

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009992**

The Scottish Ministers (hereinafter referred to as "the Licensing Authority") hereby grant a marine licence authorising:

Highland Wind Limited
4th Floor,
115 George Street,
Edinburgh
EH2 4JN

to construct, alter or improve works as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **28 June, 2023** until **31 May, 2035** or until the Works have been decommissioned in accordance with an approved Decommissioning Programme prior to this date and for which a separate marine licence is required.

[Redacted]

Signed:

For and on behalf of the Licensing Authority

Date of issue: 28 June, 2023

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and

“**CAA**” means Civil Aviation Authority;
 “**CoP**” means Construction Programme;
 “**CaP**” means Cable Plan;
 “**CMS**” means Construction Method Statement;
 “**Commencement of the Licensed Activity**” means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
 “**Completion of the Licensed Activity**” means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;
 “**DS**” means Design Statement;
 “**DP**” means Decommissioning Programme;
 “**ECoW**” means Environmental Clerk of Works;
 “**EIAR**” means Environmental Impact Assessment Report;
 “**EMF**” means Electromagnetic Field;
 “**EMP**” means Environmental Management Plan;
 “**FLO**” means Fisheries Liaison Officer;
 “**FMMS**” means Fisheries Management and Mitigation Strategy;
 “**GIS**” means Geographic Information System;
 “**HAT**” means Highest Astronomical Tide;
 “**HES**” means Historic Environment Scotland;
 “**IALA**” means International Association of Marine Aids to Navigation and Lighthouse Authorities;
 “**LAT**” means Lowest Astronomical Tide;
 “**Licensed Activity**” means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
 “**Licensee**” means Highland Wind Limited (Company Number: SC675148) having its registered office at 4th Floor 115 George Street, Edinburgh, Midlothian, Scotland, EH2 4JN;
 “**LMP**” means Lighting and Marking Plan;
 “**MCA**” means Maritime and Coastguard Agency;
 “**Mean High Water Springs**” means any area submerged at mean high water spring tide;
 “**MGN**” means Marine Guidance Note;
 “**MMO**” means Marine Mammal Observers;
 “**MOD**” means Ministry of Defence;
 “**NLB**” means Northern Lighthouse Board;
 “**NSP**” means Navigational Safety Plan;
 “**OMP**” means Operational and Maintenance Programme;
 “**PAD**” means Protocol for Archaeological Discoveries;
 “**PEMP**” means Project Environmental Management Programme;
 “**PMP**” means Particles Management Plan;
 “**RSPB Scotland**” means Royal Society for the Protection of Birds Scotland;
 “**RYA**” means Royal Yachting Association;
 “**ScotMER**” means Scottish Marine Energy Research;
 “**SEPA**” means Scottish Environment Protection Agency;
 “**SFF**” means Scottish Fishermen’s Federation;
 “**the 2010 Act**” means the Marine (Scotland) Act 2010;
 “**the Application**” means the Application letter, marine licence applications and EIA Report including appendices submitted to the Scottish Ministers by Highland Wind Limited on 11 August 2022;

“**the Works**” means offshore wind farm transmission infrastructure comprising offshore export cables and associated cable protection.;

”**UKHO**” means UK Hydrographic Office;

“**VMP**” means Vessel Management Plan;

“**WSI**” means Written Scheme of Investigation;

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

All correspondence or communications relating to the licence should be addressed to:

The Marine Directorate
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.MarineRenewables@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 30 (1) of the 2010 Act the Licensing Authority may by notice vary, suspend or revoke the licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.

Under section 30 (7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.

Under section 30 (8) of the 2010 Act, on an application made by the licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that –
the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure ('force majeure'), and
that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2010 Act or the provisions of this licence.

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

Highland Wind Limited
4th Floor,
115 George Street,
Edinburgh
EH2 4JN

2.2 Location of the Licensed Activity

Pentland Floating Offshore Wind Farm (Offshore Transmission Infrastructure Area),

58° 34.605' N 03° 45.709' W
58° 34.603' N 03° 45.748' W
58° 34.571' N 03° 45.797' W
58° 34.570' N 03° 45.873' W
58° 34.562' N 03° 45.928' W
58° 34.525' N 03° 46.007' W
58° 34.537' N 03° 46.101' W
58° 34.513' N 03° 46.167' W
58° 34.516' N 03° 46.119' W
58° 34.490' N 03° 46.188' W
58° 34.484' N 03° 46.286' W
58° 34.453' N 03° 46.339' W
58° 34.420' N 03° 46.370' W
58° 34.399' N 03° 46.451' W
58° 34.341' N 03° 46.550' W
58° 34.533' N 03° 46.583' W
58° 34.547' N 03° 46.586' W
58° 34.579' N 03° 46.591' W
58° 37.730' N 03° 53.540' W
58° 40.427' N 03° 53.600' W
58° 40.445' N 03° 51.014' W
58° 34.605' N 03° 45.709' W

As shown in Annex One.

2.3 Description of the Works

Offshore wind farm transmission infrastructure comprising offshore export cables and associated cable protection.

