

The Wash and North Norfolk Marine Partnership

Sixth Memorandum of Agreement

This Agreement is made this day of

2018

Between:

- (1) **The Eastern Inshore Fisheries and Conservation Authority** of 6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk, PE30 2JG (hereinafter referred to as "EIFCA")
- (2) **Lincolnshire County Council** of County Offices, Newland, Lincoln, LN1 1YL
- (3) **Norfolk County Council** of County Hall, Martineau Lane, Norwich, Norfolk, NR1 2SG
- (4) **Boston Borough Council** of Municipal Buildings, Boston, Lincolnshire, PE21 8QR
- (5) **East Lindsey District Council** of Tedder Hall, Manby, Lincolnshire, LN11 8UP
- (6) **Fenland District Council** of Fenland Hall, County Road, March, Cambridgeshire, PE15 8NQ
- (7) **South Holland District Council** of Council Offices, Priory Road, Spalding, Lincolnshire, PE11 2XE
- (8) **North Norfolk District Council** of PO Box 5, Council Offices, Holt Road, Cromer, Norfolk, NR27 8DZ
- (9) **King's Lynn and West Norfolk Borough Council** of King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- (10) **The Port of Boston** of Dock Office, Boston, Lincolnshire, PE21 6BN
- (11) **King's Lynn Conservancy Board** of Common Staithe, King's Lynn, Norfolk, PE30 1LL
- (12) **The Wells Harbour Commissioners** of Harbour Office, Old Lifeboat House, Wells-next-the-Sea, Norfolk, NR23 1AT

- (13) **Water Management Alliance** (incl SHIDB and KLIDB) of Kettlewell House, Austin Fields, King's Lynn, Norfolk, PE30 1PH (hereinafter referred to as "WMA")
- (14) **Welland and Deepings Internal Drainage Board** of Deeping House, Welland Terrace, Spalding, Lincs, PE11 2TD (hereinafter referred to as the "WDIDB")
- (15) **Black Sluice Internal Drainage Board** of Station Road, Swineshead, Boston, Lincs, PE20 3PW (hereinafter referred to as the "BSIDB")
- (16) **Witham Fourth Internal Drainage Board** of 47 Norfolk Street, Boston, Lincs, PE21 6PP (hereinafter referred to as the "WFIDB")
- (17) **Defence Infrastructure Organisation** Bazalgette Pavilion G/F, RAF Wyton, Huntingdon, Cambridgeshire, PE28 2EA (hereinafter referred to as "DIO")
- (18) **Natural England** 4th Floor, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX (hereinafter referred to as "NE")
- (19) **Marine Management Organisation** PO Box 1275, Newcastle upon Tyne, NE99 5BN (hereinafter referred to as the "MMO")
- (20) **Environment Agency** of Kingfisher House, Goldhay Way, Orton, Goldhay, Peterborough, Cambridgeshire, PE2 5ZR (hereinafter referred to as "EA")
- (21) **Lincolnshire Wildlife Trust** of Banovallum House, Manor House Street, Horncastle, Lincolnshire LN9 5HF (hereinafter referred to as LWT)

Note: Local authorities work on yearly and two-yearly budgets and cannot confirm arrangements for funding beyond this period but respect conditions specified in Termination Clause 18.

1. Recitals

- 1.1 The Wash and North Norfolk Coast (hereinafter referred to as “the W&NNC”) European Marine Site (hereinafter referred to as “the W&NNCEMS) consists of a Special Area of Conservation (SAC) designated under the “Habitats Directive” (European Council Directive 92/43/EEC) and three Special Protection Areas (SPA) designated under the Birds Directive (Council Directive 79/409/EEC) which created a network of protected wildlife areas across the European Union, known as the Natura 2000 series. These Directives have been incorporated into UK law by the Conservation (Natural Habitats, &c.) Regulations 1994.
- 1.2 The parties to this agreement fully recognise the nature conservation importance of the W&NNCEMS and the statutory obligations placed upon them by the legislation referred to above. Some interested bodies do not have a statutory duty placed upon them, but recognise the value and conservation importance of the marine environment in this area. In order to assist in meeting these obligations the “Wash and North Norfolk Coast Management Group” jointly prepared ‘W&NNC Management Scheme’ (hereinafter referred to as “the Management Scheme”). Dedicated staff time is required to implement the management scheme and an implementation officer (hereinafter referred to as the “Project Manager”) will be employed by EIFCA and financially supported by the partners, specified above.
- 1.3 This agreement aims to establish the funding of The Wash and North Norfolk Marine Partnership (hereinafter referred to as “the Partnership”) to implement the Management Scheme and sets out the arrangements for running the Partnership, the purpose of which is set out in Clause 5.1 below.

