in all circumstances to illuminate catch so that catch and discards are visible and may be identified and quantified as required.
- A vessel operator and crew must comply with the NMFS-approved VMP at all times.
- Vessels using maximized retention electronic monitoring must retain all fish from each allocated regulated species, regardless of length.
- A vessel owner or operator must submit all EM data for all EM sector trips to the EM provider in accordance with program requirements (e.g., method and timing):
  - Each trip's EM data must be submitted to the EM service provider within 7 calendar days following completion of the trip.



## Vessel Monitoring Plan Requirements

- A vessel electing to use EM as part of the sector's EM program may work with the sector's approved provider to develop a vessel- and gear-specific VMP for NMFS approval. If a vessel intends to fish with EM on May 1, the VMP must be submitted to NMFS for approval a minimum of 30 calendar days in advance of the fishing year. Otherwise, the VMP must be submitted to NMFS for approval a minimum of 10 business days prior to a vessel's intended start date.
- A vessel must have a NMFS-approved VMP to use EM for a given gear type on a sector trip. At a minimum, the VMP must incorporate these EM Program Standards by reference, and the following sections (below). Further details on the required information can be found in the VMP guidance template:
  - General vessel information, including gear type;
  - List of contacts;
  - EM system components and specifications;
  - Vessel reporting requirements;
  - Vessel operator responsibilities;
    - System operations and maintenance;
    - Catch handling requirements; and
    - Dockside monitoring requirements (if applicable);
  - EM system malfunction protocols; and
  - Troubleshooting guide.
- A copy of the approved VMP must be on board the vessel and accessible at all times.
- The captain and crew of a vessel must abide by catch handling protocols, and all other requirements of the VMP, at all times on a sector trip. The captain and crew of a vessel must sort catch and process any discards within the view of the cameras in a manner consistent with the VMP.
- Substantial modifications to the VMP must be approved by NOAA Fisheries prior to fishing. A vessel that intends to modify its fishing practices mid-year and requires VMP modifications must allow for a transition period to accommodate VMP review and approval by NOAA Fisheries.

## Dockside Monitoring Requirements (Applicable to maximized retention EM vessels only)

- Vessels using maximized retention electronic monitoring must participate in either an independent third party dockside monitoring program approved by NMFS, or the dockside monitoring program operated by NMFS, as instructed by NMFS.
- The vessel operator must notify the DSM program of its intention to sail prior to beginning a sector EM trip. The notification schedule (e.g., upon sailing or in advance) and method (i.e., text, VMS) will depend on the nature of the vessel's activity (e.g., day boat vs trip boat vessels) and will be described in the vessel's VMP.
- The vessel operator or dealer must provide an offload time to the DSM program in advance of landing. The advance notice of landing and offload schedule will be dependent on the nature of the vessel's activity (e.g., day boat vs trip boat vessels) and will be defined in the vessel's VMP. The standard advance notice is as follows:
  - 4 hours for day boat vessels.
  - 48 hours for trip boat vessels.
    - For trip boat vessels, the vessel operator or dealer will provide the DSM program with a hail weight for the total catch of allocated groundfish 24 hours prior to offload.
  - The vessel operator, crew, and dealer must offload all allocated groundfish in the presence of the DSM. The vessel operator and crew may not begin offloading unless a DSM is present or they have received a waiver from the DSM program.

- In the event that a DSM is not available to observe an offload, the vessel operator may request a waiver by contacting the DSM coordinator. Waivers may be granted at the NEFSC's discretion.
- All fish below the minimum size must be offloaded before other fish that meet the minimum size and must be provided to the dockside monitor at the sampling station.
- The vessel operator and crew must retain all allocated groundfish categorized as LUMF and sort it separately from any sublegal catch to facilitate data collection by a dockside monitor.
- The vessel operator and crew, or dealer personnel, must separate sublegal allocated groundfish catch by species. The vessel operator and crew may NOT combine sublegal and terminal legal-sized market category catch for any species.
- The vessel operator must allow the DSM access to the fish hold immediately following the offload in order to confirm all allocated groundfish were offloaded. A vessel representative must observe/accompany the DSM during the hold inspection. The vessel representative must provide support for the DSM to safely embark and disembark the vessel (e.g., ladders/steps/assistance etc.).
- The primary dealer is required to retain all sublegal allocated groundfish catch in order to be weighed and sampled by the DSM.
- Dealers are required to clearly mark all containers containing sublegal catch to facilitate tracking, and are required to provide settlement documents to the DSM program for any allocated groundfish forwarded to secondary dealers.
- Dealers must report landings of all fish, including those below the minimum size.
- Dealers are required to provide DSMs with access to facilities equivalent to what is provided to the dealer's staff, including: A safe sampling station, with shelter from weather, for DSMs to conduct their duties and process catch; access to bathrooms; and access to facilities for washing equipment with fresh water.
- Dealers must provide settlement documents to the DSM program

