

**MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING**  
**MARINE AND COASTAL ACCESS ACT 2009, PART 4 MARINE LICENSING**

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

Licence Number: **MS-00010269**

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

**TC Moray East OFTO Limited**  
**3 More London Riverside**  
**London**  
**SE1 2AQ**

To:

Under Marine (Scotland) Act 2010;

1) To deposit any substance or object (except for dredge spoil) in the sea or on or under the seabed from a vessel which was loaded with the substance or object either in Scotland or in the Scottish marine area;

Under the Marine and Coastal Access Act 2009:

- 1) To deposit any substance or object (except for dredge spoil) within the UK marine licensing area, either in the sea or on or under the seabed;
- 2) To deposit any substance or object (except for dredge spoil) within the UK marine licensing area, from a vessel which was loaded with the substance or object in the UK Marine Area either in the sea or on or under the seabed;
- 3) To construct any works within the UK marine licensing area either in or over the sea or under the seabed,

required in the execution of the Works (including construction, operation and maintenance) described in Part 2 of the attached Schedule. The issue of this licence is subject to the conditions as set out, in Part 3 of the Schedule.

The licence is remains in force from **22 February, 2024** until 25 years from the final commissioning of the first Offshore Substation Platform or until the Works have been decommissioned in accordance with an approved Decommissioning Programme prior to this date, and for which a separate Marine Licence is required.

Signed: .....

Rosanne Dinsdale

For and on behalf of the Licensing Authority

Date of issue: 22 February, 2024

## 1. PART 1 - GENERAL

### 1.1 Interpretation

In the licence, unless otherwise stated, terms are as defined in sections 1,64 and 157 of the Marine (Scotland) Act 2010 and sections 66(4), 115 and 332 of the Marine and Coastal Access Act 2009, and;

- a) **"the 2009 Act"** means the Marine and Coastal Access Act 2009 (as amended);
- b) **"the 2010 Act"** means the Marine (Scotland) Act 2010;
- c) **"the Application"** means the marine licence application form and supporting documentation submitted to the Licensing Authority by Moray Offshore Windfarm (East) Limited on 5th May 2017;
- d) **"Licensee"** means TC Moray East OFTO Limited having their registered office at 3 More London Riverside, London, SE1 2AQ;
- e) **"the Licensing Authority"** means the Scottish Ministers;
- f) **"Commencement of the Works"** means the date on which the first vessel arrives on the Site to begin carrying on a Licensable Marine Activity in connection with the construction of the Works, as described in Part 2 of this licence;
- g) **"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;
- h) **"Decommissioning of the Works"** includes the removal of the Works from the seabed, demolishing the Works or dismantling the Works;
- i) **"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);
- j) **"the Site"** means the area outlined in red in the figure contained in Part 4 of this licence;
- k) **"the Works"** means the Moray Offshore Windfarm (East) Limited, two additional distributed Offshore Substation Platforms ("OSPs") as part of the projects Modified Offshore Transmission Infrastructure ("Modified OfTI") as described in Part 2 of this licence;
- l) **"MHWS"** means mean high water spring tide;
- m) **"Final Commissioning of the Works"** means the date on which the OSPs 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;
- n) **"Offshore Substation Platform ("OSP")"** means a structure used to accommodate the assets necessary for the collection, conversion and transmission of electrical power from the individual wind turbine generators ("WTGs");
- o) **"Marine Mammal Monitoring Programme"** means the programme put in place by the Moray Firth Windfarm developers and the University of Aberdeen to monitor the effects of the Beatrice, Telford, Stevenson and MacColl wind farms on marine mammals;
- p) **"the Vessel Report"** means the online reports made available by the Licensee on the Transmission Capital Partners projects webpage, which can be found at: <https://www.transmissioncapital.com/projects/> and
- q) **"the Persons Acting on Behalf of the Licensee Report"** means the online reports made available by the Licensee on the Transmission Capital Partners projects webpage, which can be found at: <https://www.transmissioncapital.com/projects/>

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: MD.MarineRenewables@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 72(1) of the 2009 Act the Licensing Authority may by notice vary, suspend or revoke the licence, if it appears to the Licensing Authority that there has been a breach of any of its provisions or for any such other reason that appears to be relevant to the Licensing Authority under section 71(2) or (3) of the 2009 Act.

