

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00010301**

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 **21 April, 2023** until **16 March, 2037**

Signed:

Toni-Marie McGinn

For and on behalf of the Licensing Authority

Date of issue: 20 April, 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

a) **"the Application"** means the Application letter, marine licence application form and Environmental Statement ("ES") submitted to the Scottish Ministers by the Company on 19 October 2016;

b) **"Commencement of the Works"** means the date on which the first vessel arrives on the Site to begin carrying on any Licensed Activity in connection with the construction of the Works, as described in Part 2 of this licence;

c) **"Company"** means Highland Wind Limited (Company Number SC675148) having its registered office at 4th Floor 115 George Street, Edinburgh, Midlothian, Scotland EH2 4JN;

d) **"Completion of the Works"** means the date on which the Works have been installed, or the Works have been deemed complete by the Licensing Authority, whichever occurs first;

e) **"Decommissioning Programme"** means the programme for decommissioning the Works, to be submitted by the Company to the appropriate authority under section 105(2) of the Energy Act 2004 (as amended);

f) **"Decommissioning of the Works"** includes removal of the Works from the seabed, demolishing the Works or dismantling the Works;

g) **"Final Commissioning of the Works"** means the date on which all the Works have been used to supply electricity on a commercial basis to the National Grid, or such earlier date as the Licensing Authority deem the Works to be fully commissioned;

h) **"Licensable Marine Activity"** means any activities listed in section 21 of the 2010 Act authorised under this licence;

i) **"Licensed Activity"** and **"Licensed Activities"** means any activity, or activities, listed in section 21 of the 2010 Act which is, or are, authorised under this licence;

j) **"Licensee"** means the Company;

k) **"the Licensing Authority"** means the Scottish Ministers;

l) **"LMP"** means Lighting and Marking Plan as defined in the section 36 consent;

m) **"MHWS"** means mean high water spring tide;

n) **"the Site"** means the area outlined in the figure contained in Annex One of this licence;

o) **"the 2010 Act"** means the Marine (Scotland) Act 2010; and

p) **"the Works"** means the Pentland Floating Offshore Wind Farm (previously known as Dounreay Tri Floating Wind Demonstration Project) as described in Part 2 of this licence.

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:

Marine Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.Marinelicensing@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

as per Licensee

2.2 Location of the Licensed Activity

Dounreay, Caithness,

58° 40.430' N 03° 53.600' W

58° 40.470' N 03° 48.430' W

58° 37.770' N 03° 48.370' W

58° 37.730' N 03° 53.530' W

2.3 Description of the Licensed Activity

An offshore floating wind demonstration project, known as Pentland Floating Offshore Wind Farm (previously known as Dounreay Tri Floating Wind Demonstration Project), approximately 6 km offshore from Dounreay, Caithness, North coast of Scotland, and shall be comprised of:

1. Two floating offshore wind turbines , each with:

- a) a maximum of 3 rotors;
- b) a maximum rotor diameter of 154 metres;
- c) a maximum rotor tip height of 201 metres (measured from LAT);
- d) a maximum hub height of 124 metres (measured from LAT); and,
- e) a minimum air draft of 22 metres (measured above LAT);

2. one single floating, semi-submersible, column-stabilised platform, able to rotate 360° comprised of buoyancy columns interconnected in a steel lattice truss framework:

- a) maximum length will be 230 m;
- b) maximum width will be 135 m;
- c) maximum height 15 m above water surface;
- d) mooring clump weight, 50 m x 50 m with a weight of approximately 600 tonnes;
- e) maximum 8 mooring chain and/or steel lines;
- f) maximum 16 drag embedment anchors;
- g) scour protection for the anchors; and

h) grid connection.

The Development shall be constructed in accordance with that specified in the Application and by the conditions imposed by the Licensing Authority.

As described in the Application dated 19 October, 2016 and the Application dated 9 March, 2023 and the associated correspondence submitted in support of both Applications.

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: 7,972,800 tonnes

Stone/Rock/Gravel: 20,106 m³ (size range of 60-650 mm)

Concrete: 450 m³

2.5 Contractor and Vessel Details

The name and address of any agents, contractors or sub-contractors appointed to carry out any part, or all, of the Works must be notified to the Licensing Authority under condition 3.1.3 prior to their engagement in the Works.

The name of the operators, vessels and vehicles engaging in the Works must be notified to the Licensing Authority under condition 3.1.3 prior to their engagement in the Works.

