

Procurement of specialist marine data services for the Living High Seas project

ANNEX 2

SAMPLE SERVICE CONTRACT

Contract between Seascope Consultants Ltd and [name of contractor] for provision of specialist marine data services to the Living High Seas project

This document outlines the contractual arrangement (the “Agreement”) between the following parties for provision of services as detailed in this Agreement and its annexes:

Seascope Consultants Ltd
The Old Stable
Church Lane
Romsey
SO51 0HN
United Kingdom

Referred to in this Agreement as “Seascope” and represented for the purposes of contract signature by [name of legal representative]

And

[Legal name and registered address of Contractor]

Referred to in this Agreement as “the Contractor” and represented for the purposes of contract signature by [name of legal representative]

This Agreement is composed of:

- Agreement Terms and Conditions
- Annex I – Tender specifications as issued by Seascope on [date]
- Annex II – Contractor’s Tender dated [date], including budget breakdown

Context

This subcontract is for provision of services to Seascope Consultants Ltd within the context of its role as an implementing partner in the Living High Seas Project – a project funded under the International Climate Initiative (IKI). Living High Seas is coordinated by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) under a commission from the German Federal Ministry for the Environment, Climate Action, Nature Conservation and Nuclear Safety. Seascope Consultants Ltd is contracted by GIZ via a Grant Agreement for its role in the Living High Seas project; the work commissioned under this subcontract forms part of that role.

TERMS AND CONDITIONS

1. Duration and starting date

- 1.1 This Agreement comes into effect on [start date] for a period of [duration].

2. Scope of work

- 2.1 The technical work to be implemented under this Agreement is set out in Annex I Tender Specifications and Annex II Contractor's Tender.
- 2.2 The terms set out in Annex I Tender Specifications shall take precedence over those in Annex II Contractor's Tender.
- 2.3 The Contractor agrees to take all necessary and reasonable measures to deliver the tasks and activities assigned to it under this Agreement.
- 2.4 The Contractor agrees to implement work under this Agreement with due diligence, efficiency and on the basis of sound administrative, technical and financial principles and in accordance with the provisions of this Agreement.
- 2.5 The Contractor agrees to inform Seascope as soon as possible if any delays or changes to the workplan are foreseen or incurred.
- 2.6 Subcontracting of any part of the work under this Agreement is not permitted. However, the Contractor may recruit in-house consultants or specialists if necessary, provided their work is executed under the direct supervision and control of the Contractor.
- 2.7 It is recognised that some elements of work may be dependent on external events, such as workshops, conferences or regulatory processes, over which the Contractor has no influence or control. The status of such events and any potential risk to the success of the work planned under this Agreement should be closely monitored by the Contractor. If the timing or outcomes of such events are likely to have an impact on the planned work, the Contractor agrees to inform Seascope immediately to determine an appropriate course of action.
- 2.8 If it becomes necessary to change the approach, timeframe or nature of services provided under this Agreement due to operational reasons, changing priorities in the Living High Seas project, or other external factors, this will be discussed and agreed in writing between Seascope and the Contractor.
- 2.9 Such circumstances may include the option to continue key elements of the work put out to tender by Seascope as part of a follow-on measure within the context of the overarching Living High Seas Project. This may include an extension in duration or expansion of the activities described in Annex 2 to this Agreement, as determined by i) the scope of a follow-on phase or project commissioned by GIZ's commissioning body, or ii) through the injection of co-financing from an additional donor to the Living High Seas Project. In these cases, any such extension or expansion of services delivered by the Contractor will be discussed and agreed in writing between Seascope and the Contractor.