## EM Program Roles and Responsibilities

Below is a description of the rules and requirements applicable to a sector EM program.

### Sector Responsibilities

- A sector that wishes to use EM to meet monitoring requirements for any of its member vessels must contract with a NMFS-approved EM service provider.
- For fishing year 2023, NMFS will administer a DSM program to support maximized retention EM vessels. In future years, a sector that wishes to use maximized retention EM to meet monitoring requirements will be required to contract with a NMFS-approved DSM service provider.
- If a sector opts to include both an ASM program and an EM program(s) in its sector operations plan, then it must submit a list detailing which member vessels will be enrolled in each program in advance of the fishing year.
  - In the event that a member vessel wishes to switch programs mid-year, the sector must notify NMFS of the change in writing.

### Vessel Owner/Operator Responsibilities

- A vessel must have an operational EM system in order to fish in an EM program. In order to facilitate this, a vessel owner/operator may need to provide an EM service provider with vessel access to provide the following services:
  - Support development of the VMP;
  - Install the EM system and associated equipment;
  - Train the vessel owner/operator on EM system use; and
  - Provide technical support and field services as needed.
- A vessel must complete one burn-in trip after equipment installation, and before enrollment in the sector's EM program, that demonstrates the vessel's EM system is fully operational (i.e., the system is working properly, camera views are adequate, and the captain and crew are familiar with and capable of complying with the catch handling requirements). A vessel may need to complete additional burn-in trips to sufficiently demonstrate the EM system is fully operational. Additional information on burn-in trips is available in the VMP Development and Guidance document.
  - Burn-in trips may also be required for annual renewals or for certain VMP system modifications.
- A vessel must adhere to EM program requirements and follow catch handling protocols as described in the VMP at all times on EM sector trips. Noncompliance with EM program requirements (e.g., catch handling inconsistent with the VMP) may affect a vessel's eligibility to participate in the EM program.

### Additional Monitoring and Reporting Requirements

- A vessel enrolled in an EM program must notify its intent to sail in the PTNS at least 48 hours prior to departure, consistent with existing requirements.

- A vessel enrolled in an EM program must carry a NEFOP or NEFOP Limited observer when selected for coverage, consistent with existing requirements.
- A vessel enrolled in an EM program must submit VTRs electronically (eVTR). The eVTRs must include an estimated total weight of each discarded groundfish species, consistent with existing requirements.

## At-Sea Requirements

- The vessel operator and crew onboard a vessel enrolled in an EM program must maintain cameras' operability and functioning throughout the trip to ensure visibility (e.g., power, cleanliness).
- The vessel operator and crew onboard a vessel enrolled in an EM program must follow catch handling requirements as described in the VMP, including but not limited to discarding all species at designated discard control points on the vessel. Additionally:
  - Vessels participating in the audit model EM must process all groundfish discards using methods approved and outlined in the VMP (e.g., place groundfish discards on a measuring strip in view of cameras prior to discarding).
  - Vessels participating in maximized retention EM must retain all allocated groundfish categorized as LUMF and sort it separately from sublegal catch to facilitate data collection by a dockside monitor.
- The owner or operator of a vessel enrolled in the EM program must submit:
  - The eVTR for the trip to GARFO in a manner consistent with existing VTR requirements; and
  - All EM data for the trip to the EM service provider within 7 calendar days following completion of the trip.