Under section 71(7) of the 2009 Act, on an application made by the Licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

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 85 of the 2009 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.

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 86 of the 2009 Act, it is a defence for a person charged with an offence under section 85(1) of the 2009 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, and

that the person took steps within a reasonable time to inform the Licensing Authority of the matters set out in section 86(2) of the 2009 Act.

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 85 of the 2009 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 2009 Act or the provisions of the licence.

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 the 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**

Moray Offshore Windfarm (East) within the area bounded by joining the following points:

58° 19.378' N, 2° 44.296' W

58° 13.147' N, 2° 34.265' W

58° 8.080' N, 2° 34.184' W

58° 3.946' N, 2° 54.796' W

58° 12.571' N, 2° 52.451' W

### **2.3 Description of the Licensed Activity**

Modified Offshore Transmission Infrastructure consisting of two additional distributed AC Offshore Substation Platforms (“OSPs”) to accommodate the change in design, from two OSPs as consented in the Marine Licence number 05340/14/0 to a maximum of four smaller OSPs.

Installation with jacket substructures and pin-pile foundations and moorings to support construction activities. (please refer to Marine Licence Number 05340/14/0 in relation to inter-platform cabling). As described in the submitted application form dated 1st May 2017, and all supporting information submitted in relation to the application.

As described in the application dated 01 May, 2017 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:

Steel/Iron 5000 tonne per unit (2);

Plastic/Sythetic (per topside) 500 tonne (total weight) per topside;

Concrete 175 tonne per substructure (2);

Stone/Rock/Gravel (size range 50-200mm) (per substructure) total per substructure: 5000 m<sup>3</sup>;

Concrete bags/mattresses 100 (Dimensions 6m x 3m x 0.5m per bag/mattress) Quantity: 100 of: 1000 m<sup>3</sup>

### **2.5 Persons responsible for the deposits of the substances or objects**

The Licensee must ensure that the operators, vessels and vehicles engaging in the Licensable Marine Activity authorised under this licence, are fully detailed in the Vessel Report prior to their engagement in the Works. In accordance with condition 3.1.3, the Licensee must make the Vessel Reports available on the Transmission Capital Partners projects webpage, which can be found at: <https://www.transmissioncapital.com/projects/>

## 2.6 Persons acting on behalf of the Licensee

The Licensee must ensure that the name and address of any agents, contractors or subcontractors appointed to carry out any part, or all, of the Licensable Marine Activity authorised under this licence, are fully detailed in the Persons Acting on Behalf of the Licensee Report prior to their engagement in the Works. In accordance with condition 3.1.3, the Licensee must make the Persons Acting on Behalf of the Licensee Reports available on the Transmission Capital Partners projects webpage, which can be found at: <https://www.transmissioncapital.com/projects/>

### **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 supporting documents received (the Offshore Substation Platforms Marine Licence, Statement regarding Implications for the Environmental Statement (“ES”) and Habitats Regulation Appraisal (“HRA”), and Method Statement), the Section 36 consent and the plans and programmes approved by the Licensing Authority .