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1. Compliance with the Application and approved plans

The Licensee must at all times construct and operate the Works in accordance with this Licence, the Application, the Environmental Statement, the Section 36 consent and the plans and programmes approved by the Scottish Ministers.

The Licensee must, at all times, maintain the Works in accordance with the approved Operation and Maintenance Plan (“OMP”).

Reason: *To ensure compliance with the Marine Licence, and the Environmental Statement associated with the Application.*

3.1.2 Licence conditions binding other parties

All conditions attached to this licence bind any person who for the time being owns, occupies or enjoys any use of the Works for which this licence has been granted in relation to those Licensed Activities authorised under item 5 in section 21(1) of the 2010 Act whether or not this licence has been transferred to that person.

Reason: *To safeguard the obligations of the licence, in accordance with s.29(5) of the Marine (Scotland) Act 2010.*

3.1.3. Vessels, vehicles, agents, contractors and sub-contractors

The Licensee must provide, as soon as reasonably practicable in advance of their engagement in the Works authorised under this licence, the name and function of any vessel, vehicle, agent, contractor or sub-contractor appointed to engage in the Works to the Licensing Authority. Where applicable the notification must include the vessel type, vessel IMO number and vessel owner or operating company.

The Licensee must ensure that any changes to the supplied details must be notified to the Licensing Authority, in writing, 14 days prior to any vessel, vehicle, agent, contractor or sub-contractor engaging in the Works.

The Licensee must ensure that only those vessels, vehicles, operators, agents, contractors or sub-contractors notified to the Licensing Authority are permitted to carry out any part of the Works.

The above details must be recorded in section 2.5 and 2.6 of this licence. If not provided at application these details and any subsequent changes will require a variation to the licence to update section 2.5 and 2.6 prior to engagement in the Works.

The Licensee must satisfy themselves that any masters of vessels or vehicle operators, agents, contractors or sub-contractors are aware of the extent of the Works for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence. All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Works must abide by the conditions set out in 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 Works, and must ensure that the licence and any such variations are read and understood by those persons.

Reason: *To ensure all parties involved in the Works are aware of the licence and its conditions, to reduce the risk of a breach of the licence, in accordance with s.39(1)(b) of the 2010 Act.*

3.1.4. Force Majeure

Should the Licensee or any of their agents, contractors or sub-contractors, by any reason of force majeure deposit anywhere in the marine environment any substance or object, then the Licensee must notify the Licensing Authority of the full details of the circumstances of the deposit within 48 hours of the incident occurring (failing which as soon as reasonably practicable after that period of 48 hours has elapsed). Force majeure may be deemed to apply when, due to stress of weather or any other cause, the master of a vessel or vehicle operator determines that it is necessary to deposit the substance or object other than at the Site because the safety of human life or, as the case may be, the vessel, vehicle or marine structure is threatened. Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-east Atlantic, the Licensing Authority is obliged to immediately report force majeure incidents to the Convention Commission.

Reason: *To provide a defence for the Master to protect himself and his crew in the event of a force majeure, in accordance with s.29(2)(a) of the 2010 Act.*

3.1.5. Material alterations to the licence application

The Licensee must, where any information upon which the granting of this licence was based has, after the granting of the licence, altered in any material respect, notify the Licensing Authority of this fact, in writing, as soon as is practicable.

Reason: *To ensure that the Works are carried out in accordance with the Application documentation, in accordance with s.29(2)(a) of the 2010 Act.*

3.1.6. Submission of plans and specification of studies and surveys to the Licensing Authority

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 Works, in writing, to the Licensing Authority, for their 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 Works by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Reason: *To ensure that the Licensing Authority is kept informed on progress of the Works, in accordance with s.29(3)(c) of the 2010 Act.*

3.1.7. Submission of reports to the Licensing Authority

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 it would appear to the Licensee that there may be a

delay in the submission of the reports to the Licensing Authority, then 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 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 must, subject to any rules permitting non-disclosure, be made publicly available by the Licensing Authority or by any such party appointed at their 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, Transport Audit sheets and deposits sheets.

Reason: *To ensure that all reports and notifications are submitted within a reasonable timescale after licence is granted, in accordance with s.29(3)(c) of the 2010 Act.*

3.1.8 Chemical usage

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 Works. 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 OCNS list, the approval request must include the chemical name, volume or quantity to be used, the OCNS list grouping or rank and the proposed frequency of use.