## EM Service Provider Responsibilities

- An EM Service Provider contracted by a sector is responsible for developing a VMP(s) for that sector's member vessel(s) enrolled in the EM program, in collaboration with the owner(s)/operator(s). VMPs should be submitted to NMFS for approval using VMAN.
- An EM service provider is responsible for providing field and technical support services. This includes managing EM systems, installation, maintenance, hard drive retrieval (if applicable), and technical support. Field and technical support services should be available 24 hours a day/7 days a week.
- An EM service provider must submit an application to NMFS to be approved as an EM service provider. NMFS will solicit applications annually. Further details on the application process can be found at § 648.11(h)(3).
- Video reviewer training is conducted by NMFS personnel. Interest in (or requests for) training must include a justification of need and a firm commitment to a number of seats. The minimum size for a training class is 8 and the maximum class size is 24 (total candidates). NMFS may waive the class size depending on program needs. Training will include reviewers employed by multiple vendors. Refresher training is conducted when data logs or protocols change. Video reviewer training is infrequent; however attendance is mandatory. An EM service provider must provide the following information pertaining to EM video reviewer candidates to NOAA Fisheries 30 working days before the beginning of the training:
  - A list of the individuals attending;
  - A copy of each person's resume;
  - Reference checks (name of individual providing the reference, association with the video reviewer, contact information (phone number, email), and information about the EM reviewer's past performance);
  - Security checks must be initiated (NOAA Fisheries will provide Form 65- 7 Request for Security Assurance);

- A copy of each candidate's transcripts; and
  - Supporting documentation to verify candidates.
- An EM service provider must provide a notification of new video review hires to NOAA Fisheries two weeks prior to the contractor/employee(s) projected start date for US Citizens. The notification requirement for all Foreign Nationals is a minimum of 30 days. The following information must be provided for each contractor/employee: Full name, phone number, and electronic mail address. NOAA Fisheries understands that a new hire list may change frequently before the start of training; however, a final list of candidates must be provided to NOAA Fisheries one week prior to the start of training. NMFS retains the right to reject any EM video reviewer proposed by the EM service provider if his or her qualifications or do not meet the standards or their work has been performed at an unsatisfactory level on previous projects, or if their behavior on other projects has been disruptive.
- EM video reviewer candidates must meet standards required by NOAA Fisheries consistent with EM regulations:
  - A high school diploma or legal equivalent.
  - All video review candidates employed by an EM service provider must undergo a training session with NMFS and be tested prior to certification (see § 648.87(b)(4)(iv)). Video review candidates must meet all training standards and maintain these standards as certified video reviewers. Candidates must demonstrate their ability to collect accurate data, including the aptitude to accurately identify fish species by successfully completing and maintaining the Species Identification Verification Program requirements as specified by NMFS. Video reviewers may be required to attend refresher training sessions, at the discretion of NMFS, to maintain certification(s).
  - All video review staff employed by an EM service provider must follow NEFSC-established video review protocols. Documentation of the video review protocols is available.
  - EM provider staff must not have been decertified as an at-sea monitor, or an observer, due to problems with data quality or standards of conduct, in any NOAA Fisheries observer program. An EM provider staff's references of previous employment as NOAA Fisheries approved at-sea monitors or observers shall be verified by the EM provider to satisfy this requirement.
  - Absence of fisheries-related convictions, based upon a thorough background check;
  - Independence from fishing-related parties including, but not limited to, vessels, dealers, shipping companies, sectors, sector managers, advocacy groups, or research institutions to prevent conflicts of interest. This means EM provider staff may not have direct financial interest, other than the provision of monitoring services, in the fishery, including, but not limited to:
    - Any ownership, mortgage holder, or other secured interest in a vessel or processor involved in the catching, taking, harvesting or processing of fish;
    - Any business selling supplies or services to any vessel or processor in the fishery; and
    - Any business purchasing raw or processed products from any vessel or processor in the fishery.
- To ensure data quality and completion of the EM reviewer training and certification process, following completion of training, an EM video reviewer's first three reviews and the resulting data shall be immediately reviewed, edited and approved after each trip by NOAA Fisheries prior to any further trip reviews by that EM reviewer. During the EM reviewer's first three deployments their data must be received, edited, and the EM reviewer must be "cleared" by NMFS to review on their next trip. This notification will be sent via e-mail to the EM provider. The EM reviewer may not review additional trips until the e-mail notification has been sent by NMFS. If the data quality is considered acceptable, the EM reviewer would become certified. NMFS may require additional training trips (beyond three) if the data quality is not considered acceptable enough for certification. If the data quality is not considered acceptable at any point during the initial reviewers the EM reviewer would not be certified by NMFS.
- An EM video reviewer's ability to work will be based on his or her certification, which involves continual data quality assessments and recertification. If an EM reviewer does not adhere to NMFS protocols or meet standards they may be placed on pre-probation, probation or decertified, as described in the NMFS policy statement regarding certification (Section J, Attachment 26, ASM At-Sea Monitor Performance Monitoring, Review, Probation and Decertification).
- An EM service provider must use NOAA Fisheries data systems in the management of EM data, including but not limited to:

