

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00010302**

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

Kaly Group Limited

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 **20 December, 2023** until **19 December, 2048**

<Redacted>

Signed:

For and on behalf of the Licensing Authority

Date of issue: 19 December, 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 2010 Act"** means the Marine (Scotland) Act 2010;
- b) **"Licensed Activity"** means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
- c) **"Licensee"** means Kaly Group Limited
- d) **"Mean High Water Springs"** means any area submerged at mean high water spring tide;
- e) **"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;
- f) **"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;

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 Directorate - Licensing Operations Team
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

Ironside Farrar Ltd
111 McDonald Road
Edinburgh
EH7 4NW

2.2 Location of the Licensed Activity

Loch Dunvegan, Skye, within the boundary of

Site Boundary
57° 30.687' N 06° 36.144' W
57° 30.822' N 06° 36.308' W
57° 30.452' N 06° 37.469' W
57° 30.296' N 06° 37.304' W

As shown in Annex One.

2.3 Description of the Licensed Activity

Construction of seaweed farm

As described in the application dated 10 March, 2023 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:

8 x 200 m x 100m grid lines
47 x anchor points
3 x marker buoys

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only deposit the objects listed in Part 2 of the licence in accordance with the 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 Objects deposited under the licence in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority.

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

3.1.4 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.

3.1.5 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.

3.1.6 In the event of any breach of health and safety or environmental obligations relating to the Licensed Activity during the period of the 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.

3.1.7 The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 484444) of the commencement, progress and completion of the the Licensed Activity. Such notification must be no later than 10 working days after commencement/completion and include a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

3.1.8 Details of any marks or lights not required by the licence must be submitted to the Northern Lighthouse Board and its ruling complied with. The display of unauthorised marks or lights is prohibited.

3.1.9 The Licensee must remove the materials, substances or objects from below the level of Mean High Water Springs, or make such alterations as advised by the Licensing Authority, within one month of notice being given by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replaced without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.10 Where any damage, destruction or decay is caused to the objects, the Licensee must notify the Licensing Authority, Maritime and Coastguard Agency, Northern Lighthouse Board, 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 hour after becoming aware of any such damage, destruction or decay.

3.1.11 The Licensee must ensure the objects remain secured to the seabed at all sea state conditions expected at the location of the Licensed activity. Weekly inspection and regular maintenance of the works or objects must take place including third party verification of the mooring arrangements. The site must be monitored in accordance with the Navigational Risk Assessment submitted to the Licensing Authority in support of the application.

3.1.12 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 objects as required by the licence;
- b) the maintenance of the objects; or
- c) the drifting or wreck of the objects, to include the broadcast of navigational warnings

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

3.1.13 In the event of the Licensed Activity being discontinued the materials used or substances and objects deposited under the authority of the licence must be removed to the satisfaction of the Licensing Authority.

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

3.1.15 The Licensee must ensure that all moorings and any vessels attached to the moorings are within the moorings area bounded by the coordinates in Part 2 of the licence at all times.

3.1.16 The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of the licence.

3.1.17 The Licensee must ensure that phase one (1) the site is marked by means of:

- Two (2) lit yellow Special Mark Buoy fitted with a yellow 'X' topmark.
- The lights must display a character of flash yellow every 5 seconds (FI Y 5s) with a nominal range of 2 nautical miles and be fitted above the 'X' topmarks
- The buoy must be positioned at the most North Easterly and North Westerly Seaward extent to mark the corners of the phase one footprint.
- The buoy diameter must be approximately 1 metre at the waterline and the 'X' topmark should be 50cm length by 7.5cm width.

3.1.18 The Licensee must ensure that phase two (2) the site is marked by means of:

- One (1) additional lit yellow Special Mark Buoy fitted with a yellow 'X' topmark, three (3) in total.
- The lights must display a character of flash yellow every 5 seconds (FI Y 5s) with a nominal range of 2 nautical miles and be fitted above the 'X' topmarks
- The additional buoy must be positioned at the newly introduced, extended seaward corner with the result of there being three (3) lit special mark buoys across the seaward face of the site.
- The buoy diameter must be approximately 1 metre at the waterline and the 'X' topmark should be 50cm length by 7.5cm width.

3.1.19 The Licensee must ensure that the navigation marking and lighting given in condition 3.1.17 and 3.1.18 are installed at the same time as the licensed objects and continued unless and until the Licensing Authority rescind this direction

3.1.20 The Licensee must ensure that no works, including all phases of equipment installation, are carried out between 1 June to 15 September inclusive each year.

3.1.21 The Licensee must ensure that all licensed activities are carried out in strict accordance with Vessel Management Plan v1.12 dated 31 March 2023 (submitted to the licensing authority on 12 April 2023).

3.1.22 The Licensee must ensure that all licensed activities are carried out in strict accordance with the Environmental Responsibilities Document v3. 12 dated 31 March 2023 (submitted to the licensing authority on 12 April 2023).

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must notify the Licensing Authority in writing of the name and address of any agent, contractor or sub-contractor not already listed in Part 2 of the licence being used to carry out any Licensed Activity listed in Part 2 of the licence. Such notification must be received by the Licensing Authority no less than 24 hours before the commencement of the Licensed Activity

3.2.2 The Licensee must issue local notification to marine users at least 5 days before commencement of the Licensed Activity – including fisherman's organisations, neighbouring port authorities, NLB and other local stakeholders – to ensure that they are made fully aware of the Licensed Activity. The notification to mariners must be sent to the Licensing Authority within 24 hours of issue.

3.2.3 The Licensee must ensure that HM Coastguard National Maritime Operations Centre, in this case zone36@hmcg.gov.uk, is made aware of the Licensed Activity prior to commencement of each phase of the works.

3.2.4 The Licensee must complete the Marine Emergency Action Card provided and send it to oelo@mcga.gov.uk prior to Commencement of the Licensed Activity.

3.2.5 The Licensee must contract the services of an appropriately qualified ornithologist to conduct and report on the known golden eagles in close proximity to the Licensed Activity. Any mitigation measures proposed as a result of ornithological surveys must be implemented.

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 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.

3.3.3 The Licensee must ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:

- a) the premises of the Licensee; and
- b) the premises of any agent acting on behalf of the Licensee;

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

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

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

3.3.7 Any person authorised by the Licensing Authority must be permitted to inspect the site at any reasonable time.

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must submit a written report regarding the deposit of the licensed objects to the Licensing Authority. The written report must be submitted on the forms provided by the Licensing Authority no later than 31 July 2047.

3.4.2 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.

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.