As described in the application dated 11 August, 2022 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be used during the Licensed Activity

The licence authorises the use of the undernoted construction materials required in connection with the licensed activity, subject to the indicative amounts as specified below:

Steel/Iron - 10 Tonnes

Plastic/Synthetic - Trace amounts of synthetics embedded in scour protection solutions

Sand - 87,500 m3

Stone/Rock/Gravel - 87,500 m3

Concrete Bags/Mattresses - 87,500 m3

Cable - 25,000 m

Composite Plastic - 25 Tonnes

2.5 Contractor and Vessel Details

To be confirmed.

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only construct the Works in accordance with this licence, the Application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 The Licensee must maintain the Works in accordance with this licence, the Application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.3 All conditions attached to the licence bind any person who for the time being owns, occupies or enjoys any use of the Works, whether or not the licence has been transferred to that person.

3.1.4 Only the materials listed in Part 2 of the licence may be used during the execution of the Licensed Activity.

3.1.5 All materials, substances and objects used during the execution of the Licensed Activity must be inert and must not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.6 The Licensee must ensure that the Licensed Activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area as described in Part 2 of the Licence.

3.1.7 Where any damage, destruction or decay is caused to the Works, the Licensee must notify the Licensing Authority, Maritime and Coastguard Agency (“MCA”), Northern Lighthouse Board (“NLB”), Kingfisher Information Services of Seafish and the UK Hydrographic Officer, in writing, of such damage, destruction or decay as soon as reasonably practicable but no later than 24 hours after becoming aware of any such damage, destruction or decay. The Licensee must carry out any remedial action as required by the Licensing Authority, following consultation with the MCA, NLB or any such advisors as required by the Licensing Authority.

The Licensee must remove the materials, from below the level of Mean High Water Springs, or make such alterations as advised by the Licensing Authority, at timescales to be determined by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replace those materials without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.8 If governmental assistance is required (including UK governmental assistance or the assistance of any UK devolved government) to deal with any emergency arising from:

- a) the failure to mark and light the Works as required by the licence;
- b) the maintenance of the Works; or
- c) the drifting or wreck of the Works, to include the broadcast of navigational warnings

then the Licensee is liable for any expenses incurred in securing such assistance.

3.1.9 The Licensee must take all measures which are technically and economically feasible to minimise leakage of fluorinated greenhouse gases. Where leakage of fluorinated greenhouse gases is detected, the Licensee must ensure that the equipment is repaired without undue delay.

The Licensee must ensure that all equipment to be utilised in the Licensed Activity that contains fluorinated greenhouse gases in quantities of five tonnes or more of CO₂ equivalent and not contained in foams is checked for leakage in accordance with Article 4 of the F-Gas Regulation. Records of these checks must be kept in accordance with Article 6 of the F-Gas Regulation. These records must be submitted to the Licensing Authority annually and immediately in the event of discovery of leakage.

Where the equipment is subject to checks for leakage under Article 4(1) of the F-Gas Regulation and leakage in the equipment has been repaired, the Licensee must ensure that the equipment is checked by a suitably certified person within one calendar month after the repair to verify that the repair has been effective. In such event, the Licensing Authority must be informed of the date of discovery, date of repair and date of inspection.

3.1.10 The Licensee must seek prior written approval from the Licensing Authority for any chemicals in an open system which are to be utilised in the construction, operation and maintenance of the Licensed Activity. Requests for approval must be submitted in writing to the Licensing Authority no later than one month prior to its intended use or such other period as agreed by the Licensing Authority. The Licensee must ensure that no chemicals are used in an open system without the prior written approval of the Licensing Authority.

If the proposed chemical is on the Offshore Chemical Notification Scheme list, the approval request must include the chemical name, volume or quantity to be used, the Offshore Chemical Notification Scheme list grouping or rank and the proposed frequency of use.

If the proposed chemical is not on the Offshore Chemical Notification Scheme list, the approval request must include details of chemicals to be used, including safety data sheet, depth and current at the site of the Works, quantities or volumes and the proposed frequency of use.

The Licensee must notify the Licensing Authority of the types of chemicals to be used in a closed containment system prior to use.

The Licensee must take all practicable steps to avoid leakages from a closed containment system into the Scottish marine area. Any such leakages must be reported to the Licensing Authority as soon as practicable.

3.1.11 The Licensee must submit all reports and notifications to the Licensing Authority, in writing, as are required under this licence within the time periods specified in this licence. Where there may be a delay in the submission of the reports or notifications to the Licensing Authority, the Licensee must advise the Licensing Authority of this fact as soon as is practicable and no later than the time by which those reports or notifications ought to have been submitted to the Licensing Authority under the terms of this licence.

The reports must include executive summaries, assessments and conclusions and any data will, subject to any rules permitting non-disclosure, be made publicly available by the Licensing Authority or by any such party appointed at its discretion.

Reports prepared pursuant to another consent or licence relating to the Works by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Such reports will include, but not be limited to Marine Mammal Observer ("MMO") records and all appropriate reports stipulated within the Project Environment Monitoring Plan ("PEMP").