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, the Environmental Statement, HRA and Supporting documents associated with the Application and in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.*

##### **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 and item 7 in section 66(1) of the 2009 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 2010 Act and s.71(5) of the 2009 Act.*

##### **3.1.3 Vessels, vehicles, agents, contractors and sub-contractors**

The Licensee must ensure that prior to their engagement in the Licensable Marine Activity authorised under this licence, the name and function of any vessel, vehicle, agent, contractor or sub-contractor appointed to engage in the Works and, where applicable, the master’s name, vessel type, vessel IMO number and vessel owner or operating company, are fully detailed in the Vessel Report and the Persons Acting on Behalf of the Licensee Reports available on the Transmission Capital Partners projects webpage, which can be found at: <https://www.transmissioncapital.com/projects/>

Any changes to the supplied details must be uploaded to the Vessel Report and the Persons Acting on Behalf of the Licensee Report and the Licensing Authority must be notified, in writing, prior to any vessel, agent, contractor or sub-contractor which has not yet been notified to the Licensing Authority engaging in the Licensable Marine Activity.

Only those vessels, agents, contractors or sub-contractors detailed in the Vessel Report and the Persons Acting on Behalf of the Licensee Report are permitted to carry out any part of 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 and section 72 of the 2009 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 and s.85(1)(b) of the 2009 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 and s.71(2)(a) of the 2009 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 and s.71(2)(a) of the 2009 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 and s.71(3)(c) of the 2009 Act.*

### 3.1.7 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 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, Transportation Audit Reports.

**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 and s.71(3)(c) of the 2009 Act.*

### 3.1.8 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 prior to 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 and s.71(2)(b) of the 2009 Act.*

### 3.1.9 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 CO<sub>2</sub> 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 and s.71(2)(b) of the 2009 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 and the UK Marine licensing area, caused as a result of the undertaking of the licensed activities.

The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during all installation, operation and maintenance activities authorised under this licence.

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.

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 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 Site of the Works 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 and s.71(2)(b) of the 2009 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 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 and s.71(2)(b) of the 2009 Act.

### 3.1.12 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 and s.71(2)(b) of the 2009 Act.

### 3.1.13 Emergencies

If the assistance of a Government Department (to include departments of Devolved Administrations) 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 and s.71(2)(b) of the 2009 Act.

## 3.2 Conditions specific to the Works

### 3.2.1 Conditions applicable to all phases of the Works

#### 3.2.1.1 Project Environmental Monitoring Programme (“PEMP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a PEMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with Scottish Natural Heritage (“SNH”), Whale and Dolphin Conservation (“WDC”), Fisheries Management Scotland (“FMS”) and any other ecological advisors as required at the discretion of the Licensing Authority. The PEMP must be in accordance with the Application as it relates to environmental monitoring.

The PEMP must set out measures by which the Licensee must monitor the environmental impacts of the Works. Monitoring is required throughout the lifespan of the Works where this is deemed necessary by the Licensing Authority. Lifespan in this context includes pre-construction, construction, operational and decommissioning phases.

Monitoring should be done in such a way as to ensure that the data which is collected allows useful and valid

comparisons as between different phases of the Works. Monitoring may also serve the purpose of verifying key predictions in the Application. Additional monitoring may be required in the event that further potential adverse environmental effects are identified for which no predictions were made in the Application.

The Licensing Authority may agree that monitoring may cease before the end of the lifespan of the Works.

The PEMP must cover, but not be limited to the following matters:

a) Pre-construction, construction (if considered appropriate by the Licensing Authority) and post-construction monitoring surveys as relevant in terms of the Application and any subsequent surveys for:

1. Diadromous fish;
2. Benthic communities; and
3. Seabed scour and local sediment deposition.

b) The participation by the Licensee in surveys to be carried out the in relation to marine mammals as set out in the Marine Mammal Monitoring Programme.

All the initial methodologies for the above monitoring must be approved, in writing, by the Licensing Authority and, where appropriate, in consultation with the Moray Firth Regional Advisory Group (“MFRAG”), referred to in conditions 3.2.2.18 and 3.2.3.7 of this licence. Any pre-consent surveys carried out by Licensee to address any of the above species may be used in part to discharge this condition.

