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MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT WORKS WITHIN THE SCOTTISH MARINE AREA

Licence Number: 07314/20/0

Reference Number: 07314

The Scottish Ministers hereby authorise:

**Roadbridge UK Ltd
3a Falcon Gate
Shire Park
Welwyn Garden City
Hertfordshire
England
AL7 1TW**

to construct works within the Scottish marine area as described in Part 2 of the attached Schedule.

This licence is subject to the conditions set out in Part 3 of the said Schedule and is valid from **27 May 2020** until **30 November 2020**.

Signed: _____

Malcolm Rose

For and on behalf of the licensing authority

Date: 27 May 2020

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:

- a) “the 2010 Act” means the Marine (Scotland) Act 2010;
- b) “licensable marine activity” means any activity listed in section 21 of the 2010 Act;
- c) “licensee” means the recipient of the licence;
- d) “the licensing authority” means the Scottish Ministers;
- e) “mean high water springs” means the average of high water heights occurring at the time of spring tides;
- f) “seabed” means the ground under the sea.

All geographical co-ordinates contained within this licence are in latitude and longitude format 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

Tel: +44 (0) 300 2445046

Email: ms.marinelicensing@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 out of the licensed operations. 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 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 the provisions of this licence or for any such other reason that appears to be relevant to the authority under section 30(2) or (3) of the 2010 Act.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, vary this licence if satisfied that the variation being applied for is not material.

Under section 30 of the 2010 Act the licensing authority may on an application made by the licensee, transfer this licence from the licensee to another person.

Marine Laboratory, 375 Victoria Road, Aberdeen, AB11 9DB
<http://www.gov.scot/Topics/marine/Licensing/marine>



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 provide full details of the matter to 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, either 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 by 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 the sheriff of any sheriffdom against a decision taken by the Scottish Ministers under section 29(1) of the 2010 Act.

2. PART 2 - PARTICULARS

2.1. Name(s) and address(es) of any other agents, contractors or sub-contractors acting on behalf of licensee:

Leapmoor LLP
Gourock Municipal Buildings – Suite 3
122 Shore Street
Gourock
PA19 1QZ

See condition 3.1.2.

2.2. Location of construction works:

Port of Cromarty Firth Phase 4 Development, Invergordon Service Base within the area bounded by joining the following points:

57° 41.188' N, 004° 10.886' W
57° 41.093' N, 004° 10.871' W
57° 41.099' N, 004° 10.734' W
57° 41.059' N, 004° 10.728' W
57° 41.040' N, 004° 11.186' W
57° 41.190' N, 004° 11.195' W
57° 41.201' N, 004° 10.949' W
57° 41.186' N, 004° 10.947' W

As per the indicative plan detailed in Annex 1.

2.3. Description of the works:

Construction of 215 metres ("m") of new quayside (Berth 6) providing approximately 11 acres (44,690 m²) of usable surface through the reclamation of approximately 15.5 acres (62,760 m²) of land, including the following activities:

- Construction of rock armour revetment; 100m remaining
- Installation of appropriate drainage, bollards and services
- Installation of corrosion protection
- Concrete Cope Beam; 85m remaining

As described in application dated 15 May 2018, all correspondence submitted in support of the application and all other associated information.

2.4. Nature and quantity of materials*:

Deposits:

Steel/Iron (incl. rebar, tie rods, quay furniture), 200 tonnes

Concrete (incl. cope beam and ancillary concrete elements, berth apron slab, bollard bases), 3000 tonnes

Plastic/Synthetic (incl. HDPE geoweb and PPE geotextile), 48400 m²

Gravel (stone fill surfacing), 24000 tonnes

Cobbles (graded rock for revetment), 10000 tonnes
Boulders (revetment rock armour), 6000 tonnes
Pipe (incl. pipes, service ducts and drains), 6150 m
Aluminium alloys (anodes), 220 No. 30 tonnes

*Indicative only

3. PART 3 – CONDITIONS

3.1. General conditions

3.1.1. 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.