- An EM service provider must submit all required data elements for a trip (i.e., groundfish discards and other information) as described in the Video Reviewer Guidance document via an EM Detail File.
  - An EM service provider must submit EM Detail Files to NOAA Fishery Monitoring via the NEMIS API. Data must be formatted according to the API specifications. The API documentation describes the data file format, the data structure, and all annotation codes required for data submission to the API. The API documentation is provided in a commonly used standardized format;
  - An EM service provider must use the NOAA Fishery Monitoring Web Portal to manage EM data, including but not limited to tracking: Trips, video review status, video review staff certifications, and more;
  - An EM service provider must use NOAA's VMP software, VMAN, for VMP submittals, approvals, and updates; and
  - An EM service provider must sign a non-disclosure agreement to access government databases and systems.
- An EM service provider must ensure all EM data is collected and transmitted in a manner that ensures data integrity and protects confidential business information.
    - An EM service provider must securely store EM data for a period of time as specified by NMFS' policy directive. An EM service provider must retain and store the raw EM data, reports, and other vessel EM trip records for a period of 12 months after catch data is finalized for the fishing year. NMFS will notify providers of the catch data finalization date for each year, typically occurring in July of the following year. EM data must be stored securely, whether on hard drives, local servers, or via cloud storage services. EM data must be released to NMFS personnel and authorized officers, or as otherwise authorized by the owner of the vessel.
  - An EM service provider must provide NMFS, and its authorized officers and designees, access to all EM data immediately upon request.
  - An EM service provider must provide NMFS with all software necessary for accessing, viewing, and interpreting the data generated by the EM system, including submitting the agency's secondary review data to the API and maintenance releases to correct errors in the software or enhance software functionality.
    - An EM service provider's software must support a "dual user" system that allows NMFS to complete and submit secondary reviews to the API.
    - An EM service provider's software must allow for the export or download of EM data in order for the agency to make a copy if necessary.
    - An EM service provider must provide a software training for NOAA Fisheries staff.
  - An EM service provider must provide the following to NMFS upon request:
    - Assistance in EM system operations, diagnosing/resolving technical issues, and recovering lost or corrupted data;
    - Responses to inquiries related to data summaries, analyses, reports, and operational issues;
    - Access to video reviewers for debriefing sessions;
    - Technical and expert information, if EM data are admitted as evidence in a court of law. All technical aspects of a NOAA Fisheries-approved EM system may be analyzed in court for, inter alia, testing procedures, error rates, peer review, technical processes, and general industry acceptance. To substantiate the EM system data and address issues raised in litigation, an EM service provider must provide information, including but not limited to:
      - If the technologies have previously been subject to such scrutiny in a court of law, a brief summary of the litigation and any court findings on the reliability of the technology.
    - A copy of any contract between the EM service provider and sectors requiring EM services;
    - EM data and other records specified in the regulations at § 648.11(l)(ii).
  - An EM service provider must provide feedback to vessels following a trip on the vessel operator and crew's catch handling and camera maintenance. The EM service provider must also provide a copy to NMFS upon request.
  - An EM service provider must notify NMFS via an incident report submitted in the NOAA Fishery Monitoring Web Portal within 24 hours after the EM service provider becomes aware of any of the

following:

- Any information, allegations, or reports regarding possible harassment of EM program staff (e.g., video reviewers, technicians, dockside monitors);
- Any information, allegations, or reports regarding possible EM system tampering;
- Any information, allegations, or reports regarding EM service provider staff conflicts of interest; and

- Any other information pertaining to noncompliance with program requirements, as specified by NMFS.
- Performance issues may affect a provider's eligibility for approval as an EM service provider and/or individual EM video reviewer certifications.