- 1.4 Eastern Inshore Fisheries and Conservation Authority (EIFCA) are to take the lead and employ the Project Manager to implement the Partnership. The Partnership is to be funded by those “Relevant Authorities” and other interested bodies listed in Clauses 7.1.3.1 to 7.1.3.15.
- 1.5 The Partnership will work closely with other complementary initiatives, for example, The Norfolk Coast Partnership and The Greater Lincolnshire Nature Partnership.
- 1.6 The area within which the Partnership will operate is the statutorily designated areas of the W&NNCEMS, but on occasions will also include the wider adjoining areas in relation to specific issues, for example water quality, where a wider working area may be required to maintain favourable condition of an interest feature within the Partnership’s area.

2. Definitions and Interpretations

- 2.1 The provisions of Schedule 1 shall be incorporated herein and shall have effect as if expressly set out herein.
- 2.2 Reference to clauses, sub-clauses and Schedules are to clauses and sub-clauses of and Schedules to this Memorandum of Agreement.

3. Nature of Agreement

- 3.1 Nothing in this Memorandum of Agreement will be construed as creating a joint venture although the Parties enter into this Memorandum of Agreement in good faith and in the spirit of co-operation.
- 3.2 No Party will represent itself as being agent of any of the other parties nor

is authorised to commit the other parties unless expressly authorised by this Memorandum of Agreement.

4. Term

4.1 Subject to Clause 18 this Agreement shall run from the Commencement Date continuously with a full review every three years.

Partnership Objectives

5.1 Summary

The purpose of the Partnership is to assist in the delivery of the requirements placed upon Relevant Authorities and local agencies to implement the U.K. Habitats Regulations as these affect the W&NNCEMS. Specifically, to maintain/achieve favourable conservation status for the interest features for which the area has been designated, and to contribute to the sustainable use/development of the area. This will be achieved by working with all stakeholders for the area to implement the Management Scheme. There are five strategic work areas which provide a framework for the tasks of the Partnership:

5.2 Protecting nature

5.2.1 Implement and review the Management Scheme

5.2.2 Produce, implement and review the Annual Management Plan to;

- Support Relevant Authorities to deliver a cohesive and synergistic condition and compliance monitoring programme in collaboration with other interested bodies
- Identifying gaps in management and improve working efficiencies
- Work towards achieving conservation objectives set by NE for the site's interest features

5.3 Protecting culture

5.3.1 Support three funded and geographically distinct Advisory Groups to enable stakeholder and local community participation in the management of the site

5.4 Communications and outreach

5.4.1 Maintain an effective communication network between Relevant Authorities, stakeholders and other interested bodies

5.4.1 Promote the achievements of the Partnership through the Annual Report

5.4.2 Promote the Partnership and the sustainable use of the area through outreach events, such as Wash Week

5.5 Tourism and recreational use

5.5.1 Coordinate the monitoring and mitigation of tourism and recreational pressures to the site in collaboration with other interested bodies

5.6 Research and education

5.6.1 Participate in pioneering research to support the delivery of all work areas

5.6.2 Provide opportunities for the education of all age groups

6. Employment of Project Manager

6.1 The Project Manager is appointed to oversee the delivery of the Partnership objectives. The Project Manager will be appointed to the staff of the EIFCA (that is shall be an employee of EIFCA) and funded through the Partnership. (N.B. Schedule 3 costings are based on one FTE).

6.2 EIFCA agree to:

6.2.1 employ the Project Manager on EIFCA Band 5 scales 26 increasing to 30 under the terms and conditions of service being those for APT & C staff, including a probationary period for a new entrant to

the local government service and entry into the Local Government Pension Scheme.