3.1.2. Agents, contractors and sub-contractors

The licensee must provide, as soon as is reasonably practicable prior to the licensed activities commencing, the name and function of any agent, contractor or sub-contractor appointed to undertake the licensed activities.

Any changes to the supplied details must be notified to the licensing authority, in writing, prior to any agent, contractor or sub-contractor undertaking any licensed activity.

The licensee must ensure that only those agents, contractors or sub-contractors notified to the licensing authority are permitted to undertake the licensed activities.

The licensee must give a copy of this licence and any subsequent variations that have been made to this licence in accordance with section 30 of the 2010 Act to any agent, contractor or sub-contractor appointed to carry out any part, or all, of the licensed activities. The licensee must satisfy themselves that any such agent, contractor or sub-contractor is 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.

3.1.3. Vessels

The licensee must submit full details of the vessels to be utilised in respect of the works, and their anticipated movements, to the licensing authority prior to the commencement of the works. The vessel details provided must include the master's name, vessel type, vessel IMO number and vessel owner or operating company.

The licensee must ensure that a copy of this licence and any subsequent variations made to it in accordance with section 30 of the 2010 Act have been read and understood by the masters of any vessels being used to carry on any licensed activity under this licence, and that a copy of this licence is held on board any such vessel.

3.1.4. Force Majeure

If by any reason of *force majeure* any substance or object is deposited other than at the site which is described in this licence, 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, vehicle or marine structure determines that it is necessary to deposit the substance or object other than at the specified 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.

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.

3.1.6. Submission of reports to the licensing authority

Where it would appear to the licensee that there may be a delay in the submission of the reports, studies or surveys 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, studies or surveys ought to have been submitted to the authority under the terms of this licence.

The reports, studies and surveys must include executive summaries, assessments and conclusions and any data must, subject to any rules permitting non-disclosure, be made publically available by the licensing authority, or by any such party appointed, at their discretion.

3.1.7. Environmental protection

The licensee must ensure that all required mitigation identified in the Environmental Impact Assessment ("EIA") process is implemented to address significant environmental effects.

The licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to minimise damage to the Scottish marine area caused by the licensed activity authorised under this licence.

The licensee must ensure that any debris or waste materials 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 MHWS approved (as appropriate) by the Scottish Environment Protection Agency.

The licensee must ensure that all substances and materials 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.

The licensee must ensure that the risk of transferring non-native species to and from the site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the works.

The licensee must ensure that if oil based drilling muds are utilised they must be contained within a zero discharge system.

3.1.8. Availability of the licence for inspection

The licensee must ensure that copies of the licence are available for inspection by any persons 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; and
- c) any onshore premises directly associated with the licensed activities.

3.1.9. 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, on being given reasonable notice by the licensing authority (of at least 72 hours), provide transportation to and from the site (weather permitting) for any persons authorised by the licensing authority to inspect the site.

3.1.10. Construction Environmental Management Document (“CEMD”)

The licensee must adhere to the approved CEMD (revision 3, dated 07 August 2018) and ensure that all mitigation measures listed are fully implemented. In the event that the licensee wishes to update or amend any of the protocols in the CEMD, the licensee must submit, in writing, details of proposed updates or amendments to the licensing authority for their written approval, no later than one month 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.

3.2. Prior to commencement of the works

- 3.2.1.** The licensee must, prior to commencement of the works, notify the licensing authority of the proposed start date of the works.
- 3.2.2.** The licensee must ensure that a Notice to Mariners is issued prior to commencement of the works, clearly stating the nature and duration of the works.
- 3.2.3.** The licensee must ensure that HM Coastguard, in this case nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre, is made aware of the works prior to commencement.
- 3.2.4.** The licensee must continue the Joint Working Group (“JWG”) with The Highland Council (Local Roads Authority) and Transport Scotland (Trunk Roads Authority) to regularly monitor and manage parking, transport and road safety issues on the local road network arising from both the construction phase and from on-going port operations connected to the licensed activities. The remit of the JWG shall be to promote effective communication and to discuss and resolve local transport issues including the on-going review and agreement of the Construction Traffic Management Plan (“CTMP”). Construction must proceed in accordance with the Framework CTMP or any subsequent CTMP agreed by the JWG.
- 3.2.5.** The licensee must invite the members of the JWG to meet every 3 months, or other such time period as may be agreed by the members of the group, for the duration of the construction period and every twelve months thereafter, or other such time period as may be agreed by the members of the group.