The PEMP is a live document and must be regularly reviewed by the Licensing Authority, at timescales to be determined by the Licensing Authority, in consultation with the MFRAG to identify the appropriateness of on-going monitoring. Following such reviews, the Licensing Authority may, in consultation with the MFRAG, require the Licensee to amend the PEMP and submit such an amended PEMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation with MFRAG and any other ecological, or such other advisors as may be required at the discretion of the Licensing Authority. The PEMP, as amended from time to time, must be fully implemented by the Licensee at all times.

The Licensee must submit written reports of such monitoring surveys to the Licensing Authority at timescales to be determined by the Licensing Authority in consultation with the MFRAG. Subject to any legal restrictions regarding the treatment of the information, the results are to be made publicly available by the Licensing Authority, or by such other party appointed at their discretion.

**Reason:** *To ensure that all construction and operation activities are carried out in a manner that minimises their impact on the environment, and that mitigation measures contained in the application, or as otherwise agreed, are fully implemented and in accordance with s.29(3)(a) of the 2010 Act and s.71(3)(a) of the 2009 Act.*

### 3.2.1.2 Environmental Management Plan (“EMP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit an EMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH, SEPA, Aberdeenshire Council and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The Works must, at all times, be constructed and operated in accordance with the approved EMP (as updated and amended from time to time by the Licensee). Any updates or amendments made to the EMP by the Licensee must be submitted, in writing, by the Licensee to the Licensing

Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with Aberdeenshire Council.

The EMP must set out a mechanism for the approval process for all proposed updates to the EMP. This must include, but not be limited to, a programme for the consideration of the consultation on, and any subsequent grant of approval of the proposed updated EMP, to be agreed in writing between the Licensee and the Licensing Authority.

The EMP must provide the over-arching framework for on-site environmental management during the phases of works as follows:

- a) all construction as required to be undertaken before the Final Commissioning of the Works; and
- b) the operational lifespan of the Works from the Final Commissioning of the Works until the cessation of electricity transmission (environmental management during decommissioning is addressed by condition 3.2.2.2).

The EMP must be in accordance with the Application as it relates to environmental management measures. The EMP must set out the roles, responsibilities and chain of command of any Licensee personnel, contractors or sub-contractors in respect of environmental management for the protection of environmental interests during the construction and operation of the Works. It must address, but not be limited to, the following over-arching requirements for environmental management:

- a) Mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the Application and pre-consent and pre-construction surveys, and include the relevant parts of the Construction Method Statement ("CMS");
- b) A completed Written Scheme of Investigation ("WSI") approved by Historic Scotland;
- c) Pollution prevention measures and contingency plans;
- d) Management measures to prevent the introduction of marine non-native marine species;
- e) Measures to minimise, recycle, reuse and dispose of waste streams; and
- f) The methods for responding to environmental incidents and the reporting mechanisms that will be used to provide the Licensing Authority and relevant stakeholders (including, but not limited to SNH, SEPA, Maritime and Coastguard Agency ("MCA") and the Northern Lighthouse Board ("NLB")) with regular updates on construction activity, including any environmental issues that have been encountered and how these have been addressed.

The Licensee must, no later than 3 months prior to the Final Commissioning of the Works, submit an updated EMP, in writing, to cover the operation and maintenance activities for the Works to the Licensing Authority for their written approval. Such approval may be given only following consultation with SNH, SEPA and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The EMP must be regularly reviewed by the Licensee and the MFRAG (refer to conditions 3.2.2.18 and 3.2.3.7) over the lifespan of the Works, and be kept up to date (in relation to the likes of construction methods and operations of the Works in terms of up to date working practices) by the Licensee in consultation with the MFRAG.

The EMP must be informed, so far as is reasonably practicable, by the baseline surveys undertaken as part of the Application and the PEMP.

**Reason:** To ensure the appropriate construction management of the Development, taking into account mitigation measures to protect the environment and other users of the marine areas. In accordance with s.29(3)(a) of the 2010 Act and s.71(3)(a) of the 2009 Act.