If the proposed chemical is not on the OCNS list, the approval request must include details of chemical to be used, including safety data sheet, depth and current at the Site, 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 should 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.

Reason: *To minimise the environmental impact in the event of a release through the use of authorised chemicals in the interest of protecting the environment, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.9 Fluorinated greenhouse gases

The Licensee must ensure that all equipment to be utilised in the Works which contains fluorinated greenhouse gases (hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and other greenhouse gases that contain fluorine, listed in Annex I of Regulation No 517/2014 of the European Parliament and of the Council of 16 April 2014 on Fluorinated Greenhouse Gases ("F-Gas Regulation") or mixtures containing any of those substances) must take precautions to prevent the unintentional release ('leakage') of those gases. 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 Works that contains fluorinated greenhouse gases in quantities of 5 tonnes of CO₂ equivalent or more 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.

Reason: *To ensure compliance of the Works with Regulation (EU) 517/2014 and The Fluorinated Greenhouse Gases Regulations 2015, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.10. Environmental protection

The Licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to avoid or minimise any damage to the Scottish marine area caused as a result of the undertaking of the Licensed Activities.

The Licensee must ensure that all personnel adhere to the SMWWC where appropriate during all construction, operation and maintenance activities authorised under this licence.

The Licensee must ensure that any debris or waste material placed below MHWS level during the construction of the Works is removed from the Site, unless agreed otherwise by the Licensing Authority, as soon as is reasonably practicable, for disposal at a location above the MHWS level, approved by SEPA or such other relevant authority if disposal is to take place outwith Scotland.

The Licensee must ensure that, where practicable, all substances and objects deposited during the Works are inert (or appropriately coated or protected so as to be rendered inert) and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

The Licensee must ensure that the risk of transferring marine non-native species to and from the Site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the construction, operation and maintenance of the Works.

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 situated within the Site need not be removed from the seabed.

Reason: *To ensure environmental impacts are minimised, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.11. Availability of the licence for inspection

The Licensee must ensure that copies of this licence and any subsequent amendments or variations are available for inspection at any reasonable time by any authorised marine enforcement officer at:

- a) the premises of the Licensee;
- b) the premises of any agent, contractor or sub-contractor acting on behalf of the Licensee;
- c) any onshore premises directly associated with the Works; and
- d) aboard any vessel engaged in the Works.

Reason: *To ensure the licence is available for the purpose of inspection, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.12. Inspection of the Works

Any persons authorised by the Licensing Authority must be permitted to inspect the Works. The Licensee must, as far as reasonably practicable, 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 Works.

Reason: *To ensure access to the Site for the purpose of inspection, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.13. Emergencies

If the assistance of a Government Department (to include departments of Administrations other than the Scottish Government) is required to deal with any emergency arising from:

- a) the failure to mark and light the Works as required by this 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.

Reason: *To ensure the Licensee is aware of financial liabilities, in accordance with s.29(2)(b) of the 2010 Act.*

Conditions applicable to all phases of the Works

3.1.14. Implementation in accordance with approved plans and requirements of this consent

Except as otherwise required by the terms of this licence, the Works must be constructed and operated in accordance with the Application and the Environmental Statement submitted by the Company on 19 October 2016 and any other documentation lodged in support of the Application.

Reason: *To ensure that the Development is carried out in accordance with the approved details.*

3.1.15. Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Works during the period of this Licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Licensing Authority within a period of time to be agreed by the Licensing Authority.

Reason: *To keep the Scottish Ministers informed of any such incidents which may be in the public interest, in accordance with s.29(3)(c) of the 2010 Act.*

3.1.16. Bunding and storage facilities

The Licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils and lubricating fluids associated with the plant and equipment into the marine environment.

Reason: *To ensure pollution prevention is undertaken, in accordance with s.29(2)(b) of the 2010 Act.*

3.1.17. Restoration of the Site to its original condition

The Licensee must take all reasonable, appropriate and practicable steps to restore the Site to its original condition before the Works were undertaken, or to as close to its original condition as is reasonably practicable, in accordance with the Project Environmental Monitoring Plan (“PEMP”) and the Decommissioning Programme (“DP”) to the satisfaction of the Licensing Authority. Should the Works be discontinued prior to Completion of the Works, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Works. A separate marine licence application will be required for the removal of Works.