3. Financial provisions

- 3.1 In accordance with the financial offer submitted as part of the Contractor's tender for this work, the maximum funding available to the Contractor for the execution of its activities as described in Annex I is EUR [€ enter sum here].
- 3.2 Costs anticipated to be incurred in the execution of this Agreement are set out in the budget breakdown in Annex II. Any significant deviation (more than 20% in any budget category) from this budget plan must be agreed in advance, in writing, with Seascope.
- 3.3 Funds may only be used to cover expenditure that is necessarily incurred in the execution of work under this Agreement, taking into account the principles of economic efficiency and thrift.
- 3.4 Expenditure charged under this Agreement must be incurred within the lifetime of the Agreement - i.e., between [dates]. Costs incurred outside this period may not be invoiced under this Agreement.
- 3.5 Costs incurred in the execution of duties and services under this Agreement shall be invoiced in arrears on a quarterly (3 monthly) basis starting from the contract start date.
- 3.6 Invoices shall be submitted by email by the Contractor to Seascope (vikki.gunn@seascopeconsultants.co.uk) as soon as possible after each quarterly period is closed. Invoices should be addressed to Seascope as per the details at the top of this Agreement, quoting the Agreement number. The final invoice must be submitted no later than 30 days after the Agreement end date.
- 3.7 Invoices must include a breakdown of costs incurred under each budget category as set out in Annex II. For personnel costs, a total of days worked on the project per team member must be supplied. It is the Contractor's responsibility to ensure all necessary taxes and charges as required by the applicable law are included.
- 3.8 Invoices shall be issued in EUR. Invoice totals shall be converted to EUR using the applicable exchange rate on the day of invoicing.
- 3.9 Currency exchange rates must be applied in a provable manner. The Contractor bears all risk of currency exchange rate fluctuations.
- 3.10 Payments will be made by Seascope in EUR to the Contractor's nominated bank account within 14 days of receipt of invoice. The Contractor's bank account details are:
[Contractor's bank account details]
- 3.11 The Contractor undertakes to keep proper records of all expenditure under this Agreement, including:
 - Receipts and invoices relating to all direct project expenses, including travel costs, consumable items, equipment purchases, etc.;
 - Records of all staff time spent on work under this Agreement, such that all salary costs invoiced can be fully justified. These records can take the form of timesheets or electronic records, but it must be clear that staff time charged under this Agreement is funded solely from project funds;
 - Such records must be kept for a minimum of 10 years after the expiry of this Agreement.
 - Seascope reserves the right to request such proof of expenditure at any time during the execution of this Agreement and for a period of up to 10 years after this Agreement has expired.

- 3.12 Should the Contractor fail to deliver on its obligations under this Agreement, or performance is deemed to be unsatisfactory, Seascope reserves the right to withhold or refuse future payments until such issues have been satisfactorily resolved.
- 3.13 The Contractor agrees to repay any funds that have been improperly or illegally used, or used in a manner that is contrary to this Agreement or the laws of the country in which the work under this Agreement is implemented.

4. Reporting

- 4.1 The Contractor undertakes to provide a formal report on activities and progress of work under this Agreement to Seascope on a biannual (six monthly) basis. These reports shall be due no later than 15 July (to cover activities in the period 1 January - 30 June) and 15 January (to cover activities in the period 1 July - 31 December).
- 4.2 All reporting shall be done in English.
- 4.3 After submission of the reports described in Section 4.1, Seascope and the Contractor shall discuss progress and any necessary adjustments to the workplan or budget. This does not preclude holding such discussions at other times should the situations described in sections 2.7, 2.8 or 2.9 arise.

5. Intellectual property and rights of use

- 5.1 The Contractor undertakes to obtain all necessary licences, permits and consents to implement work under this Agreement.
- 5.2 The Contractor hereby grants Seascope and GIZ (the overall Living High Seas project coordinator), free of charge, an irrevocable, simple, worldwide and transferable right of use to all work results which are created or procured in connection with work under this Agreement. GIZ is entitled to exercise this right of use without restrictions on time or content in fulfilment of its public-benefit purpose as stated in its articles of association. At the request of Seascope or GIZ, the Contractor shall provide a copy of the materials available. GIZ is entitled to grant third parties simple sub-rights of use free of charge in fulfilment of its public-benefit purpose as stated in its articles of association.
- 5.3 The Contractor shall ensure that the work provided under this Agreement is not subject to any copyrights or other rights of third parties which would impair their use within the scope set out in Section 5.2. The Contractor shall indemnify Seascope and GIZ against all claims of third parties arising from the granting of rights under Section 5.2 and shall reimburse Seascope and/or GIZ for all reasonable costs incurred by them in a legal defence against such claims.

6. Communication and dissemination

- 6.1 In all publications and references to work under this Agreement, the Contractor shall express in an appropriate manner that it is carrying out or has carried out its activities as part of Living High Seas - a project financed by GIZ and commissioned by the Government of the Federal Republic of Germany.
- 6.2 Prior to publication of any press releases or public statements by the Contractor on work implemented under this Agreement that go beyond brief references (e.g. on the Contractor's

website), the Contractor shall obtain the consent of Seascope who will ensure compliance with the requirements of the overall Living High Seas project donor.

- 6.3 The Contractor should follow the guidance set out in the Living High Seas Communication Strategy when planning any communications in connection with work under this Agreement.