## NMFS Responsibilities

NMFS is responsible for the following:

- VMP review and approval.
- Review and approval of EM service provider applications.
- Data and formatting standards of EM programs.
- EM data collection training for service provider staff.
- Selecting trips for the service provider to review.
- Data quality, assurance, and integrity of EM data. This includes data validation and audits, conducting a secondary review on a subset of trips to monitor the EM service provider's performance, and providing feedback to the EM service provider.
- Providing feedback on vessel reporting via the sector manager regarding reviewed trips. Feedback forms will be distributed on a weekly basis via Kiteworks.
- Video and data storage when it takes possession of a copy of EM data as an agency record.
- For the audit model program, NMFS is also responsible for:
  - Conducting the audit, whereby the eVTR submitted by the vessel operator is compared to the EM Detail File submitted by the EM service provider.
- For the maximized retention program, NMFS is also responsible for:
  - Administering an agency-run DSM program in support of a maximized retention EM program (Fishing years 2022 and 2023 only).

## NOAA Fisheries Audit Model EM Program

### (b) Program Goal

The goal of the audit model EM program is to use cameras to validate the groundfish discards reported on a vessel's eVTR for use in catch accounting.

### Audit Model EM Program Description

Attached is a description of the Audit Model EM program. A sector utilizing the Audit Model EM program must append the following language to their sector operations plan.

### Description of the Audit-Model Process



Under this model, the vessel operator and crew adhere to catch handling protocols for all sector EM trips (based on whether the vessel has an approved VMP for a given gear type). The vessel operator and crew hold groundfish discards on a measuring board and under a camera prior to discarding, and discard other species in view of cameras at designated discard control points. The vessel operator estimates the total weight of groundfish discards on an eVTR, and submits the video footage to the EM service provider. The EM service provider reviews trips selected for audit and develops an independent estimate of groundfish discards for the trip. The EM data is compared to the eVTR for the purposes of catch accounting.

During each sector EM trip taken by a vessel, the EM system records all fishing activity onboard the vessel. The vessel captain and crew sort, measure, and discard fish within view of the cameras and in accordance with catch handling protocols.

The captain and crew must adhere to the following catch handling requirements:

- Legal-size groundfish must be kept and sublegal-size groundfish must be discarded, consistent with regulations;
- Sublegal-size and unallocated groundfish must be sorted by species and measured (e.g., on a measuring board) within view of cameras prior to being returned to the sea. A more complete description of measuring protocols is included in the VMP guidance template. VMP measuring protocols may vary by vessel.
- Groundfish flounders must be placed on a measuring strip on both the dorsal and ventral sides to ensure proper identification. If flatfish are grouped by species and measures, only the first five fish should be measured on both sides for identification;
- When discarding wolffish, the vessel operator or crew member may opt not to measure the fish if doing so would present a safety risk; and
- If the vessel encounters a high volume of discards, the captain and crew may employ:
  - A subsampling methodology. If there are more than 20 discards of a given species (e.g., haddock), the vessel operator and crew may measure 20 fish at random and discard the rest one at a time so as to allow the video reviewer to count the total number of fish; or
  - A volumetric estimate methodology, if approved by NMFS. NMFS is currently working with EM vessels to develop volumetric protocols.
  - LUMF may be discarded, if authorized by the vessel's sector LOA. LUMF should be displayed in view of the measuring camera prior to discarding. The estimated weight of LUMF (i.e., present weight, not estimated whole weight) should be reported by the vessel operator on the eVTR.
  - Non-groundfish species should be discarded at designated discard control points, consistent with the vessel's VMP.
- The vessel operator must estimate the total weight of discarded groundfish on the eVTR. The operator must create a new eVTR sub-trip each time the vessel changes statistical area, gear category, or mesh size.
- NMFS selects sector trips for audit when it receives the eVTR for a trip. Trips will be randomly selected and each trip has the same probability of being selected for audit. The video review rate for fishing year 2023 will be announced at a later date
- The sampling unit selected for audit will be a complete trip.
- A list of trips selected for audit are loaded into the NOAA Fishery Monitoring [Web Portal](#) on a weekly basis. EM service providers must access the primary selection list via the [Web Portal](#).
- The EM service provider must complete the primary video review, which includes:
  - Review of all raw sensor and image data to confirm completeness of trip;
  - Review of sensor data to annotate start and end times, start and end locations, and identify the number of hauls;
  - Review hauls to annotate catch and generate the EM Detail File according to [specifications](#); and
  - Submit the EM Detail File to the NEMIS API.