Reason: *To mitigate the effects of the activity on the Site, in accordance with s.29(3)(e) of the 2010.*

3.1.18. Emergency Response Co-operation Plans (“ERCoP”)

The Licensee must, in discussion with the Maritime and Coastguard Agency’s (“MCA”) Search and Rescue Branch, complete an Emergency Response Cooperation Plans (“ERCoP”) for the construction and operation phases. The ERCoP should include full details for the construction and operation phases of the authorised scheme in accordance with MCA recommendations contained within Marine Guidance Notice (“MGN”) 543 (or subsequent updates). A copy of the final plan must be submitted to the Licensing Authority no later than 6 calendar months, or at such a time as agreed with the Licensing Authority, prior to the Commencement of the Works.

Reason: *To ensure the Licensing Authority is aware of the ERCoP, in accordance with s.29(3)(c) of the 2010 Act.*

3.1.19. Lighting and Marking Plan (“LMP”)

The Company must, no later than 6 months prior to the Commencement of the Development or at such a time as agreed with the Scottish Ministers, submit a Lighting and Marking Plan (“LMP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with the MCA, NLB, MoD, CAA, RYA Scotland and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. The LMP must provide that the Development be lit and marked in accordance with the current CAA and MoD aviation lighting policy and guidance that is in place as at the date of the Scottish Ministers approval of the LMP, or any such other documents that may supersede said guidance prior to the approval of the LMP.

The LMP must also detail the navigational lighting requirements detailed in IALA Recommendation O-139 or any other documents that may supersede said guidance in place immediately prior to the approval of the LMP.

The Company must provide the LMP, for information, to THC, OIC, SNH and any other bodies as may be required at the discretion of the Scottish Ministers.

Reason: *To ensure navigational safety and the safe marking and lighting of the offshore generating station.*

3.1.20 Previous marine licence

Should the Licensee proceed to undertake the Licensed Activity under the authority of this licence, the Licensed Activity authorised under the previous marine licence in favour of Highland Floating Winds Limited, dated 8 June 2021 (licence number MS-00009324) is not permitted.

Reason: *To ensure that the Licensed Activity is carried out in accordance with the Application documentation, in accordance with s.29(2)(a) of the 2010 Act.*

3.2 Prior to the commencement of the Licensed Activity

3.2.1. Bathymetry surveys

The Licensee must, prior to Commencement of the Works, complete a full sea floor coverage swath-bathymetry survey that meets the requirements of the International Hydrographic Organisation ("IHO") Order 1a standard, with the final data set and survey report to the MCA Hydrography Manager.

Reason: *To ensure all environmental and navigational issues are considered for the location and construction of the cable.*

3.2.2 Commencement date of the Works

The Licensee must, prior to and no less than 1 calendar month before the Commencement of the Works, notify the Licensing Authority, in writing, of the date of Commencement of the Works authorised under this licence.

Reason: *To inform the Licensing Authority of the date of the Works, in accordance with s.29(3)(c) of the 2010 Act.*

3.2.3. Third Party Certification or Verification

The Licensee must, no later than 6 calendar months prior to the Commencement of the Works, or at such a time as agreed with the Licensing Authority, provide the Licensing Authority with Third Party Certification ("TPC") or Verification ("TPV") (or suitable alternative as agreed, in writing, with the Licensing Authority) for all Wind Turbine Generators ("WTGs"), mooring systems and WTGs platform structures. The TPC or TPV must include an assessment on the suitability of the mooring system.

The applicant must follow the HSE guidance for Offshore Installation Moorings, as appropriate.

Reason: *To provide independent certification or verification of the technology, materials or equipment, in accordance with s.29(2)(b) of the 2010 Act.*

Reason: *To ensure all environmental and navigational issues are considered for the location and construction of the site.*

3.2.4. Navigation and Aviation and Safety Charting

The Licensee must, no later than 7 days prior to Commencement of the Works, notify the UK Hydrographic Office ("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.

The Licensee must, no later than 7 days prior to the Commencement of the Works, ensure that local mariners, fishermen's organisations and HM Coastguard, in this case Shetland Coastguard Operations Centre, are made fully aware of the Works through local Notice to Mariners or any other appropriate means.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, prior to Commencement of the Works to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Works and of the relevant operations.