### 3.2.1.3 SpORRAn' (Scottish Offshore Renewables Research Framework)

The Licensee must, to the satisfaction of the Licensing Authority, participate in the monitoring requirements as laid out in the 'SpORRAn' (Scottish Offshore Renewables Research Framework) for Diadromous Fish' ("NRMSD"). The extent and nature of the Licensee's participation is to be agreed by the Licensing Authority.

**Reason:** *To ensure effective monitoring of the effects on migratory fish at a local level, in accordance with s.29(3)(a) of the 2010 Act and s.71(3)(a) of the 2009 Act.*

#### **3.2.1.4 Moray Firth Offshore Wind Developers Group - Commercial Fisheries Working Group ("MFOWDG-CFWG")**

The Licensee must continue its membership in the MFOWDG-CFWG, or any successor group formed to facilitate commercial fisheries dialogue to define and finalise the draft Commercial Fisheries Mitigation Strategy (dated 1st July 2013 (Revision C)) ("CFMS") and define and finalise the draft Export Cable Commercial Fisheries Mitigation Strategy (dated 27th August 2014 (Revision B)) ("XCFMS").

As part of the finalised CFMS and XCFMS, the Licensee must produce and implement a mitigation strategy for each commercial fishery that can prove to the Licensing Authority that they will be adversely affected by the Works. Should it be deemed necessary by the MFOWDG-CFWG, investigations into alternative gear for the scallop fishing industry in the Moray Firth must form part of the CFMS and XCFMS.

The CFMS and XCFMS to be implemented must be approved in writing by the Licensing Authority. The Licensee must implement all mitigation measures committed to be carried out by the Licensee within the CFMS and XCFMS, so far as is applicable to the Works. Any agents or their contractors or sub-contractors working for the Licensee, must co-operate with the fishing industry to ensure the effective implementation of said CFMS and XCFMS.

**Reason:** *To mitigate the impacts on commercial fishermen in accordance with s.29(3)(a) of the 2010 Act and s.71(3)(a) of the 2009 Act.*

#### **3.2.1.5 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 Licensing Authority informed of any such incidents which may be in the public interest, in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.*

#### **3.2.1.6 Bunding and storage facilities**

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.

**Reason:** *To ensure pollution prevention is undertaken, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

### 3.2.1.7 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 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 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 Act and s.71(3)(e) 2009 Act.*

### 3.2.1.8 Marine Pollution Contingency Plan (“MPCP”)

The Licensee must, no later than 3 months prior to the Commencement of the Works, submit in writing to the Licensing Authority for their written approval, a Marine Pollution Contingency Plan (“MPCP”).

The MPCP must make provision in respect of spills and collision incidents occurring during the construction and operation of the Works and where such spills or collisions occur then the MPCP must be adhered to in full. The MPCP must take into account existing plans for all operations, including offshore installations that may have an influence on the MPCP. Practices used to refuel vessels at sea must conform to industry standards and to relevant legislation. The MPCP must set out how any oil leaks within the structures are to be remedied and that such relevant repairs are required to be undertaken without undue delay.

Commencement of the Works must not occur until the Licensing Authority has given its written approval to the MPCP. The Works must be constructed and operated in accordance with the MPCP.

**Reason:** *To ensure pollution prevention is undertaken, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

### 3.2.1.9 Moray Firth Regional Advisory Group (“MFRAG”)

The Licensee must participate in any MFRAG established by the Licensing Authority for the purpose of advising the Licensing Authority on research, monitoring and mitigation programmes for, but not limited to, diadromous fish, marine mammals and commercial fish. Should a Scottish Strategic Marine Environment Group (“SSMEG”) be established (refer to conditions 3.2.2.19 and 3.2.3.11), the responsibilities and obligations being delivered by the MFRAG will be subsumed by the SSMEG at a timescale to be determined by the Licensing Authority.