7. Compliance with legal, environmental and social standards

- 7.1 The Contractor agrees to implement all activities under this Agreement in accordance with the Safeguards Policy of the International Climate Initiative (IKI), which is available at <https://www.international-climate-initiative.com/PUBLICATION1675-1>
- 7.2 The Contractor undertakes to respect the local conditions when undertaking work in the relevant target countries, including legal provisions, ordinances and official regulations, and comply with all relevant tax law requirements.
- 7.3 The Contractor agrees to use the funds in compliance with international standards and agreements, in particular international human rights and labour agreements, to ensure the protection of children; the prevention of violence, abuse and exploitation of any kind; non-discrimination, in particular with regard to origin, ethnicity, religion, age, gender identity, sexual orientation or disability; and the promotion of equal opportunities for all genders.
- 7.4 The Contractor agrees the use of funds under this Agreement will comply with applicable national and international environmental laws, minimise greenhouse gas emissions and avoid all actions that could increase the vulnerability of the population and/or ecosystems.
- 7.5 The Contractor agrees to use funds provided under this Agreement in a manner that seeks to avoid or minimise unintended negative impacts on the environment, climate change mitigation, climate change adaptation, human rights, fragile contexts and contexts affected by conflict and violence as well as gender equality.
- 7.6 The Contractor shall take reasonable measures to prevent sexual exploitation, abuse and/or harassment in the professional context and shall refrain from inciting violence or hatred and from unjustifiable discrimination against any person or group of people. The Contractor shall promptly report to Seascope all allegations of sexual exploitation, abuse and/or harassment, credible enough to warrant an investigation, that are directly related to work under this Agreement.
- 7.7 The Contractor shall not support measures of any kind that are conducive to money laundering, the funding of terrorist activities or corruption, nor to transfer funds under this Agreement to support (directly or indirectly) third parties that are on a sanctions list of the United Nations and/or the European Union or are subject to any sanctions issued by the Federal Republic of Germany. Furthermore, the Contractor shall comply with any embargoes or any other trade restrictions issued by the United Nations, the European Union or the Federal Republic of Germany in the framework of implementation of this Agreement.
- 7.8 The Contractor shall notify Seascope without delay and on its own initiative if the Contractor, a member of its staff, its official managing body and/or other administrative bodies, its owners and/or a contracting partner of the Contractor should be placed on a sanctions list issued by the United Nations Security Council or the European Union or should be subject to any sanction issued by the Federal Republic of Germany. The same shall apply if the Contractor becomes

aware of an event that is likely to result in the inclusion of the Contractor or one of the aforementioned persons on such a sanctions list.

- 7.9 Corruption in any form is prohibited. The Contractor must not, either directly or via a third party, offer or grant any gifts or advantages, or accept or request such gifts or advantages for itself or a third party, in connection with implementation of this Agreement. The Contractor must also establish appropriate and reasonable measures to prevent and tackle corruption.
- 7.10 The Contractor shall notify Seascope without delay of the occurrence of a breach of any provision of this [Section 7](#).

8. Conflict of interest

- 8.1 The Contractor shall avoid conflicts of interest in connection with this Agreement and agrees to take appropriate precautions regarding the handling of conflicts of interest.
- 8.2 The Contractor undertakes to disclose without delay to Seascope any circumstances that might represent a conflict of interest or which could lead to such. All further steps must then be agreed with Seascope.

9. Force majeure

- 9.1 Force majeure is an unavoidable circumstance (e.g. natural disaster, outbreak of a disease or epidemic, serious unrest, war or terrorism) that no human foresight or experience could anticipate, that cannot be evaded or overcome applying economically reasonable efforts and utmost care and that constitutes an impediment to Seascope and/or the Contractor fulfilling their contractual obligations. If a circumstance originates from the sphere of responsibility of one of the parties to the Agreement, this shall not constitute force majeure.
- 9.2 The Contractor shall inform Seascope without delay of a force majeure circumstance in accordance with Section 9.1, stating the nature, expected duration, and expected effects. If Seascope or the Contractor is of the opinion that obligations assumed by the Contractor under this Agreement are jeopardised or precluded, they shall consult the respective other party regarding further course of action.
- 9.3 It shall not constitute a breach of obligations under this contract if Seascope or the Contractor are prevented from complying with them due to force majeure. As long as force majeure makes the implementation of measures impossible, the Contractor may suspend implementation. The Contractor shall endeavour to keep any adverse effects on work under the Agreement to a minimum and shall undertake all reasonable precautions and measures to reduce the costs during the period of suspension due to force majeure.