The Licensee must, prior to Commencement of the Works, complete an "Application for Statutory Sanction to Alter/Exhibit" form and submit this to the NLB for the necessary sanction to be granted.

The Licensee must notify the Defence Geographic Centre ("DGC") (mail to dvof@mod.uk) of the locations, heights and lighting status of the turbines, the estimated dates of construction and the maximum height of any construction equipment to be used, at least 10 weeks prior to the Commencement of the Works, to allow for the appropriate notification to the relevant aviation communities. The DGC must be updated when the actual dates of construction are known.

The Licensee must, no later than 14 days prior to the Commencement of the Works, ensure that aviation stakeholders are made fully aware of the Works through a Notice to Airmen ("NOTAM"). To arrange an associated NOTAM, a developer should contact CAA Airspace Regulation (AROps@caa.co.uk); providing the same information as required by the DGC.

Reason: *To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act.*

3.2.5. Noise Registry

The Licensee must complete and submit a Proposed Activity Form in the online Marine Noise Registry for all aspects of the Works that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise no later than 7 days prior to Commencement of the Works. If any aspects of the Works differ from the Proposed Activity Form in the online Marine Noise Registry, the Licensee must complete and submit a new Proposed Activity Form no later than 7 days prior to Commencement of the Works.

Reason: *To ensure compliance with reporting requirements on marine noise, in accordance with s.29(3)(c) of the 2010 Act.*

3.3 During the Licensed Activity

3.3.1. Transportation audit sheet

The Licensee must submit to the Licensing Authority a detailed transportation audit sheet for each calendar month during the period when construction of the Works is undertaken, this must be within 14 days of the end of each calendar month. It must cover all aspects of the construction of the Works. The transportation audit sheet must include, but not be limited to, information on the loading facility, vessels, equipment, shipment routes, schedules and all materials deposited (as described in Part 2 of this licence) in that calendar month. Where, following the submission of a transportation audit sheet to the Licensing Authority, any alteration is made to the component parts

of the transportation audit sheet, the Licensee must notify the Licensing Authority of the alteration in the following month's transportation audit sheet.

If the Licensee becomes aware of any substances or objects on the transportation audit sheet that are missing, or becomes aware that an accidental deposit has occurred, the Licensee must contact the Licensing Authority as soon as practicable after becoming aware, for advice on the appropriate remedial action (which may include requiring charts to be amended to show such deposits). Should the Licensing Authority deem it necessary, the Licensee must undertake a side scan sonar survey in grid lines (within operational and safety constraints) across the area of the Works, to include cable routes and vessel access routes from local service port(s) to the Site to locate the substances or objects. If the Licensing Authority is of the view that any accidental deposits associated with the construction of the Works are present, then the deposits must be removed by the Licensee as soon as is practicable following the giving of such a view by the Licensing Authority, and at the Licensee's expense.

Reason: *To confirm that the deposits made were in accordance with the Application documentation, and that any accidental deposits are recovered or charted appropriately in accordance with s.29(3)(c) of the 2010 Act.*

3.3.2. Nature and quantity of deposited substances and objects

The Licensee must, in addition to the transportation audit sheets required to be submitted to the Licensing Authority under condition 3.2.3.1 following the Commencement of the Works, submit audit reports, in writing, to the Licensing Authority, stating the nature and quantity of all substances and objects deposited below MHWS under the authority of this licence. Such audit reports must be submitted by the Licensee at monthly intervals, with the first such report being required to be submitted on a date no later than 1 calendar month following the Commencement of the Works. Where appropriate, nil returns must be provided.

Reason: *To confirm that the deposits made were in accordance with the Application documentation, in accordance with s.29(3)(c) of the 2010 Act.*

3.3.3. Navigational safety

The Licensee must notify the UKHO of the progress 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 notify local mariners, fishermen's organisations and HM Coastguard, in this case Shetland Coastguard Operations Centre, of the progress of the Works through local Notice to Mariners or any other appropriate means.

The Licensee must ensure that the progress of the Works is promulgated in the Kingfisher Fortnightly Bulletin to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Works and of the relevant operations.

The Licensee must notify the Clyde Cruising Club of the progress of the Works.

The Licensee must, in the case of damage to, or destruction or decay of, the Works, notify the Licensing Authority, in writing, as soon as reasonably practicable following such damage, destruction or decay. The Licensee must carry out any remedial action as required by the Licensing Authority, and intimated to the Licensee in writing, which may include any requirement to display aids to navigation, following consultation with the MCA, the NLB or any such advisors as required by the Licensing Authority.