3.1.12 The Licensee must operate and maintain the Works in accordance with the approved Operation and

Maintenance Programme ("OMP") (see condition 3.2.14). The Licensing Authority must be notified at least three calendar months, or such other period as agreed by the Licensing Authority in advance, of any maintenance of the Licensed Activity not included in the OMP and involving licensable marine activities not covered under this licence.

3.1.13 In the event of the Licensed Activity being discontinued the materials used under the authority of this licence must be removed to the satisfaction of the Licensing Authority.

3.1.14 The Licensee must ensure that the Works are maintained at all times in good repair.

3.1.15 The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of this licence. The cables must be constructed only at the locations specified in Part 2 of this licence.

3.1.16 There must be no Commencement of the Licensed Activity until a Decommissioning Programme ("DP"), as defined in any section 105 notice served by the appropriate Minister, has been approved under section 106 of the Energy Act 2004 by the Licensing Authority.

3.1.17 The Licensee must submit plans and the details and specifications of all studies and surveys that are required to be undertaken under this licence in relation to the Licensed Activity, in writing, to the Licensing Authority for its written approval. Commencement of the studies or surveys and implementation of plans must not occur until the Licensing Authority has given its written approval to the Licensee.

Plans or the specification of studies and surveys prepared pursuant to another consent or licence relating to the Licensed Activity by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Any updates or amendments made to the approved plans must be submitted, in writing, to the Licensing Authority for its prior written approval. The Works must, at all times, be constructed and operated in accordance with the approved plans.

3.1.18 The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.1.19 The Licensee must ensure that copies of this licence are available for inspection by any authorised marine enforcement officer at:

- a) the premises of the Licensee;
- b) the premises of any agent acting on behalf of the Licensee; and
- c) the site of the Licensed Activity.

3.1.20 Any person authorised by the Licensing Authority must be permitted to inspect the Works at any reasonable time. The Licensee must, on being given reasonable notice by the Licensing Authority (of at least 72 hours), provide transportation to and from the site for any persons authorised by the Licensing Authority to inspect the site of the Works. The Licensee shall be liable for any expense incurred.

3.1.21 The Licensee must inform the local Fishery Office(s) in writing at least five days prior to the Commencement of the Licensed Activity, or any part thereof, and within five days of Completion of the Licensed Activity.

The Kingfisher Information Service of Seafish, must be informed of details of the vessel routes, timings and locations

relating to the construction of the authorised project or any part thereof by email to kingfisher@seafish.co.uk:

- a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data, and;
- b) as soon as reasonably practicable and no later than 24 hours of completion of all offshore activities.

Confirmation of notification must be provided to the Licensing Authority within five days.

The Licensee must ensure that a local notification to mariners is issued at least 14 days prior to the Commencement of the Licensed Activity, or any part thereof, advising of the start date and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the Licensing Authority, MCA and the UK Hydrographic Office ("UKHO") within five days.

The Licensee must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations (or otherwise agreed) and maintenance works and supplemented with Very High Frequency ("VHF") radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under deemed marine licence condition 3.2.12.

Copies of all notices must be provided to the Licensing Authority and UKHO within five days.

The Licensee must notify the UKHO within 14 days of the Completion of the Licensed Activity, or any part thereof, in order that all necessary amendments are made to nautical charts.

Copies of all notices must be provided to the Licensing Authority and MCA within five days.

In case of damage to, or destruction or decay of, the Licensed Activity seaward of Mean High Water Springs, or any part thereof, excluding the exposure of cables, the Licensee shall as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the Licensing Authority, MCA, NLB, the Kingfisher Information Service of Seafish and the UKHO.

In case of exposure of cables on or above the seabed, the Licensee must within three days following identification of a potential cable exposure, notify mariners and inform Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the Licensing Authority, MCA, NLB, and the UKHO within five days.

3.1.22 The Licensed Activity shall be undertaken in accordance with the Schedule of Mitigation contained within Chapter 22 of the Environmental Impact Assessment Report unless otherwise agreed in advance in writing with the Licensing Authority.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must, prior to and no less than one calendar month before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the proposed date of the Commencement of the Licensed Activity authorised under this licence.

3.2.2 The Licensee must ensure that at least five days prior to its engagement in the Licensed Activity, the name and function of any vessel (including the master's name, vessel type, vessel international maritime organisation number and vessel owner or operating company), agent, contractor or subcontractor appointed to engage in the

Licensed Activity are fully detailed in contractor and vessel reports ("the Reports") which the Licensee must make available on its website: <https://pentlandfloatingwind.com/>. Any changes to the supplied detailed must be uploaded to the Reports and the Licensing Authority and the relevant statutory harbour authority must be notified, in writing, prior to any vessel, agent, contractor or sub-contractor which has not yet been notified to the Licensing Authority engaging in the Licensed Activity. Only those vessels, agents, contractors or sub-contractors detailed in the Reports are permitted to carry out any part of the Licensed Activity. Any vessels involved in drilling and deposit of drilling arisings must be notified to the Licensing Authority. The Licensee must satisfy itself that any masters of vessels or vehicle operators, agents, contractors or sub-contractors are aware of the extent of the Licensed Activity and the conditions of this licence.

