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MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE FOR MARINE CABLE INSTALLATION WORKS

Licence Number: 06849/19/0

Reference Number: 06849

Scottish Ministers (hereinafter referred to as "the licensing authority") hereby authorise:

America Europe Connect 2 Limited
51-54 Pearse Street
Dublin 2
Ireland
DA2 KA66

to deposit in the sea the substances or objects (except for dredge spoil) used in the execution of works described in Part 1 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 2 of the said Schedule.

This licence shall be valid from 01 March 2019 until 31 August 2019.

Signed: _____ **Redacted** _____

For and on behalf of the licensing authority

Date: 26 February 2019



Part 1 – Particulars

1. Name and address of agent acting on behalf of licensee (if appropriate):

Subcom LLC
 250 Industrial Way West
 Eatontown
 NJ 07224
 USA

2. Location of works:

Norway to United States via Fair Isle Channel within the cable corridor 100m either side of the line defined by joining the following points:

59° 42.926' N	1° 52.156' W	59° 39.070' N	1° 27.109' W
59° 42.887' N	1° 51.664' W	59° 38.923' N	1° 26.324' W
59° 42.872' N	1° 51.478' W	59° 38.226' N	1° 22.604' W
59° 42.869' N	1° 50.894' W	59° 38.198' N	1° 22.453' W
59° 42.821' N	1° 49.805' W	59° 38.160' N	1° 22.078' W
59° 42.704' N	1° 48.566' W	59° 38.103' N	1° 21.356' W
59° 42.643' N	1° 48.098' W	59° 38.020' N	1° 20.833' W
59° 42.533' N	1° 46.294' W	59° 37.942' N	1° 20.392' W
59° 42.398' N	1° 45.353' W	59° 37.843' N	1° 19.835' W
59° 42.175' N	1° 44.570' W	59° 37.702' N	1° 19.084' W
59° 42.081' N	1° 43.876' W	59° 37.661' N	1° 18.865' W
59° 41.411' N	1° 40.219' W	59° 37.544' N	1° 18.230' W
59° 41.198' N	1° 38.797' W	59° 37.309' N	1° 16.961' W
59° 40.745' N	1° 36.662' W	59° 37.235' N	1° 16.522' W
59° 40.664' N	1° 36.058' W	59° 37.169' N	1° 16.127' W
59° 40.553' N	1° 35.225' W	59° 37.132' N	1° 15.904' W
59° 40.036' N	1° 32.437' W	59° 37.102' N	1° 15.719' W
59° 40.010' N	1° 32.300' W	59° 37.076' N	1° 15.570' W
59° 39.961' N	1° 31.801' W	59° 36.931' N	1° 14.696' W
59° 39.878' N	1° 30.976' W	59° 36.902' N	1° 14.524' W
59° 39.768' N	1° 29.464' W	59° 36.892' N	1° 14.466' W
59° 39.467' N	1° 28.479' W	59° 36.772' N	1° 13.742' W
59° 39.268' N	1° 27.847' W	59° 36.767' N	1° 13.713' W
59° 39.205' N	1° 27.464' W		

As shown in Annex One.

3. Description of works:

America Europe Connect 2 Limited (Per Subcom LLC) - Subsea Cable - Norway to United States via Fair Isle Channel

As described in application dated 26 November 2018, and correspondence submitted in support of the application.

4. Nature and indicative quantity of materials to be used in the works below Mean High Water Springs:

Materials Used in Construction

38km of fibre optic cable

Objects to be Removed

500m of out of service cable

Part 2 - Conditions

General Conditions

1. The licensee must notify Source Data Receipt, The Hydrographic Office ("UKHO"), Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 484444) of both progress and on completion of the works supply a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.
2. If it is desired to display any marks or lights not required by this licence then details must be submitted to the Northern Lighthouse Board ("NLB") and their ruling complied with. The display of unauthorised marks or lights is prohibited.
3. The licensee must ensure that no deviation from the schedule specified in the licence is made without further written consent of the licensing authority.
4. The licensee must ensure that all operations relating to the licence must be undertaken and operated in accordance with the approved Fisheries Liaison and Mitigation Action Plan ("FLMAP") (submitted to the licensing authority in support of the application on 26 November 2018). Any updates or amendments which are proposed to be made to the FLMAP by the licensee must be submitted, in writing, by the licensee to the licensing authority for their written approval.
5. If in the opinion of the licensing authority the assistance of a Government Department, including the broadcast of navigational warnings, is required to deal with any emergency arising from:
 - a) The failure to mark and light the works as required by licence.
 - b) The maintenance of the works.
 - c) The drifting or wreck of the works.