- The EM service provider should complete the primary video review and submit the EM Detail Report within 10 business days of the trip selection.
- NMFS will compare the EM Detail File submitted by the EM service provider to the eVTR submitted by the vessel using the following business rules:
  - Minimum requirements for use in catch accounting:
    - Sub-trip is fully observed;
    - Number of efforts match; and
    - Less than 10 percent of annotated catch is unidentified (“fish, nk”).
  - If the minimum requirements are met, the groundfish discards reported on the EM Detail File and the eVTR will be compared to support NMFS’s delta model. If the minimum requirements are not met, an alternative data source (i.e., adjusted VTR, discard rate) is used to account for the trip’s groundfish discards.
- NMFS will use the delta model for catch accounting. The delta model is a vessel- and species-specific estimation of the precision and accuracy of a vessel’s self-reported discards. The delta model is used to adjust the vessel’s self-reported discards to account for over- or under-reporting of discard estimates. Additional guidance on discard catch accounting for EM audit model vessels is located in the Sector Report Guide: Appendix D and a summary is included below:
  - For trips that are not selected for review, the vessel’s self-reported discards, as adjusted by the delta model, will be used for catch accounting;
  - For trips that are selected for review and meet the minimum requirements described above, the discards reported by the service provider in the EM Detail File are used for catch accounting.
  - For trips that are selected for review and do not meet the minimum requirements described above, the vessel’s self-reported discards, as adjusted by the delta model, will be used for catch accounting. In instances of chronic poor performance that prevents adequate monitoring, a vessel may be assigned a discard rate.
- After completion of the audit, a feedback report summarizing the results of the audit will be generated and distributed to the vessel via the sector manager. Reports will be distributed on a weekly basis.

## NOAA Fisheries Maximized Retention EM Program

Under this model, the vessel operator and crew are required to retain and land all catch of allocated groundfish, including fish below the minimum size that they would otherwise be required to discard, on all sector EM trips. Unallocated groundfish and non-groundfish species must be handled in accordance with standard commercial fishing operations. Any allowable discards must occur at designated discard control points described in the vessel’s VMP. EM data from the trip will be reviewed by the EM service provider to verify that the vessel operator and crew complied with the catch retention requirements. A DSM will meet the vessel at port upon its return from each trip to observe the offload and collect information on the catch.

### Description of the Maximized Retention Process

During each sector EM trip taken by a vessel, the EM system records all fishing activity onboard the vessel. The vessel operator and crew sort fish and make any allowable discards within view of the cameras in accordance with the catch handling protocols described in the vessel’s VMP.

- The vessel operator and crew must adhere to the following catch handling requirements:
  - Retain and land all catch of allocated groundfish, including any sublegal-size catch;
  - Discard unallocated groundfish stocks (i.e., windowpane flounder, ocean pout, wolffish, Atlantic halibut) at designated discard control points;