All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Licensed Activity must abide by the conditions of this licence.

The Licensee must give a copy of this licence, and any subsequent variations made to this licence in accordance with section 30 of the 2010 Act, to the masters of any vessels, vehicle operators, agents, contractors or sub-contractors permitted to engage in the Licensed Activity and must ensure that the licence and any such variations are read and understood by those persons.

3.2.3 The Licensee must complete and send a Marine Emergency Action Card for the Licensed Activity to oelo@mcga.gov.uk at least 10 working days prior to Commencement of the Licensed Activity.

3.2.4 The Licensee must contact the relevant statutory harbour authority, prior to Commencement of the Licensed Activity to discuss the requirements for navigational warnings and a Works licence.

The Licensee must ensure that a communications procedure is established and agreed with the relevant statutory harbour authority prior to the Commencement of the Licensed Activity.

3.2.5 The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during the Licensed Activity.

3.2.6 There must be no Commencement of the Licensed Activity until the Licensee has satisfied the Licensing Authority, by consultation with the MCA, that it has taken into account and adequately addressed all of the recommendations of the MCA in the current Marine Guidance Note ("MGN") 654, and its annexes, or any other relevant document which may supersede this guidance.

3.2.7 Prior to the Commencement of the Licensed Activity, the Licensee must appoint an MMO. When appointed, the MMO must, as a minimum, maintain a record of any sightings of marine mammals and maintain a record of the action taken to avoid any disturbance being caused to marine mammals during noisy activities.

The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during all alteration and improvement activities authorised under this licence.

3.2.8 The Licensee must, no later than 10 days prior to Commencement of the Licensed Activity, notify the UKHO at sdr@ukho.gov.uk, of the proposed Licensed Activity. The notification must include the start and end date of the Licensed Activity, a description of the Works, positions of the area of the Works (WGS84), and details of any marking arrangements. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must ensure that local mariners and fishermen's organisations are made fully aware of the Works through a local notification. This must be issued at least five days before the Commencement of the Licensed Activity. The Licensing Authority must be sent a copy of this notification within 24 hours of issue.

The Licensee must, no later than seven days prior to the Commencement of the Licensed Activity, notify Zone4@hmcg.gov.uk and renewables@hmcg.gov.uk of the proposed Licensed Activity. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must ensure that details of the Licensed Activity are promulgated in the Kingfisher Fortnightly Bulletin, no later than seven days prior to the Commencement of the Licensed Activity to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Licensed Activity and of the relevant operations.

3.2.9 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Construction Programme ("CoP"), in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, Civil Aviation Authority ("CAA"), Ministry of Defence ("MOD"), and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CoP must set out:

- a. The proposed date for Commencement of the Licensed Activity;
- b. The proposed timings for mobilisation of plant and delivery of materials, including details of onshore lay-down areas;
- c. The proposed timings and sequencing of construction work for all elements of the Works infrastructure;
- d. Contingency planning for poor weather or other unforeseen delays; and
- e. The scheduled date for the Completion of the Licensed Activity.

The Licensee must send the approved CoP to The Highland Council, MCA, and NLB for information only.

3.2.10 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an Environmental Management Plan ("EMP"), in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority. NatureScot, Royal Society for the Protection of Birds Scotland ("RSPB Scotland"), and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The EMP must provide the over-arching framework for on-site environmental management during the phases of the Works as follows:

- a. All construction as required to be undertaken before the Completion of the Licensed Activity; and
- b. The operational lifespan of the Works from the Completion of the Licensed Activity until the cessation of electricity generation (environmental management during decommissioning is addressed by the DP provided for by condition 3.1.16).

The EMP must be in accordance with the Application insofar as it relates to environmental management measures. The EMP must set out the roles, responsibilities and chain of command for the Licensees personnel, any contractors or sub-contractors in respect of environmental management for the protection of environmental interests during the construction and operation of the Works. It must address, but not be limited to, the following over-arching requirements for environmental management during construction:

- a. Mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the Application and pre-consent and pre-construction monitoring or data collection, and include reference to relevant parts of the Construction Method Statement (“CMS”) (refer to condition 3.1.16);
- b. A pollution prevention and control method statement, including contingency plans;
- c. Management measures to prevent the introduction of invasive non-native marine species;
- d. A site waste management plan (dealing with all aspects of waste produced during the construction period), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment. Wherever possible the waste hierarchy of reduce, reuse and recycle should be encouraged; and
- e. The reporting mechanisms that will be used to provide the Licensing Authority and relevant stakeholders with regular updates on construction activity, including any environmental issues that have been encountered and how these have been addressed.

The EMP must be regularly reviewed by the Licensee at intervals agreed by the Licensing Authority. Reviews must include, but not be limited to, the reviews of updated information on construction methods and operations of the Works and updated working practices.

The EMP must be informed, so far as is reasonably practicable, by the baseline monitoring or data collection undertaken as part of the Application and the PEMP.