**Reason:** *To ensure effective environmental monitoring and mitigation is undertaken at a National scale and environmental impacts are minimised, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

## 3.2.2 Prior to the Commencement of the Works

### 3.2.2.1 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*



and s.71(3)(c) of the 2009 Act.

### 3.2.2.2 Decommissioning

Where the appropriate authority has, following consultation with the Licensing Authority, given notice requiring the Licensee to submit to the appropriate authority a Decommissioning Programme (“DP”), pursuant to section 105(2) and (5) of the Energy Act 2004, then construction of the Works may not begin until after the Licensee has submitted to the appropriate authority a DP in compliance with that notice.

**Reason:** *To ensure the decommissioning and removal of the works in an appropriate and environmentally acceptable manner, and in the interests of safety and environmental protection in accordance with s.29(3)(d) of the 2010 Act and s.71(3)(d) of the 2009 Act.*

### 3.2.2.3 Construction Programme (“CoP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a Construction Programme (“CoP”), in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH, SEPA, MCA, NLB, THC and Aberdeenshire Council (“AC”) and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CoP must set out:

- a) The proposed date for Commencement of the Works;
- b) The proposed timings for mobilisation of plant and delivery of materials, including details of onshore lay-down areas;
- c) The proposed timings and sequencing of construction work for all elements of the Works infrastructure;
- d) Contingency planning for poor weather or other unforeseen delays; and
- e) The scheduled date for Final Commissioning of the Works.

**Reason:** *To confirm the timing and programming of construction is in accordance with the Application and in accordance with s.29(3)(a) of the 2010 Act and s.71(3)(a) of the 2009 Act.*

### 3.2.2.4 Construction Method Statement (“CMS”)

The Licensee must, no later than 6 months prior to the Commencement of the Works submit a Construction Method Statement (“CMS”), in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH, SEPA, MCA, NLB, AC and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The Works must, at all times, be constructed in accordance with the approved CMS. Any updates or amendments made to the approved CMS must be submitted, in writing, to the Licensing Authority for their prior written approval.

**Reason:** *To ensure that the Works are carried out in accordance with the Application and in accordance with s.29(3)(a) of the 2010 Act s.71(3)(a) of the 2009 Act.*

### 3.2.2.5 Lighting and Marking Plan (“LMP”)

The Licensee must, no later than 6 months prior to the Commencement of the Development, submit a Lighting and Marking Plan (“LMP”), in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with MCA, NLB, Aberdeenshire Council, The Highland Council and Moray Council, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. 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 Licensing Authority 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 prior to approval of the LMP.

The LMP must make provision for amending the marking and lighting of the OSPs, as required by the MCA, NLB and/or the CAA, in the event that any OSPs are constructed prior to the construction of WTGs within the Site, to ensure the marking and lighting of any OSP suits the layout of any surrounding WTGs that form part of any wind farm development located within the Site.

The Licensee must provide the LMP to Aberdeenshire Council, The Highland Council, Moray Council, SNH and any other bodies as may be required at the discretion of the Licensing Authority.

**Reason:** *To ensure safe appropriate marking and lighting of the offshore Works, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

### 3.2.2.6 Piling Strategy (“PS”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a PS, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH and any such other advisors as may be required at the discretion of the Licensing Authority.

The PS must include:

- a) Full details of the proposed method and anticipated duration of pile-driving at all locations;
- b) Details of soft-start piling procedures and anticipated maximum piling energy required at each pile location; and
- c) Details of mitigation and monitoring to be employed during pile-driving, as agreed by the Licensing Authority.

The PS must be in accordance with the Application and reflect any surveys carried out after submission of the Application. The PS must demonstrate how the exposure to and/or the effects of underwater noise have been mitigated in respect of the following species: bottlenose dolphin; harbour seal; Atlantic salmon; cod; and herring.

The PS must, so far as is reasonably practicable, be consistent with the EMP, the PEMP and the CMS.