- 6.2.2 provide or seek the provision of appropriate office accommodation and administrative services and, where appropriate, professional and technical services;
 - 6.2.3 pay travel and subsistence at rates established in the local government Scheme; and/or provide access to EIFCA pool vehicles, as appropriate.
- 6.3 The appointment is for the duration of the Partnership with a minimum three months' notice of termination to be given to the Project Manager by EIFCA, following agreement by the Core Management Group (hereinafter referred to as the "CMG" – see clause 7.2) of such termination.
- 6.4 The Project Manager will be line managed by an EIFCA Senior staff member, directed by the CMG and will be expected to maintain regular contact with the other partners to this agreement. The Project Manager must submit a written annual report to meetings of the WNNMP Full Management Board (hereinafter referred to as the "FMB" – see clause 7.1) and to the CMG.
- 7. Administrative Arrangements** – The Administrative Arrangements will be delivered through the FMB and CMG. The details of these groups are set out below.

7.1 The Full Management Board

- 7.1.1 The FMB will oversee progress on implementing the Partnership objectives through the Project Manager. The FMB will receive an

annual report at least 2 weeks prior to an Annual General Meeting (hereinafter referred to as the “AGM”) and discuss and agree the report at an AGM. At an AGM a costed annual work programme and any increase in resources therein will be discussed and agreed before commitment to the next financial year.

7.1.2 In carrying out its work the FMB will continue to foster a spirit of mutual co-operation between all parties to the Partnership.

7.1.3 The FMB will be chaired by the CEO of the lead authority, serviced by the Project Manager and comprise the following:

- one elected Member of the Boston Borough Council
- one elected Member of the East Lindsey District Council
- one representative of Natural England
- one elected Member of the King’s Lynn and West Norfolk Borough Council
- one elected Member of the Lincolnshire County Council
- one representative of the Environment Agency
- one elected Member of the Norfolk County Council
- one elected Member of the South Holland District Council
- one elected Member of Fenland District Council
- one elected Member of Internal Drainage Boards (to represent all other Lincolnshire and Norfolk IDBs relevant to the European Marine Site)
- one representative of EIFCA (in addition to Chairperson)
- one elected member of the North Norfolk District Council
- two ports representatives (to represent the King’s Lynn Conservancy Board, the Port of Boston, and the Wells Harbour Commissioners)
- one representative of Defence Infrastructure Organisation
- one representative of the Marine Management Organisation
- one representative of Lincolnshire Wildlife Trust

all of whom will be entitled to vote, or can delegate their vote to a named

substitute on all issues affecting the Partnership.

The following parties shall be entitled to attend FMB meetings but shall not be entitled to vote on financial or constitutional issues:

- one representative from Holders of Rights in Common
- one representative from Norfolk Coast Partnership
- one representative from Crown Estates
- each of the Chairpersons of the Advisory Groups (see Schedule 1)

7.1.5 The Board will meet twice a year or more frequently if necessary.

7.1.6 Except for the provisions of Clause 7.1.7 below any decision, agreement or approval to be made by the FMB in respect of the Partnership shall be decided by votes taken at a FMB meeting. Such meetings shall be convened on not less than 14 days' written notice given to each of the parties. The necessary quorum for such a meeting shall be not less than 6 representatives in number of the parties entitled to vote at the time present in person or by proxy. At such meetings each representative will be entitled to 1 vote each and resolutions shall be carried by a simple majority.

7.1.7 Where any decision, agreement or approval is to be made by the FMB which relates to a change in any financial contribution made by any or all of the Relevant Authorities or of a constitutional nature this shall be decided by votes taken at a FMB meeting of the Relevant Authorities and the decision or approval of all of the Relevant Authorities is required and shall only be resolved by a unanimous vote of all of the Relevant Authorities. Such meetings shall be convened on not less than 14 days' written notice given to each of the Relevant Authorities.

7.1.8 Any Party to this agreement may appoint another Party as their proxy to vote on their behalf at any meeting. The instrument appointing a proxy shall be in writing and deposited with the Chairperson of the FMB at least 1 day before the meeting.

