

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE FOR MARINE SCIENTIFIC SURVEY IN THE SCOTTISH MARINE AREA

Licence Number: **06436/17/0**

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

**Aberdeen Offshore Windfarm Ltd
Johnstone House
52-54 Rose Street
Aberdeen
AB10 1HA**

Under the Marine (Scotland) Act 2010,

- 1) To allow the deposits made under Marine Licence 06051/16/01, in respect of the deployed LiDAR device, and as specified in Part 2 of this licence to remain in place until full removal and decommissioning is carried out,

The issue of this licence is subject to conditions as set out in Part 3 of the Schedule.

This licence remains in force from **29th September 2017** until **1st November 2018**, or until Removal of the Works prior to this date, for which a separate marine licence is required.

Signed:

Roger May
For and on behalf of the Licensing Authority

Date of issue: 29th September 2017

1. PART 1 – GENERAL

1.1 Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010, and,

- a) **“the Application”** means the Application letter, marine licence application and supporting information submitted to the Licensing Authority, by the Company on 23rd June 2017;
- 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) **“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;
- d) **“Decommissioning of the Works”** includes removal of the Works from the seabed, demolishing the Works or dismantling the Works;
- e) **“Decommissioning Programme”** means the programme for decommissioning the Works, to be submitted by the Licensee to the appropriate authority under section 105(2) of the Energy Act 2004 (as amended);
- f) **“the 2010 Act”** means the Marine (Scotland) Act 2010;
- g) **“Licensable Marine Activity”** means the activities listed in section 21 of the 2010 Act authorised under this licence;
- h) **“Licensed Activities”** means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under this licence;
- i) **“Licensee”** means Aberdeen Offshore Windfarm Limited (“AOWFL”) (Company Registration Number SC278869) and having its registered office at 3rd Floor, The Tun Building, 4 Jackson’s Entry, Holyrood Road, Edinburgh EH8 8PJ;
- j) **“the Licensing Authority”** means the Scottish Ministers;
- k) **“the Site”** means the area outlined in the figure 1 contained in Part 4 of this licence;
- l) **“the Works”** means the deployment of the waverider buoy, as described in Part 2 of this licence.
- m) **“MHWS”** means mean high water spring tide.

All geographical co-ordinates contained within this licence are in latitude and longitude format World Geodetic System 84 (“WGS84”).

1.2 Contacts

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

Marine Scotland
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 themselves that there are no barriers or restrictions, legal or otherwise, to the carrying on of the licensed activities in connection with Works. The issuing of this 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 this 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 this 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 –

- (a) 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
- (b) 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.

2. PART 2 – THE WORKS

2.1 Title of the Works

The title of the Works to which this licence relates to is 'LiDAR Device'.

2.2 Description of the Works

Deployment of FORECAST Floating LiDAR Device and associated mooring, for collection of wind speed and direction data as the Aberdeen Offshore Wind Farm Site, approximately 3 km off the coast of Blackdog, Aberdeen.

2.3 Location of the Works

Aberdeen Bay, approximately 3 km off the coast of Blackdog, Aberdeen bounded by the following points:

57° 13'.564 N 001° 59'.993 W.
57° 13'.562 N 001° 59'.794 W.
57° 13'.454 N 001° 59'.797 W.
57° 13'.456 N 001° 59'.996 W

2.4 Deposits

This licence authorises the deposit of the undernoted substances and objects required in connection with the Works, subject to the maximum amounts as specified below:

TEMPORARY DEPOSITS

Amount	Description
1	FORECAST Floating LiDAR, 18 m tall spar buoy (12 m submerged) attached by a three point mooring system
1	mooring system consisting of 3 x chain/fibre/chain legs, each attached to stockless anchors weighing maximum 17 tonnes

2.5 Persons responsible for the deposits of the substances or objects

The operators, vessels and vehicles engaging in the Works must be notified to the Licensing Authority under condition 3.1.2 prior to their engagement in the Works:

Name of Vessel or Vehicle Registration	Operator	Type(s)
C-Odyssey	Leask Marine	Multiworker Twenty 6

2.6 Persons acting on behalf of the Licensee

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 3.1.2 prior to their engagement in the Works:

Role	Company Name	Address	Contact Name
Floating LiDAR Operator/Project Manager	Babcock Marine (Rosyth) Ltd.	Rosyth Business Park, Rosyth, Dunfermline, Fife. KY11 2YD	David Burke
Marine Contractor	Global Port Services (Scotland) Ltd.	Nigg Energy Park, Nigg, Ross-shire	

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 and supporting documents approved by the Licensing Authority.