**Reason:** *To mitigate the effects of the activity on the Site, in accordance with s.29(3)(a) of the 2010 Act and s.71(3)(a) of the 2009 Act.*

### 3.2.2.7 Development Specification and Layout Plan (“DSLPL”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a DSLPL, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with the MCA, NLB, the Chamber of Shipping (“CoS”), SNH, the Scottish Fisherman’s Federation (“SFF”), Royal Yachting Association Scotland (“RYA Scotland”) and any such other advisors or organisations as may

be required at the discretion of the Licensing Authority.

The DSLP must include, but not be limited to the following:

- a) A plan showing the proposed location of each individual OSP, seabed conditions, bathymetry, confirmed foundation type for each OSP and any key constraints recorded on the Site;
- b) A list of latitude and longitude co-ordinates accurate to three decimal places of minutes of arc for each OSP, this should also be provided as a geographic information system ("GIS") shape file using WGS84 format;
- c) A table or diagram of each OSP, showing dimensions;
- d) The finishes for each OSP; and
- e) The length and proposed arrangements on the seabed of all cables.

**Reason:** To confirm the final Development specification, layout and deposits made were in accordance with the Application, in accordance with s.29(3)(c) of the Marine (Scotland) Act 2010 and s.71 (3)(c) of the 2009 Act.

### 3.2.2.8 Design Statement ("DS")

The Licensee must, no later than 6 months prior to the Commencement of the Development, submit a Design Statement ("DS"), in writing, to the Licensing Authority. The DS, which must be signed off by at least one qualified landscape architect, as instructed by the Licensee prior to submission to the Licensing Authority, must include representative wind farm visualisations from key viewpoints as agreed with the Licensing Authority, based upon the final DSLP as approved by the Licensing Authority as updated or amended.

The DS must be provided, for information only, to The Highland Council, Moray Council, Aberdeenshire Council and SNH and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

**Reason:** To ensure that the Works are carried out in accordance with the Application and in accordance with s.29(3)(a) and of the 2010 Act s.71(3)(a) of the 2009 Act.

### 3.2.2.9 Vessel Management Plan ("VMP")

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a VMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH, WDC and any such other advisors or organisations as may be required at the discretion of the Licensing Authority .

The VMP must include, but not be limited to, the following details:

- a) The number, types and specification of vessels required;
- b) How vessel management will be co-ordinated, particularly during construction but also during operation; and
- c) Location of working port(s), how often vessels will be required to transit between port(s) and the Site and indicative vessel transit corridors proposed to be used during construction and operation of the works.

The confirmed individual vessel details must be notified to the Licensing Authority in writing no later than 14 days prior to the Commencement of the Works, and thereafter, any changes to the details supplied must be notified to the Licensing Authority, as soon as practicable, prior to any such change being implemented in the construction or operation of the Works.

The VMP must, so far as is reasonably practicable, be consistent with the CMS, the EMP, the PEMP, the NSP, and the LMP.

**Reason:** *To mitigate disturbance or impact to marine mammals and birds in accordance with s.29(3)(a) of the 2010 Act and s.71(3)(a) of the 2009 Act.*

### 3.2.2.10 Navigational Safety Plan (“NSP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit an NSP, in writing, to the Licensing Authority, for their written approval. Such approval may only be granted following consultation by the Licensing Authority with MCA, NLB and any other navigational advisors or organisations as may be required at the discretion of the Licensing Authority. The NSP must include, but not be limited to, the following issues:

- a. navigational safety measures;
- b. Navigational Risk Assessment to reflect the increase in structures from original licence
- c. construction exclusion zones;
- d. notice(s) to Mariners and Radio Navigation Warnings;
- e. anchoring areas;
- f. temporary construction lighting and marking; and
- g. buoyage.

The Licensee must confirm within the NSP that they have taken into account and adequately addressed all of the recommendations of the MCA in the current Marine Guidance Note 543 (“MGN 543”), and its annexes that may be appropriate to the Development, or any other relevant document which may supersede said guidance prior to approval of the NSP.