The Licensee must ensure that any vessels permitted to engage in the Works are marked in accordance with the

International Rules for the Prevention of Collisions at Sea whilst under way and in accordance with the UK Standard Marking Schedule for Offshore Installations if the vessel is secured to the seabed.

The Licensee must ensure that no radio beacon or radar beacon operating in the marine frequency bands is installed or used on the Works without the prior written approval of the Office of Communications (“OfCom”).

The Licensee must ensure that navigable depth is not altered by more than 5% referenced to Chart Datum unless otherwise agreed in writing, with the Licensing Authority in consultation with the MCA and NLB.

Reason: *To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act.*

3.3.4. Markings, lighting and signals of the Works and Jack up vessels

The Licensee must ensure that the Works are marked and lit in accordance with the requirements of the NLB, MCA, the Civil Aviation Authority (“CAA”) and the Ministry of Defence (“MOD”) at all times and such markings and/or lighting must be continued unless and until such time as the Licensing Authority, by notice, relevantly varies this licence under section 30(3)(c) of the 2010 Act.

The Licensee must not display any marks and lights additional to those required by virtue of this licence and as agreed in the Lighting and Marking Plan (“LMP”) without the written approval of the Licensing Authority following consultation with the NLB, MCA, CAA, and the MOD.

The Licensee must ensure that the Works are marked and lit in accordance with International Association of Lighthouse Authorities (“IALA”) Recommendation O-139.

The Licensee must ensure that the turbines are lit with a single 2000 candela, red aviation light, flashing Morse ‘W’ in unison with all other turbines and in accordance with the Civil Aviation Authority Air Navigation Order Part 28 Lights and Lighting (220).

Reason: *To ensure safe appropriate marking and lighting of the offshore Works, in accordance with s.29(2)(b) of the Marine (Scotland) Act 2010.*

3.4 Upon Completion of the Licensed Activity

3.4.1. Date of Completion of the Works

The Licensee must, no more than 1 calendar month following the Completion of the Works, notify the Licensing Authority, in writing, of the date of Completion of the Works.

Reason: *To inform the Licensing Authority of the Completion of the Works, in accordance with s.29(3)(c) of the 2010 Act.*

3.4.2. Final Commissioning of the Works

The Licensee must, no more than 1 calendar month following the Final Commissioning of the Works, notify the Licensing Authority, in writing, of the date of the Final Commissioning of the Works.

Reason: *To inform the Licensing Authority of the Final Commissioning of the Works, in accordance with s.29(3)(c) of*

the 2010 Act.

3.4.3. Navigational safety

The Licensee must notify the UKHO of the Completion 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, within 1 calendar month of the Completion of the Works, provide the “as-built” positions and maximum heights of all WTGs, along with any sub-sea infrastructure, to the UKHO for aviation and nautical charting purposes.

The Licensee must ensure that local mariners, fishermen's organisations and HM Coastguard, in this case Shetland Coastguard Operations Centre, are made fully aware of the Completion of the Works.

The Licensee must ensure that the Completion of the Works is promulgated in the Kingfisher Fortnightly Bulletin to inform the Sea Fish Industry.

The Licensee must ensure that the Clyde Cruising Club are made fully aware of the Completion of the Works.

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 requirement to display aids to navigation, following consultation with the MCA, the NLB or any such advisers as required.

The Licensee must ensure that no radio beacon or radar beacon operating in the Marine frequency bands is installed or used on the Works without the prior written approval of OfCom.

As per the requirements of MCA's MGN 543 and supplementary updates, the Licensee must complete post-installation hydrographic surveys of the consented area 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.

The Licensee must not exhibit, alter and discontinue navigational lighting of the Works without the Statutory Sanction of the Commissioners of Northern Lighthouses. An 'Application for Statutory Sanction to Exhibit/Discontinue' form must be completed by the Licensee as fully as possible and returned to the NLB via e-mail to navigation@nlb.org.uk for the necessary sanction to be granted prior to exhibiting, altering or discontinuing navigational lighting.

Reason: To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act.

3.4.4. Nature and quantity of deposited substances and objects

The Licensee must, no later than 1 calendar month following the Completion of the Works, submit a final audit report, in writing, to the Licensing Authority stating the nature and quantity of all substances and objects deposited below MHWS within the Scottish marine area under the authority of this licence. Where appropriate, nil returns must be provided.