7.1.9 Representatives of other interests not directly represented on the FMB may be invited to attend meetings on an *ad hoc* basis as appropriate but will not be entitled to vote.

7.1.10 It is anticipated that the members of the FMB, besides representing the interests of their appointing body, will represent a broader constituency of views in order to act as an integrated and cohesive group in pursuing the best interests of the Partnership area as a whole.

7.1.11 The FMB will elect a Vice Chairperson to stand for a two-yearly office. The Vice Chairperson may stand for election for a total of two office periods (i.e. four years) when a break in office will be enforced. This will not preclude a previous vice chairperson from being nominated again after a break in office.

7.2 The Core Management Group

7.2.1 The CMG will be chaired by the CEO of the lead authority, will set annual work programmes, review and report on progress and issues to the FMB. The CMG will be chaired by the lead authority, be vice-chaired by a member of the CMG and serviced by the Project Manager. The CMG will meet prior to each FMB meeting and otherwise as necessary, and will consist of officers representing:

- Eastern IFCA (in addition to Chairperson)
- A port authority (to represent all the port authorities)
- A district council (to represent all the district councils)
- Natural England
- Lincolnshire County Council
- The Environment Agency
- Norfolk County Council
- An Internal Drainage Board (to represent all other Lincolnshire and Norfolk IDBs)
- The Marine Management Organisation

If nominated officers cannot attend then replacements where possible will be sent.

7.2.2 Schematic relationship between FMB and CMG

Full Management Board

Composition: Officers, elected members, representatives of user groups & other partner organisations, plus the Project Manager. Chaired by the lead authority or other elected body.) Meets twice a year.

Role: Accountable under legislation & protocols
 Agrees policy and direction
 Bids for project support within relevant authority/other partner organisations
 Responsible for management scheme & progress

Core Management Group

Composition: A subgroup of the relevant authorities within FMB, plus the Project manager. Chair as for FMB. Meets 2 times a year, or as required.

Role: A working group taking forward functions delegated from FMB
Sets programme & manages project manager
Reports to & advises Full Management Board

8 Financial Arrangements

8.1 The Partnership's annual cost for core and output funding will be shared between the various participants to this Memorandum of Agreement, as set out below:

Natural England	£5000
Environment Agency	£5000
Boston Borough Council	£2700
East Lindsey District Council	£2700
King's Lynn and West Norfolk Borough Council	£2700
Lincolnshire County Council	£2025
Norfolk County Council	£2700
South Holland District Council	£2700
Fenland District Council	£2700
North Norfolk District Council	£2700
Internal Drainage Boards (4 x £306)	£1224
Defence Estates	£500
Lincolnshire Wildlife Trust	£500

8.2 EIFCA will make contribution in kind up to the value of £9,180 p.a. The King's Lynn Conservancy Board will make contribution in kind up to the value of £1,100 p.a. The Port of Boston will make contribution in kind providing alternative venues for FMB and Advisory Group meetings and

access to marine craft for site visits (all subject to requirement and availability) or other facility as agreed with them. The Wells Harbour Commissioners will make contribution in kind providing accommodation for North Norfolk Coast Advisory Group meetings, access to marine craft and their Leisure Users Advisory Committee (all subject to requirement and availability) or other facility as agreed with them. The WMA will make contribution in kind through access to their conservation staff, conference room and Geographic Information Systems (subject to requirement and availability) or other facility as agreed with them.

8.3 The estimated budget for each year of the Partnership is set out in Schedule 3 which will be reviewed annually by the FMB to take account of increased pay and prices. Forecasts for the next five years are provided for information.

8.4 8.4.1 The Parties agree to review their contributions set out in Clause 8.1 and 8.2 annually for debate and agreement at the Annual Full Management Board consistent with Section 7 of this agreement and Clause 7.1.7 subject to contributions being agreed at no less than the amounts set out in Clauses 8.1 and 8.2.

8.4.2 The Parties agree the balance of funds carried forward from previous years at 31st March 2018 is to be used at the discretion of the Board to ensure the viability of the project as set out in Schedule 3.