10. Suspension or termination of contract

- 10.1 Seascope is entitled to suspend the terms of this Agreement if:
- a) the Contractor is shown to have used funds for purposes other than those laid out in this Agreement (or is unable to provide evidence to disprove such claims);

- b) the Contractor has breached any material provision of this Agreement;
 - c) the Contractor has made false statements or withheld relevant information prior to conclusion of this Agreement or during implementation of the Agreement which would have affected its selection as the successful tenderer during the procurement process;
 - d) exceptional circumstances (e.g. force majeure as defined under Section 9.1) arise that seriously jeopardise or preclude the achievement or implementation of the Agreement, or fulfilment of the obligations entered into in this Agreement by the Contractor;
 - e) the overall funding for the Living High Seas project is terminated, suspended or modifies the relevant agreement with Seascope insofar as it affects the basis for this Agreement;
 - f) the Contractor is dissolved, liquidated or declared bankrupt.
- 10.2 In the event of a suspension of disbursement in accordance with this Section 10.1, Seascope will notify the Contractor of the suspension.
- 10.3 If any of the circumstances referred to in Section 10.1 a), b), c) or e) arise, Seascope will set an appropriate deadline of at least 30 days for the Contractor to remedy the circumstances unless such remedy is not possible.
- 10.4 Seascope is entitled to terminate this Agreement in part or in full and with immediate effect if any of the circumstances set out in Section 10.1 of this Agreement arise and, if applicable, Seascope has set a remedy period in accordance with Section 10.1 which has expired without result. Seascope will take due account of the circumstances of the individual case, the interests of both parties to this Agreement and the impact on the Living High Seas Project for the decision to terminate the Agreement and for the scope of the termination.
- 10.5 Seascope is entitled to request repayment of funds already spent by the Contractor:
- a) if during the contract period, any of the circumstances set out in Section 10.1 of this Agreement arise and, if applicable, Seascope has set a remedy period in accordance with Section 10.3 which has expired without result, or
 - b) after premature termination of this Agreement due to circumstances set out in Section 10.1.
- 10.6 The Contractor must repay the funds without undue delay at Seascope's first request insofar as they are affected by the respective circumstances that led to the repayment request and, in case of Section 10.1 a), the Contractor is unable to provide evidence of the use of funds for the purpose laid out in this Agreement.

11. Settlement of disputes

- 11.1 Seascope and the Contractor undertake to settle any dispute, controversy or claim arising from this or relating to this Agreement, as well as issues concerning the breach, termination or invalidity thereof, by direct negotiation and in a prompt and orderly manner. Both parties undertake to make every effort to keep any expenditures for such a purpose to a minimum.

12. Indemnity and insurance

- 12.1 The Contractor shall be responsible for effecting adequate insurance protection (or, for public bodies, suitable equivalent protective measures) against the obligation and risks assumed by himself here under in the performance of his services, including health insurance, disability insurance and professional indemnity insurance. The arrangement and cost of these insurances are the sole responsibility of the Contractor.
- 12.2 The Contractor shall indemnify and hold harmless Seascope against any and all claims, demands and/or judgements of any nature brought against Seascope arising out of the breach of contract, unlawful conduct or negligent acts or omissions of the Contractor in the course of provision of services by the Contractor under this Agreement.
- 12.3 The Contractor shall indemnify and keep indemnified Seascope against all losses and claims for all injuries and damages to any person or property which may arise out of or in consequence of the Contractor's breach of contract, unlawful conduct or negligent acts or omissions in the course of performing services under this Agreement.

13. Final provisions

- 13.1 Should individual provisions of this Agreement be or become invalid, this shall not affect the validity of all other provisions under the Agreement. In this event, Seascope and the Contractor shall replace any such invalid provision with a valid provision that best reflects the meaning and purpose of the original provision and that can be assumed to be what Seascope and the Contractor would have agreed upon when the Agreement was signed had they been aware of or foreseen that the provision could be or become ineffective or null and void. The same applies to any gaps in this Agreement.
- 13.2 The Contractor may not assign, transfer or encumber any rights under this Agreement.
- 13.3 This Agreement will be governed by and construed in accordance with English law. The English Courts will have exclusive jurisdiction to deal with any dispute which has arisen or may arise out of or in connection with this Agreement, except that any party may bring proceedings for an injunction in any jurisdiction.
- 13.4 Nothing in this Agreement is intended to create, imply or evidence any partnership or joint venture between the parties or the relationship between any of them of principal and agent. No party has any authority to make any representation or commitment or incur any liability on behalf of any of the others.
- 13.5 This Agreement and its Annexes constitute the entire agreement between the parties relating to its subject matter. Each party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement. Each party waives any claim for breach of, or any right to rescind this Agreement in respect of, any representation which is not an express provision of this Agreement. However, this clause does not exclude any liability which any party may have to any other (or any right which any party may have to rescind this Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment prior to the execution of this Agreement.
- 13.6 No variation of this Agreement will be effective unless it is made in writing and signed by each party or its authorised representative.

14. Signatures

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Name and date

For and on behalf of Seascope Consultants Ltd

.....

Name and date

For and on behalf of [Contractor's name]

SAMPLE