3.2.11 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity submit a CMS, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, NLB and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CMS must include, but not be limited to:

- a. Details of the commencement dates, duration and phasing for the key elements of construction, the working areas, the construction procedures and good working practices for installing the Works;
- b. Details of the roles and responsibilities, chain of command and contact details of Licensees personnel, any contractors or sub-contractors involved during the construction of the Works; and
- c. Details of how the construction related mitigation steps proposed in the Application are to be delivered.

The CMS must adhere to the construction methods assessed in the Application. The CMS also must, so far as is reasonably practicable, be consistent with the Design Statement (“DS”), the EMP, the Vessel Management Plan (“VMP”), the Navigational Safety Plan (“NSP”), the Cable Plan (“CaP”) and the Lighting and Marking Plan (“LMP”).

The final CMS must be sent to the Highland Council for information only.

3.2.12 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a VMP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority, NatureScot, MCA, Scottish Fishermen’s Federation (“SFF”) and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The VMP must include, but not be limited to, the following details:

- a. The number, types and specification of vessels required;
- b. How vessel management will be coordinated, particularly during construction, but also during operation;
- c. Location of working port(s), the routes of passage, the frequency with which vessels will be required to transit

between port(s) and the site and indicative vessel transit corridors proposed to be used during construction and operation of the Works.

The confirmed individual vessel details must be notified to the Licensing Authority in writing no later than 14 days prior to the Commencement of the Licensed Activity, and thereafter, any changes to the details supplied must be notified to the Licensed Authority, as soon as practicable, prior to any such change being implemented in the construction or operation of the Licensed Activity.

The VMP must refer to the Scottish Marine Wildlife Watching Code and Guide to Best Practice for Watching Marine Wildlife for guidance on how vessels should behave around aggregations of birds on the water.

The VMP must, so far as is reasonably practicable, be consistent with the CMS and EMP, the Fisheries Management and Mitigation Strategy ("FMMS"), the PEMP, the NSP, and the LMP.

3.2.13 The Licensee must, no later than three months prior to the Completion of the Licensed Activity, submit an OMP, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensed Authority with NatureScot, MCA, NLB, The Highland Council and any such other advisors or organisations as may be required at the discretion of the Licensed Authority.

The OMP must set out the procedures and good working practices for operations and the maintenance of the Works and substructure of the Works. Environmental sensitivities which may affect the timing of the operation and maintenance activities must be considered in the OMP.

The OMP must, so far as is reasonably practicable, be consistent with the CMS, the EMP, the PEMP, the VMP, the NSP and the LMP.

The Licensee must send the approved OMP to The Highland Council for information only.

3.2.14 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a NSP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with MCA, NLB, Royal Yachting Association ("RYA"), SFF and any other navigational advisors or organisations as may be required at the discretion of the Licensing Authority.

The NSP must include, but not be limited to, the following issues:

- a. Navigational safety measures;
- b. Construction exclusion zones;
- c. Notice(s) to mariners and radio navigation warnings;
- d. Anchoring areas;
- e. Temporary construction lighting and marking;
- f. Buoyage.

3.2.15 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an updated CaP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, SFF, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The CaP must be in accordance with the Application.

The CaP must include, but not be limited to, the following:

- a) The location, duration and cable laying techniques for cables;
- b) The results of monitoring or data collection work (including geophysical, geotechnical and benthic surveys) which will help inform cable routing;
- c) Technical specification of the cables, including a desk based assessment of attenuation of electromagnetic field strengths and shielding;
- d) A Cable Burial Risk Assessment (“CBRA”) to ascertain burial depths and where necessary alternative protection measures;
- e) Methodologies for post construction and operational surveys (e.g., over trawl) of the cables where mechanical protection of cables laid on the sea bed is deployed; and
- f) Methodologies for cable inspection with measures to address and report to the Licensing Authority any exposure of cables; and
- g) The anticipated areas of cable protection.

Any consented cable protection works must ensure existing and future safe navigation is not compromised. The Licensing Authority will accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum. Any greater reduction in depth must be agreed in writing by the Licensing Authority.

3.2.16 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a PEMP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, RSPB Scotland, and any other environmental advisors or organisations as required at the discretion of the Licensing Authority. The PEMP must be in accordance with the Application as it relates to environmental monitoring.

The PEMP must set out measures by which the Licensee must monitor the environmental impacts of the Works. Monitoring is required throughout the lifespan of the Works where this is deemed necessary by the Licensing Authority. Lifespan in this context includes pre-construction, construction, operational and decommissioning phases.

The Licensing Authority must approve all initial methodologies for the above monitoring, in writing and, where appropriate, in consultation with NatureScot and any other environmental advisors or organisations as required at the discretion of the Licensing Authority.

Monitoring must be done in such a way so as to ensure that the data which is collected allows useful and valid comparisons between different phases of the Works. Monitoring may also serve the purpose of verifying key predictions in the Application. In the event that further potential adverse environmental effects are identified, for which no predictions were made in the Application, the Licensing Authority may require the Licensee to undertake additional monitoring.