8.5 Contributions by participants in the Partnership will be made to the EIFCA annually on the 1st April of each year in advance of expenditure as invoiced. The EIFCA CEO will be responsible for proper accounting and budget management on behalf of the FMB.

8.6 Any financial payments legally due to staff under the Redundancy Payments Act 1965, Employment Protection (Consolidation) Act, as amended by the Trade Union Reform and Employment Rights Act 1993, or other relevant legislation on termination of employment shall be funded by the Partnership and administered by the EIFCA. Costs for public and employer's liability premiums and payments in the event of industrial injury should be met in the same way.

9. Statutory Duties

9.1 Nothing in the Memorandum of Agreement shall prejudice or affect any of the statutory bodies which is a party to this Memorandum of Agreement in the exercise of their functions, duties, powers, rights, jurisdictions and obligations conferred, arising or imposed under any legislative provision, enactment, byelaw or regulation whatsoever.

9.2 Nothing in the Memorandum of Agreement shall operate as a statutory approval, consent or licence from any of the parties to this Agreement as may be required to affect the terms of this Memorandum of Agreement or achieve the objectives of this Partnership.

10. Assignment

10.1 No Party may assign or transfer all or any part of its rights or obligations under this Memorandum of Agreement without the prior consent in writing of the other Parties.

10.2 For the purpose of the Contracts (Rights of Third Parties) Act 1999 nothing in this agreement confers or purports to confer on a Third Party any benefit or right to enforce a term of this Agreement.

11. Waiver

11.1 No failure or delay by the Parties in exercising any right, power or privilege under this Memorandum of Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right power or privilege.

11.2 The rights and remedies provided in this Memorandum of Agreement are cumulative and not exclusive of any rights and remedies provided by the law. No waiver will be effective unless made in writing.

12. Data Protection

12.1 Where a Party processes personal data (as defined in Section 1 (1) of the Data Protection Act 1998) in carrying out the Partnership that Party shall take such appropriate technical and organisational measures as are necessary to comply with the seventh data protection principle set out in Part 1 of the Data Protection Act 1998 to protect against unauthorised or unlawful processing of data and against accidental loss or destruction of or damage to personal data.

13. Entire Agreement

13.1 This Memorandum of Agreement shall supersede all arrangements or agreements relating to all matters which are in it and which were previously entered into or made between the Parties hereto relating to the Partnership and all such arrangements or agreements are hereby terminated.

14. Mutual Assurance

14.1 Each of the Parties undertakes with the others that it has full power and authority to enter into this Memorandum of Agreement.

15. Health & Safety

15.1 In carrying out this Memorandum of Agreement EIFCA will pay due regard to and will comply with all relevant health and safety legal obligations and shall be solely responsible for the health and safety of the Project Manager and other persons employed by them pursuant to this Memorandum of Agreement.

16. Dispute Resolution

16.1 All disputes under or in connection with this Memorandum of Agreement shall be referred first to the CMG who will make recommendations to the FMB.

16.2 If the FMB is unable to resolve the dispute within 30 days from it being referred to them, the dispute shall be referred to the Parties' respective senior Managers or Directors.

16.3 If the Parties' respective senior Managers or Directors are unable to resolve the dispute, it shall be referred to the Centre for Effective Dispute Resolution.

16.4 This procedure shall be binding on all the Parties as to the procedure but not the outcome. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties.

16.5 The Parties shall bear their own costs of the dispute resolution procedure but the costs and expenses of mediation shall be borne equally.

17. Insurance

17.1 EIFCA shall insure and maintain insurance against Employer and Public liability to the value of £2,000,000

18. Termination

18.1 Any of the Parties to this Memorandum of Agreement may reduce or withdraw funding after giving six months' notice, in writing to the Chief Executives of all the participating authorities.

18.1.1 In the event that one or more of the Parties gives notice in accordance with clause 18.2 above the FMB shall convene a meeting as soon as reasonably practicable in accordance with clause 7.1.7 to decide if this Memorandum of Agreement shall terminate and agree the time scale of such termination.