- Handle all other species in accordance with standard commercial fishing operations, including adhering to possession limits for halibut (i.e., one fish per trip) and non-groundfish species; and
- Retain allocated groundfish categorized as LUMF. All LUMF must be kept and landed. LUMF must be sorted separately from sublegal-size groundfish catch.
- The vessel operator and crew must adhere to the following reporting requirements:
  - Communicate with the DSM to facilitate the data collection process at the end of each trip. This includes:
    - The vessel operator must notify the DSM program of its intention to sail prior to beginning a sector EM trip. The notification schedule (e.g., upon sailing or in advance) and method (i.e., text, VMS) will depend on the nature of the vessel's activity (e.g., day boat vs trip boat vessels) and will be described in the vessel's VMP.
    - The vessel operator or dealer must provide an offload time to the DSM program in advance of landing. The advance notice of landing and offload schedule will be dependent on the nature of the vessel's activity (e.g., day boat vs trip boat vessels) and will be defined in the vessel's VMP. The standard advance notice is as follows:
      - 4 hours for day boat vessels.
      - 48 hours for trip boat vessels.
- For trip boat vessels, the vessel operator or dealer will provide the DSM program with a hail weight for the total catch of allocated groundfish 24 hours prior to offload.
  - The vessel operator must report any discard events on the eVTR, consistent with standard eVTR reporting requirements.
- The vessel operator and crew and the offloading dealer of a maximized retention vessel must accommodate the DSM program:
  - The vessel operator, crew, and dealer must offload all allocated groundfish in the presence of the DSM. The vessel operator and crew may not begin offloading unless a DSM is present or they have received a waiver from the DSM program.
    - In the event that a DSM is not available to observe an offload, the vessel operator may request a waiver by contacting the DSM coordinator. Waivers may be granted at the NEFSC's discretion.
  - The vessel operator must allow the DSM access to the fish hold immediately following the offload in order to confirm all allocated groundfish were offloaded. A vessel representative must observe/accompany the DSM during the hold inspection. The vessel representative must provide support for the DSM to safely embark and disembark the vessel (e.g., ladders/steps/assistance etc.).
  - The vessel operator and crew or dealer personnel must separate sublegal allocated groundfish catch by species. The vessel operator and crew may NOT combine sublegal and terminal legal-sized market category catch for any species.
  - The vessel operator and crew must retain all allocated groundfish categorized as LUMF and sort it separately from any sublegal catch to facilitate data collection by a dockside monitor.
  - In the event of a truck offload, sublegal catch must be loaded into totes, sealed and tagged for inspection by DSM. Totes will be tagged on camera and opened by DSM at inspection site to prevent tampering.
  - In the event of multiple offloads, the vessel operator and crew must arrange for a DSM to be present at each one.
- Dealers must allow dockside monitors access to their premises, scales, and any fish received from vessels participating in the maximized retention electronic monitoring program.
- Dealers must facilitate dockside monitoring for vessels participating in a maximized retention electronic monitoring program, including:
  - Provide a safe sampling station, including shelter from weather, for dockside monitors to conduct their duties and process catch, that is equivalent to the accommodations provided to the dealer's

- staff.
  - Allow dockside monitors access to bathrooms equivalent to the accommodations provided to the dealer's staff.
  - Allow dockside monitors access to any facilities for washing equipment with fresh water that are provided to the dealer's staff.
- Dealers must process fish for vessels participating in a maximized retention electronic monitoring program consistent with the following requirements:
  - Offload all fish below the minimum size, report fish below the minimum size by species, and provide the dockside monitor access to those at the safe sampling station.
  - Sort by species all unmarketable fish from other fish, when identifiable to species.
  - Clearly identify, mark, or label all containers with fish below the minimum size as containing undersized fish, the fishing vessel from which they were offloaded, and the date of offloading.
- Report all fish below the minimum size, and all unmarketable fish, as instructed by NMFS. Selection of maximized retention trips for review:
  - Sector EM trips are selected for review when NMFS receives the eVTR for a trip. Trips will be randomly selected and each trip has the same probability of being selected for review. The video review rate for fishing year 2023 will be announced at a later date.
  - The sampling unit selected for review will be a complete trip.
  - A list of trips selected for review are loaded into the NOAA Fishery Monitoring Web Portal on a weekly basis. EM service providers may access the trip selection list via the Web Portal.
  - The EM service provider completes the primary video review, which includes:
    - Review of all raw sensor and image data to confirm completeness of trip;
    - Review of sensor data to annotate start/end times and locations, and identify number of hauls;
    - Review hauls to annotate any discard events and generate the EM Detail File according to specifications provided by NMFS; and
    - Submit the EM Detail File to the NEMIS API.
  - The EM service provider should complete the primary video review and submit the EM Detail Report within 10 business days of the trip selection.
- NMFS will use the same catch accounting methodology used for ASM vessels to account for discards for the maximized retention EM program (i.e., observed trips and discard rates):
  - Trips observed by a NEFOP observer will be charged ACE based on actual discards, if any are recorded by the observer; and
  - Trips that are not observed by a NEFOP observer will receive:
    - A discard rate of zero for allocated groundfish stocks; and
    - A non-zero discard rate based on NEFOP data for unallocated groundfish stocks.
  - The maximized retention EM program will be assigned a separate discard rate strata from ASM vessels.
- NMFS will use dealer data to account for all landed catch with regards to catch accounting, including sublegal-sized catch.
- DSM data will be compared to dealer data to verify that dealers are accurately reporting sublegal catch.