3.3. During the works

- 3.3.1.** The licensee must ensure that only the deposits listed in Part 2 of this licence are deposited during the execution of the works and that all substances or objects deposited during the execution of the works are inert and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.
- 3.3.2.** The licensee must co-ordinate the movements of any vessels utilised in respect of the works with the vessel movements of any other developments or activities, taking place at the same time, to spread out vessel activity as far as is practically possible so that it does not occur simultaneously.
- 3.3.3.** The licensee must ensure that all stakeholders and users of the area who may be subject to temporary disruption as a result of the works are kept informed with regards to the progress of the works as far as is reasonably practicable.
- 3.3.4.** The licensee must ensure that no piling is undertaken under this licence.
- 3.3.5.** The licensee must review the existing and future aid to navigation requirement. If there is a requirement to relocate the existing navigation lights, the Statutory Sanction of the Northern Lighthouse Board must be sought prior to the alteration; forms are available on request from: navigation@nlb.org.uk.
- 3.3.6.** If it is desired by the licensee to display any marks or lights not required by this licence then details of such marks or lights must be submitted to the Northern Lighthouse Board and their ruling must be complied with. The display of unauthorised marks or lights is prohibited.
- 3.3.7.** The licensee must ensure that the works are maintained at all times in good repair.
- 3.3.8.** In the event of the works being discontinued prior to their completion, the licensee must remove the works and clear the site to the satisfaction of the licensing authority.
- 3.3.9.** 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; or
 - c) The drifting or wreck of the works.

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

- 3.3.10.** The licensee must ensure that all recoveries of wreck material are reported to the Receiver of Wreck within 28 days of recovery. 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.
- 3.3.11.** The licensee must ensure that no deviation from the schedule specified in the licence is made without the further written consent of the licensing authority.

- 3.3.12.** The licensee must remove all substances, objects or materials temporarily deposited during the works before the expiry of this licence.

3.4. On completion of the works

- 3.4.1.** The licensee must develop an appropriate Travel Plan ("TP"), subject to the agreement of the JWG. Port operations associated with the licensed construction must proceed in accordance with the agreed TP.
- 3.4.2.** Prior to the commencement of operations, full details of any external lighting to be used within the site and/or along its boundaries and/or access must be submitted to, and approved in writing by, The Highland Council. Such details must include full details of the, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare or light spillage outwith the site boundary. Thereafter only the approved details shall be implemented.
- 3.4.3.** Unless otherwise agreed in writing with the licensing authority, in consultation with The Highland Council, the licensee must adhere to the following in regards to the quayside storage and assembly of offshore wind turbine components:
- a) Up to 4 full height towers can be stored awaiting load out in the quayside under normal conditions for no more than 10 days
 - b) There will normally be no more than 12 complete towers in the assembly locations at any one time
 - c) Storage of 13-16 complete towers in the assembly area at the same time should not exceed 8 consecutive weeks in any 6 month period, except in exceptional circumstances
- 3.4.4.** The licensee must, within 7 days of completion of the works, notify the licensing authority of the date of completion of the works.
- 3.4.5.** 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 materials placed and removed under authority of the licence. Where appropriate, nil returns must be provided.
- 3.4.6.** The licensee must, within 28 days of completion of the works, supply Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (email: sdr@ukho.gov.uk; tel.: 01823 337900) with a copy of the 'as built plans', in order that all necessary amendments to nautical publications are made. The licensee must notify the licensing authority of the notification at the time it is made.

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