The licensee shall be liable for any expenses incurred in securing such assistance.

6. In the event of the licensee becoming aware that any of the information on which the issue of the licence was based has changed, the licensing authority must be immediately notified of the details.
7. The licensee must ensure that the works are maintained at all times in good repair.
8. Any person authorised by the licensing authority must be permitted to inspect the works at any reasonable time.
9. 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;
 - b) the premises of any agent acting on behalf of the licensee;
 - c) any vessel involved in the works.
10. Should the installation or use of the licensed works be halted before the proposed project end of life, the licensee must notify the licensing authority and, within a timescale agreed by the licensing authority, submit a decommissioning plan to the licensing authority for

approval. The plan must be based on best practice at that time. The licensee shall be liable for all costs.

11. In the event of the licensed operations being discontinued the works must be removed and the site cleared to the satisfaction of the licensing authority.

Prior to the Commencement of the Works

12. The licensee must ensure that a copy of this licence is given to each contractor appointed to carry out part or all of the works in order that they are clear about the extent of 'the works' for which consent has been given and the conditions that are attached to the consent.
13. The licensee must ensure that HM Coastguard, in this case nmcccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the works prior to commencement.
14. The licensee must ensure that Notice(s) to Mariners, Radio Navigation Warning(s) and publication in appropriate bulletins are provided, stating the nature and timescale of any works carried out in the marine environment relating to the cable installation operations.
15. The licensee must issue local notification to marine users including fisherman's organisations, neighbouring port authorities and other local stakeholders, to ensure that they are made fully aware of the activity.
16. The licensee must submit a Marine Mammal Protection Plan, in writing, to the licensing authority for their written approval, at least four weeks prior to the commencement of the works, or less if agreed by the licensing authority. It is not permissible for any works to proceed prior to the granting of such approval.
17. The licensee must notify HM Coastguard ("HMCG") seven days in advance of the proposed Unexploded Ordnance ("UXO") works, in this case to zone3.hmcg.gov.uk and to include emergency contact information for the vessel and expected timescale of operation. The licensing authority must be notified as soon as it is identified that UXO works are required as it is likely a further marine licence will be required. Verbal communication should be made direct with HMCG at the start of the UXO works, and again to notify the end of the clearance. This can be established either using appropriate radio channels/frequencies or via telephone in this case to Aberdeen HMCG on 01224 492 334.

During the Works

18. The licensee must ensure that the cable installation works do not encroach on any recognised anchorages within the licensed area, as illustrated on Admiralty Charts.
19. 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 prior written approval of the licensing authority.
20. The licensee must ensure that the cable-laying vessel(s) are equipped with and use Automatic Identification System ("AIS") and Automatic Radar Plotting Aid ("ARPA").
21. The licensee must ensure that the works are carried out in accordance with the approved Project Description and Construction Method Statement ("CMS") submitted to the licensing authority in support of the application on 26 November 2018). In the event that the licensee

wishes to update or amend the CMS, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than two months or at such a time as agreed with the licensing authority, prior to the planned implementation of the proposed updates or amendments. It is not permissible for any works associated with the proposed updates or amendments to proceed prior to the granting of such approval.