Reason: *To ensure compliance with the marine licence, the application for the marine licence and supporting documentation.*

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, 7 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 bad weather conditions, 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 reports and notifications 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 or notifications 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 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 publically 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 the licence is granted, in accordance with s.29(3)(c) of the 2010 Act.*

3.1.7 Chemical usage

The Licensee must ensure that all chemicals which are to be utilised in the Works have been approved prior to use. All chemicals which are to be utilised in the Works must be selected from the List of Notified Chemicals assessed for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002 (as amended) or as exempted for sealed units. The Licensee must submit a report of all chemicals and quantities to be used (e.g. oils and fluorinated gases) during the construction and operation of the works to the Licensing Authority no later than one calendar month prior to the Commencement of the Works. Any changes to the types of chemicals which are proposed to be utilised must be consulted on with the Licensing Authority before the Commencement of the Works or; as the case may be, after the Commencement of the Works but prior to their utilisation.

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.*

3.1.8 Fluorinated greenhouse gases

The Licensee must ensure that all equipment to be utilised in the Works that contains fluorinated greenhouse gases (hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and other greenhouse gases that contain fluorine, listed in Annex I of Regulation (EU) 517/2014 and The Fluorinated Greenhouse Gases Regulations 2015 (the Regulations), or mixtures containing any of those substances) must take precautions to prevent the unintentional release ('leakage') of those gases. They must take all measures which are technically and economically feasible to minimise leakage of fluorinated greenhouse gases.

Where a 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 must ensure that the equipment is checked for leaks in accordance with Annex 4 of the Regulations. Records of leak checks must be kept in accordance with Annex 6 of the Regulations. These records must be submitted to the Licensing Authority annually, and immediately in the event of discovery of any leak.

Where the equipment is subject to leak checks under Article 4(1) of the Regulations, and a leak in the equipment has been repaired, the Licensee must ensure that the equipment is checked by a 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.*

3.1.9 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 any debris or waste material placed below MHWS during the construction of the Works are removed from the Site, as soon as is reasonably practicable,

for disposal at a location above the MHWS approved by the Scottish Environment Protection Agency ("SEPA").

The Licensee must ensure that all substances and objects deposited during the execution of 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.

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

3.1.10 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 by the Licensing Authority 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 vessels permitted to engage 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.*

3.1.11 Inspection of the Works

Any persons authorised by the Licensing Authority, must be permitted to inspect the Works at any reasonable time. 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 Site/Works.

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

3.1.12 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 licensee is aware of financial liabilities, in accordance with s.29(2)(b) of the 2010 Act.*

3.2 Conditions specific to the Works

3.2.1 Conditions applicable to all phases of the Works

3.2.1.1 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, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of the incident occurring.

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 2010 Act.

3.2.1.2 Restoration of the Site to its original condition

In the event of the the Works be discontinued prior to Completion of the Works, the Licensee must inform the Licencing Authority in writing of the discontinuation of the Works. The Licensee must take all reasonable, appropriate and practical steps to remove the works and restore the site to its original condition before the works were undertaken, or to as close to its original condition as reasonably practicable, so the satisfaction of the Licensing Authority.

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

3.2.1.3 Navigational Safety

The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 337900) of both progress and on completion of the works supply a copy of the license, and wherever possible, 'as built plans' in order that all necessary amendments to nautical publications are made.

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

3.2.1.4 Construction Method Statement

The Works must, at all times, be constructed in accordance with the approved Method Statement as submitted with the Application. Any updates or amendments made to the approved Deployment Method Statement must be submitted, in writing, to the Licensing Authority for their approval.

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.

3.2.2.5 Markings, lighting and signals of the Works

The Licensee must ensure that the Works are marked and lit in accordance with the requirements of the NLB, 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 ensure that the works are marked and/or lighted with a Flashing Yellow light of 5 times every 20 seconds (Fl(5) Y 20s) fitted to the Waverider Buoy unit with an increased nominal range of at least 4 nautical miles due to the volume of marine traffic, anchorage and low visibility weather conditions regularly experienced in this area, as required by the NLB. This marking is to be continued unless and until the licensing authority rescind this decision.

If it is desired to display any marks or lights not required by this licence then details shall be submitted to the NLB and MCA and their ruling complied with. The display of unauthorised marks or lights is prohibited.

The Licensee must not display any marks and lights additional to those required by virtue of this licence without the written approval of the Licencing Authority following consultation with the NLB

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

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.

3.2.1.6 Nature and quantity of deposited substances and objects

The Licensee must, no later than 28 days 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, in accordance with s.29(3)(c) of the Marine (Scotland) Act 2010.

3.2.2.7 Navigational Safety

The Licensee must ensure that local mariners, fishermen's organisations and HM coastguard (in this case the zone3@hmcg.gov.uk telephone number 01224 592 334), 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, 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.

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 not exhibit, alter or 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 Northern Lighthouse Board 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.*

3.2.4.4 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.*

4. PART 4 – PROJECT LOCATION