18.2 In the event of termination of this Memorandum of Agreement the EIFCA will be liable to meet the net costs (after disposal of any assets). Any surplus surviving will be returned to the organisations signed up to this Memorandum of Agreement (*pro rata*).

19. Variation

19.1 This Memorandum of Agreement may be amended by mutual consent, and will be subject to review annually and any subsequent period of renewal as appropriate.

Schedule 1. Signature of Parties

1.1. The following terms should have the following meanings:

- 1.1.1. 'the Parties' – means the parties to this Memorandum of Agreement.
- 1.1.2. 'Commencement Date' – means the 1st April 2018
- 1.1.3. 'Internal Drainage Boards' – means the Water Management Alliance, the WDIDB, the BSIDB, the WFIDB
- 1.1.4. 'Advisory Group' – means the body of representatives from local interest/user groups formed to advise the FMB. There are three such advisory groups based at Boston, King's Lynn and Wells-next-the-Sea
- 1.1.5 'Lead authority' means EIFCA'

Signed for and on behalf of the

.....

in the presence of:-

Witness signature

Witness name

Witness address

.....

Witness occupation

Schedule 3. Estimated Project Costs

	Forecast 2017/18		Forecast 2018/19		Forecast 2019/20	
	£	£	£	£	£	£
INCOME						
Income project year		37,695.00 *		32,941.00		32,925.00
EXPENDITURE						
Travel		1,294.00		1,320.00		1,346.00
Subsistence		316.00		322.00		329.00
Computer		337.00		344.00		351.00
Meeting Costs		300.00		306.00		312.00
Training		235.00		240.00		244.00
Media		285.00		290.00		297.00
Equipment		451.00		460.00		469.00
		3,218.00		3,282.00		3,358.00
Wash week		789.00		1,000.00		1,000.00
Contingency 1%				364.00		382.00
Gross salary		23,708.00		24,650.00		26,000.00
Employer pension		5,216.00		5,475.00		5,700.00
Employers NI		2,146.00		2,235.00		2,452.00
		31,070.00		32,360.00		34,152.00
		35,077.00		37,006.00		38,882.00
Income balance		2,618.00		(4,065.00)		(5,957.00)
Reserves b/f		70,227.00		72,845.00		68,780.00
Reserves c/f		72,845.00		68,780.00		62,823.00
EIFCA "in kind"						
Admin. Support		3,680.00		3,750.00		3,825.00
Management		3,350.00		3,400.00		3,470.00
Accommodation		2,150.00		2,150.00		2,150.00
		9,180.00		9,300.00		9,445.00

- 2016/17 includes £5,000 funding from EA

** 2017/8 onwards current funds continue with 2% per annum inflation from Apl 2020

Forecast expenditure and salary figures include 2% inflation from 2016/17

	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Income	32,649	32,649	32,649	33,302	33,968	34,647
interest @0.4%	283	292	276	252	222	188
"Valuing Nature" Funding	4,763					
<u>Expenditure</u>						
Gross salary (inc. on costs)	31,070	32,360	34,152	36,319	37,673	38,426
Travel	1,294	1,320	1,346	1,373	1,401	1,429
Subsistence	316	322	329	335	342	349
Computer (inc. software)	337	344	351	358	365	372
Meetings	300	306	312	318	325	331
Training/conferences	235	240	244	249	254	259
Media	285	291	297	302	308	315
Equipment	451	460	469	479	488	498
Other						
Wash week	789	1,000	1,000	1,000	1,000	1,000
Contingency 1%		364	382	404	420	427
Total Operating Costs	35,077	37,006	38,882	41,138	42,576	43,406
Surplus/(Shortfall)	2,618	(4,065)	(5,957)	(7,584)	(8,386)	(8,570)
Opening reserve	70,497	73,115	69,050	63,093	55,510	47,123
Closing reserve	73,115	69,050	63,093	55,510	47,123	38,553

Notes

Income forecast at current levels with 2% per annum increase for inflation from 2020/21.

Salary costs based on EIFCA (LGPS) pay scales.

Other costs based on 2017/18 forecast plus 2% per annum.

Only known extra funding included.

Reserves decline to one years expenditure cover between 2022 and 2023.