The PEMP must cover the following matters:

- a) monitoring or data collection for impact on seabirds;
- b) monitoring for impacts on marine mammals;
- c) monitoring for impacts on benthic ecology;
- d) Post-construction monitoring on Electromagnetic Fields (“EMF”) produced by the constructed cables; and
- e) The Licensee’s contribution to data collection or monitoring of wider strategic relevance, including in relation to

diadromous fish, as identified and agreed by the Licensing Authority.

In relation to EMF, the Licensee must monitor and provide a report on the EMF produced by the Works to the Licensing Authority. The Licensee must agree the methodologies and timescales for monitoring with the Licensing Authority prior to the Commencement of the Licensed Activity as part of wider strategic monitoring on EMF. Any agreement must be adhered to unless otherwise agreed and approved by the Licensing Authority.

The requirement for monitoring pre-construction, during construction and post-construction in relation to the above receptors must be agreed by the Licensing Authority.

Due consideration must be given to the Scottish Marine Energy Research (“ScotMER”) programme, or any successor programme formed to facilitate these research interests.

Any pre-consent monitoring or data collection carried out by the Licensee to address any of the above issues may be used in part to discharge this condition subject to the written approval of the Licensing Authority.

The PEMP is a live document which will be regularly reviewed by the Licensing Authority, at timescales to be determined by them to identify the appropriateness of on-going monitoring. Following such reviews, the Licensing Authority may require the Licensee to amend the PEMP and submit such an amended PEMP, in writing, to the Licensing Authority, for its written approval. Such approval may only be granted following consultation with NatureScot and any other environmental, or such other advisors as may be required at the discretion of the Licensing Authority.

The Licensee must submit written reports and associated raw and processed data of such monitoring or data collection to the Licensing Authority at timescales to be determined by them. Consideration should be given to data storage, analysis and reporting and be to Marine Environmental Data and Information Network standards.

Subject to any legal restrictions regarding the treatment of the information, the Licensing Authority, or any such other party appointed at the Licensing Authority’s discretion, may make the results publicly available.

The Licensing Authority may agree, in writing, that monitoring may be reduced or ceased before the end of the lifespan of the Works.

3.2.17 The Licensee must no later than six months prior to the Commencement of the Licensed Activity, submit a FMMS, in writing, to the Licensing Authority for its written approval, in consultation with SFF. Commencement of the Licensed Activity cannot take place until such approval is granted.

In order to inform the production of the FMMS, the Licensee must monitor or collect data as relevant and agreed with the Licensing Authority.

As part of any finalised FMMS, the Licensee must produce and implement a mitigation strategy for each commercial fishery that can prove to the Licensing Authority that they would be adversely affected by the Works. The Licensee and any contractors or sub-contractors working for the Licensee must implement the mitigation measures committed to be carried out by the Licensee within the FMMS.

3.2.18 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an updated Protocol for Archaeological Discoveries (“PAD”) and Written Scheme of Investigation (“WSI”) which sets out what the Licensee must do on discovering any marine archaeology during the construction, operation, maintenance

and monitoring of the Works, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may be given only following consultation by the Licensing Authority with Historic Environment Scotland (“HES”) and any such advisors as may be required at the discretion of the Licensing Authority. The reporting protocol must be implemented in full, at all times, by the Licensee.

3.2.19 Not later than six months prior to the Commencement of the Licensed Activity, a Particles Management Plan (“PMP”) shall be submitted to the Licensing Authority for its written approval in consultation with the Scottish Environmental Protection Agency (“SEPA”).

The PMP shall be consistent with the Application and supporting documents and shall include, but not be limited to, the following:

- a. A programme of scheduled monitoring for radioactive particles;
- b. The measures to be taken to reduce the likelihood of irradiated fuel particles in sediment being suspended or disturbed; and
- c. A waste management plan for the construction phase of the Works.

There shall be no Commencement of the Licensed Activity unless and until the PMP is approved in writing by the Licensing Authority, in consultation with SEPA.

Any proposed amendment to the approved PMP shall be submitted, in writing, to the Licensing Authority for its written approval, in consultation with SEPA. The proposed amendment shall be submitted to the Licensing Authority no later than six months prior to the anticipated implementation of the proposed amendment (or such shorter period as may be agreed with the Licensing Authority in writing). No amendment to the PMP shall take effect unless and until approved in writing by the Licensing Authority in consultation with SEPA.

The PMP and any amended PMP shall thereafter be implemented in full.

3.2.20 Prior to the Commencement of the Licensed Activity, the Licensee must at its own expense, and with the approval of the Licensing Authority in consultation with NatureScot, appoint an independent Environmental Clerk of Works (“ECoW”). The ECoW must be appointed in time to review and approve the draft version of the first plan or programme submitted under this consent to the Licensing Authority, in sufficient time for any pre-construction monitoring requirements, and remain in post until a date agreed by the Licensing Authority. The terms of appointment must also be approved by the Licensing Authority in consultation with NatureScot.