22. The licensee must ensure that the works are carried out in accordance with the approved Environmental Assessment submitted to the licensing authority in support of the application on 26 November 2018. In the event that the licensee wishes to update or amend the Environmental Assessment, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than two months or at such a time as agreed with the licensing authority, prior to the planned implementation of the proposed updates or amendments. It is not permissible for any works associated with the proposed updates or amendments to proceed prior to the granting of such approval.
23. The licensee must report all recoveries of wreck material to the Receiver of Wreck under part 9 of the Merchant Shipping Act 1995. Failure to report the recovery of wreck material to the Receiver is a criminal offence. Additional information and a report of wreck and salvage form can be found at www.gov.uk/guidance/wreck-and-salvage-law.
24. The licensee must ensure that only the materials listed in Part 1 of the licence are placed during the execution of the works and that all substances or objects used 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.
25. The licensee must ensure that any debris or waste materials arising during the course of the works are removed from the site of the works for disposal at an approved location above the tidal level of Mean High Water Springs ("MHWS").
26. The licensee must ensure appropriate steps are taken to minimise damage to the seabed by the works.
27. The licensee must ensure the best method of practice is used to minimise re-suspension of sediment during these works.
28. The licensee must take all reasonable steps to ensure existing and future safe navigation is not compromised. A maximum of 5% reduction in surrounding depth referenced to Chart Datum must not be exceeded without the approval of the licensing authority in consultation with the Maritime and Coastguard Agency ("MCA").
29. The licensee must ensure that the works are carried out in accordance with the Marine Mammal Protection Plan submitted in condition 16 and approved by the licensing authority.
30. The licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.

On Completion of the Works

31. The licensee must, within 28 days of completion of the works or within 28 days of the date of expiry of the licence, whichever is the sooner, submit a written report to the licensing authority stating the nature and quantity of all substances and objects placed below MHWS under authority of the licence. Where appropriate, nil returns must be provided.
32. The licensee must, following installation, notify the licensing authority, MCA, UKHO, NLB, the Kingfisher Information Service Offshore Renewables and Cable Awareness (KIS-ORCA) and the UK International Cable Protection Committees of the cable corridor and a 500m zone either side of it as a hazardous area for anchoring, to help communicate the 'as laid' position of facilities to the maritime community.
33. In the event of the licensee becoming aware of information indicating that any part of the licensed works has become a danger to navigation, the licensee must immediately inform the licensing authority, MCA, UKHO, NLB, KIS-ORCA and the UK International Cable Protection Committees to communicate the hazard to the maritime community. The licensee shall be liable for all costs.
34. The works should be removed from below the level of MHWS, or such alterations made, 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 consent by the licensing authority. The licensee shall be liable for any expense incurred.
35. The licensee must, within four weeks of becoming aware of any danger to navigation or risk to any legitimate user of the sea arising from any part of the licensed works or of notice being given by the licensing authority at any time it is considered necessary or advisable for the safety of navigation or protection of legitimate users of the sea, submit a mitigation plan to the licensing authority for approval. The mitigation plan must review the possibility for removal of, or alteration to, the deposits below the level of MHWS. The licensee is responsible for the payment of all costs to discharge this condition.
36. The licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the completion of the works.
37. The licensee must undertake and submit to the licensing authority, within eight weeks of completion of operations relating to the licence (subject to operational constraints), an assessment of any risks posed by the final position of the cable. This must be completed to the satisfaction of the licensing authority to ensure that the safety of navigation and other legitimate users of the sea is not compromised.
38. The licensee must, two years prior to the end of life of the licensed works or of the use of the works being halted, submit a decommissioning plan to the licensing authority for approval. The plan must be based on best practice at that time. The licensee shall be liable for all costs.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed operations. 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.
3. Under Section 30 of the Marine (Scotland) Act 2010, the licensing authority may vary, suspend or revoke the licence, if it appears to the authority that there has been a breach of any of the provisions of the licence or for any other reason that appears to be relevant to the authority.
4. Under Section 39 of the Marine (Scotland) Act 2010, it is an offence to carry on a licensable marine activity or cause or permit any other person to carry on such an activity without a marine licence or fails to comply with any condition of a marine licence. It is a defence for a person charged with an offence under Section 40 in relation to any activity to prove that the activity was carried out for the purpose of saving life, or for the purposes of securing the safety of a vessel, aircraft or marine structure (*'force majeure'*), and that the person took steps within a reasonable time to provide full details of the incident to the licensing authority. (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).
5. All correspondence or communications relating to the licence should be addressed to:

Licensing Operations Team
Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

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Email: ms.marinelicensing@gov.scot