Reason: *To confirm that the deposits made were in accordance with the Application documentation, in accordance with s.29(3)(c) of the 2010 Act.*

3.4.5. Markings, lighting and signals of the Works

The Licensee must ensure that the Works are marked and lit in accordance with the agreed LMP and the requirements of the NLB at all times and such marking and/or lighting must be continued unless and until such time as the Licensing Authority, by notice, relevantly varies this licence under section 30 of the 2010 Act.

The Licensee must ensure that the Works are marked and lit in accordance with IALA Recommendation O-139.

The Licensee must ensure that the position of the platform is actively monitored and a contingency plan is developed to respond to any reported off-station events. This should include the transmission of local Radio Navigation Warnings.

The Licensee must ensure that the turbines are lit with a single 2000 candela, red aviation light, flashing Morse 'W' in unison with all other turbines and in accordance with the Civil Aviation Authority Air Navigation Order Part 28 Lights and Lighting.

The Licensee must ensure that the platform and the structure of each wind generator should be painted yellow all round from sea level to 15 metres or the height of the Aid to Navigation, if fitted, whichever is greater. The Licensee must ensure that each wind generator is fitted with lights visible from all directions in the horizontal plane. These lights should flash yellow once every 5 seconds, with a range of 5 nautical miles. All lights on these structures should be synchronised. These lights should comply with IALA recommendations and have an availability of not less than 99.8% (IALA Category 1), calculated over a rolling 3 year period.

The Licensee must ensure that all navigation lights are mounted below the lowest point of the arc of the rotor blades. They should be exhibited at a height of at least 6 metres above the highest astronomical tide.

The Licensee must ensure that the platform is fitted with a sound signal with a nominal range of two nautical miles, placed not less than 6 metres and not more than 30 metres above sea level. The character should be rhythmic blasts corresponding to morse letter 'U' every 30 seconds. The minimum duration of the short blast shall be 0.75 seconds and the sound signal should be operated when the meteorological visibility is two nautical miles or less. The sound signal should comply with IALA recommendations and have an availability of not less than 97.0% (IALA Category 3), calculated over a rolling 3 year period.

The Licensee must ensure that the structure shall display identification panels with black letters or numbers 1 metre high on a yellow background visible in all directions. These panels shall be easily visible in daylight as well as at night, either by the use of illumination or retro-reflecting material.

Reason: *To ensure safe appropriate marking and lighting of the offshore Works, in accordance with s.29(2)(b) of the 2010 Act.*

3.4.6. Noise registry Close Out

The Licensee must complete and submit a Close-out Report for all aspects of the Works that produced loud, low to medium frequency (10Hz-10kHz) impulsive noise in the online Marine Noise Registry no later than 12 weeks from the Completion of the Works.

Reason: *To ensure compliance with reporting requirements on marine noise, in accordance with s.29(3)(c) of the 2010 Act.*

3.4.7. Operation and Maintenance of the Works

The Licensee must operate and maintain the Works in accordance with the approved OMP. The Licensing Authority must be notified at least 6 calendar months in advance of any maintenance of the Works where any additional deposits are required. In the event that these works are were not assessed in the Application and are considered by the Licencing Authority as being material they will require further marine licences.

Reason: *To ensure compliance with the approved OMP to prevent decay of the Works and to ensure that any maintenance work is carried out under an appropriate licence in accordance with s.29(3)(b) of the 2010 Act.*

3.4.8. Removal of the Works

This licence does not permit the Removal of the Works, for which a separate marine licence is required.

The Licensee must, no later than 3 months prior to any proposed removal works, submit a plan for the Removal of the Works, in writing, to the Licensing Authority, along with a marine licence application for the Removal of the Works.

Removal of the Works must not occur until the Licensing Authority has given its prior written approval to the plan and issued a marine licence.

Reason: *To ensure that removal of works is carried out under an appropriate licence, in accordance with s.29(3)(a) of the 2010 Act.*

3.4.9. Decommissioning

This licence does not permit the Decommissioning of the Works, for which a separate marine licence is required.

Reason: *To ensure that decommissioning is carried out according to the approved Decommissioning Programme under an appropriate licence, in accordance with s.29(3)(d) of the 2010 Act.*

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.