The terms of the appointment must include, but not be limited to:

- a. Quality assurance of final draft versions of all plans and programmes required under this marine licence;
- b. Responsible for the monitoring and reporting of compliance with the marine licence conditions and the environmental mitigation measures for all wind farm infrastructure;
- c. Provision of on-going advice and guidance to the Licensee in relation to achieving compliance with conditions, including but not limited to the conditions relating to and the implementation of the CMS, the EMP, the PEMP, the CaP and the VMP;
- d. Provision of reports on point b & c above to the Licensing Authority at timescales to be determined by the Licensing Authority;
- e. Induction and toolbox talks to onsite construction teams on environmental policy and procedures, including temporary stops and keeping a record of these;

- f. Monitoring that the Works is being constructed in accordance with the plans and this marine licence, the Application and in compliance with all relevant regulations and legislation;
- g. Reviewing and reporting incidents/near misses and reporting any changes in procedures as a result to the Licensing Authority; and
- h. Agreement of a communication strategy with the Licensing Authority.

3.2.21 Prior to the Commencement of the Licensed Activity, a Fisheries Liaison Officer (“FLO”), must be appointed by the Licensee and approved, in writing, by the Licensing Authority, following consultation with SFF. The FLO must be appointed by the Licensee for the period from Commencement of the Licensed Activity until the Final Commissioning of the Works. The identity and credentials of the FLO must be included in the EMP (referred to in condition 3.2.11). The FLO must establish and maintain effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Works and ensure compliance with best practice guidelines whilst doing so.

The responsibilities of the FLO must include:

- a. Establishing and maintaining effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea concerning the overall Works and any amendments to the EMP and site environmental procedures;
- b. The provision of information relating to the safe operation of fishing activity on the site of the Works; and
- c. Ensuring that information is made available and circulated in a timely manner to minimise interference with fishing operations and other users of the sea.

3.2.22 A swath bathymetric survey to IHO Order 1a of the area within the Offshore Order Limits extending to an appropriate buffer around the site, must be undertaken by the Licensee. The survey shall include all proposed cable routes.

This should fulfil the requirements of MGN654 and its supporting ‘Hydrographic Guidelines for Offshore Renewable Energy Developers’, which includes the requirement for the full density data and reports to be delivered to the MCA and the UKHO for the update of nautical charts and publications. This must be submitted as soon as possible, and no later than three months prior to the Commencement of the Licensed Activity. The Order Limit shapefiles must be submitted to MCA. The Report of Survey must also be sent to the Licensing Authority.

3.2.23 The Licensee must, no later than one calendar month prior to Commencement of the Licensed Activity, notify the UKHO of the proposed Works to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system.

3.2.24 The Licensee must, no later than one calendar month prior to Commencement of the Licensed Activity, ensure that local mariner’s organisations and local fishermen’s organisations and HM Coastguard are made fully aware of the Works through local Notice to Mariners or by any other appropriate means.

3.2.25 The Licensee must ensure that details of the Licensed Activities are promulgated in the Kingfisher Fortnightly Bulletin, no later than one calendar month prior to the Commencement of the Licensed Activity to inform the commercial fishing industry of the vessel routes and the timing and location of the construction activities.

3.2.26 The Licensee must, no later than eight weeks prior to the Commencement of the Licensed Activity, complete an “Application for Statutory Sanction to Alter/Exhibit” form and submit this to the NLB for the necessary sanction to be granted for the deployment of the Construction Buoyage.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

3.3.2 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake the Licensed Activity.

3.3.3 The Licensee must notify the UKHO of the progress of the construction of the Works to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system. The Licensee must ensure that progress of the Licensed Activity is promulgated regularly in the Kingfisher Fortnightly Bulletin.

3.3.4 The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Licensed Activity.

3.3.5 The Licensee must ensure appropriate steps are taken to minimise damage to the seabed by the Licensed Activity.

3.3.6 If the Licensee becomes aware that an accidental deposit has occurred, the Licensee must notify the Licensing Authority as soon as practicable. The Licensee must undertake such survey as directed by the Licensing Authority to locate the materials. If the Licensing Authority is of the view that any accidental deposits have occurred and should be removed, then the substances, objects and/or materials must be removed by the Licensee as soon as is practicable and at the Licensee's expense.

3.3.7 The Licensee must ensure that if oil based drilling muds are utilised, they must be contained within a zero discharge system. Any drill cuttings associated with the use of water-based drilling muds need not be removed from the seabed.

3.3.8 Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. An appropriate report must be submitted to the Licensing Authority, NLB and the MCA at the end of each year of the construction period.

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must send notification to the Source Data Receipt team, UKHO, (email: sdr@ukho.gov.uk) no later than 10 working days after the Completion of the Licensed Activity. The information provided must include latitude and longitude coordinates in WGS84 (ETRS89) datum of the Works, as installed, on and/or above the seabed, any changes to engineering drawings, post dredge surveys, and details of new or changed aids to navigation where applicable. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must, following installation, notify the Kingfisher Information Service Offshore Renewables and Cable Awareness and the International Cable Protection Committee of the 'as laid' cable corridor and a 500m zone either side of it as a hazardous area for anchoring.

The Licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable,

following the Completion of the Licensed Activity. The Licensee must complete post-installation hydrographic surveys of the site of the Works or subsections thereof, and periodic hydrographic surveys thereafter, to the IHO Order 1a survey standard as per the MCA's MGN 654 and supplementary updates. The data and a corresponding report of the survey findings must be supplied to the UKHO on completion of these surveys, with notification to the MCA hydrography manager and the Licensing Authority.

The Licensee must ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the National Maritime Coastguard Centre, are made fully aware of the Completion of the Licensed Activity.

The Licensee must ensure that the Completion of the Licensed Activity is promulgated in the soonest Kingfisher Fortnightly Bulletin following Completion of the Licensed Activity to inform the commercial fishing industry.

The Licensee must ensure that the cables are actively monitored throughout the lifetime of the Works. The Licensee must ensure that a contingency plan is in place to respond to any reported catastrophic failures which may result in the cables, or part(s) thereof, breaking loose and becoming a buoyant hazard. This contingency plan must include the transmission of local radio navigation warnings.

The Licensee must not exhibit, alter or discontinue navigational lighting of the Licensed Activity without the statutory sanction of the Commissioners of Northern Lighthouses.

3.4.2 The Licensee must take all reasonable, appropriate and practicable steps at the end of the operational life of the Licensed Activity to restore the site of the Works to its original pre-construction condition, or to as close to its original condition as is reasonably practicable, in accordance with the PEMP and the DP and to the satisfaction of the Licensing Authority.

Should the Licensed Activity be discontinued prior to expiry date of the licence, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Licensed Activity. A separate marine licence will be required for the removal of the Licensed Activity.

3.4.3 The Licensee must notify the Licensing Authority, in writing, of the date of the Completion of the Licensed Activity, no more than one calendar month following the Completion of the Licensed Activity.

3.4.4 The Licensee must, no later than one calendar month following the Completion of the Licensed Activity submit a report, in writing, to the Licensing Authority stating the date of Completion of the Licensed Activity, the nature and quantity of all substances and/or objects placed below Mean High Water Springs, and all materials used in construction under the authority of this licence.

3.4.5 The Licensee must undertake and submit to the Licensing Authority, within eight weeks of the Completion of the Licensed Activity, an assessment of any risks posed by the final sub-sea cable route, burial depths and un-trenched areas where mechanical and any other protection measures were used within the cable route, to the satisfaction of the Licensing Authority, the purpose of which is to ensure that the safety of navigation and other legitimate users of the sea is not compromised. Where the assessment identifies risks, the Licensee must submit a plan for addressing these to the Licensing Authority and ensure that the plan is fully implemented, subject to the approval of the Licensing Authority.

3.4.6 The Licensee must provide the Licensing Authority with the MMO records no later than two months following Completion of the Licensed Activity.

3.4.7 The Licensee must submit a close out report to the Licensing Authority, MCA, UKHO and NatureScot within three months of the date of the Completion of the Licensed Activity. The close out report must confirm the date of the Completion of the Licensed Activity and must include the following details:

- a) as built plans; and
- b) latitude and longitude coordinates of the export cable routes; provided as GIS data referenced to WGS84 datum.

3.4.8 The Licensee must notify the UKHO of the Completion of the Licensed Activity to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system.

3.4.9 The Licensee must, within one month of the Completion of the Licensed Activity, provide the “as-built” routes of the export cables to the UKHO for nautical charting purposes.

3.4.10 The Licensee must, as per the requirements of the MCA’s MGN 543 and supplementary updates, complete post-installation hydrographic surveys of the Site or subsections thereof, to the IHO Order 1a survey standard. On completion of these surveys, the data and a corresponding report of survey must be supplied to the UKHO, with notification to the MCA hydrography manager and the Licensing Authority.

3.4.11 The Licensee must ensure that local mariners, fishermen’s organisations and HM Coastguard, in this case the National Maritime Coastguard Centre are made fully aware of the Completion of the Licensed Activity.

3.4.12 The Licensee must ensure that the Completion of the Licensed Activity is promulgated in the Kingfisher Fortnightly Bulletin to inform the commercial fishing industry.

3.4.13 The Licensee must, where any damage, destruction or decay is caused to the Works, notify the Licensing Authority, in writing, of such damage, destruction or decay as soon as reasonably practicable following such damage, destruction or decay. The Licensee must carry out any remedial action which the Licensing Authority advises the Licensee, in writing, as requiring to be taken, which may include a requirement to display aids to navigation, following consultation by the Licensing Authority with the MCA, the NLB or any such advisers as required.

3.4.14 The Licensee must, as soon as reasonably practicable following the completion of cable protection works, provide information confirming the location of cable protection measures and the type of cable protection used to the Licensing Authority, the SFF and, on request, to other fisheries representatives.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activity. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. In the event that the licensee wishes any of the particulars set down in the Schedule to be altered, the licensing authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.

Annex One to licences MS-00009991 & MS-00009992

Chart showing the location of Licensed Activity