**Reason:** *To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

### 3.2.2.11 Traffic and Transportation Plan (“TTP”)

The Licensee must, at least 6 months prior to the Commencement of the Development submit a Traffic and Transportation Plan (“TTP”) in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with Transport Scotland and any such other advisors as may be required at the discretion of the Licensing Authority. The TTP must set out a mitigation strategy for the impact of road based traffic and transportation associated with the construction of the Works. The Works must be constructed in accordance with the approved TTP

**Reason:** *To maintain the free flow and safety of the Trunk Road network in accordance with s.29(3)(a) of the 2010 Act and s.71(3)(a) of the 2009 Act.*

### 3.2.2.12 Environmental Clerk of Works (“ECoW”)

Prior to the Commencement of the Development, the Licensee must at its own expense, and with the approval of the Licensing Authority in consultation with SNH, appoint an independent Environmental Clerk of Works (“ECoW”). The ECoW must be appointed in time to review and approve the draft version of the first plan or programme submitted under this consent to Licensing Authority, and remain in post until agreed by Licensing Authority. The terms of appointment must also be approved by Licensing Authority in consultation with SNH.

The terms of the appointment must include, but not be limited to:

- a) quality assurance of final draft versions of all plans and programmes required under this consent;
- b) responsible for the monitoring and compliance of the consent conditions and the environmental mitigation measures;
- c) provision of on-going advice and guidance to the Licensee in relation to achieving compliance with consent conditions, including but not limited to the conditions relating to the CMS, the EMP, the PEMP, the PS, the CaP and the VMP;
- d) provision of reports on points b) & c) above to the Licensing Authority at timescales to be determined by the Licensing Authority;
- e) inducting and toolbox talks to onsite construction teams on environmental policy and procedures and keeping a record of these;
- f) monitoring that the Works is being constructed according to the plans and this consent, the Application, ES, HRA, and Method Statement and complies with the regulations and legislation;
- g) reviewing and reporting incidents/near misses and reporting any changes in procedures as a result; and
- h) agreement of a communication strategy with the Licensing Authority.

**Reason:** *To ensure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Works in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

### 3.2.2.13 Fisheries Liaison Officer (“FLO”)

Prior to the Commencement of the Works, a Fisheries Liaison Officer (“FLO”), must be appointed by the Licensee and approved in writing by the Licensing Authority (following consultation with SFF). The FLO must be appointed by the Licensee for the period from Commencement of the Works until the Final Commissioning of the Works. The identity and credentials of the FLO must be included in the EMP (referred to in condition 3.2.1.2). The FLO must establish and maintain effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Works, and ensure compliance with best practice guidelines whilst doing so.

The responsibilities of the FLO must include, but not be limited to:

- a. establishing and maintaining effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea concerning the Works and any amendments to the CMS and site environmental procedures;
- b. the provision of information relating to the safe operation of fishing activity on the site of the Works; and
- c. ensuring that information is made available and circulated in a timely manner to minimise interference with fishing operations and other users of the sea.

**Reason:** *To mitigate the impact on commercial fishermen in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

### 3.2.2.14 Navigation and Charting

The Licensee must, no later than 1 calendar month 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 1 calendar month prior to Commencement of the Works, ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the Maritime Rescue Coordination Centre Shetland is made fully aware of the Works through local Notice to Mariners or by any other appropriate means.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, no later than 1 calendar month prior to the 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, no later than 8 weeks prior to the Commencement of the Works, complete an "Application for Statutory Sanction to Alter / Exhibit" form and submit this to the Northern Lighthouse Board ("NLB") for the necessary sanction to be granted.

**Reason:** *To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

### 3.2.2.15 Third Party Certification or Verification ("TPC" or "TPV")

The Licensee must, no later than 3 calendar months prior to the Commencement of the Works, provide the Licensing Authority with Third Party Certification or Verification ("TPC" or "TPV") (or a suitable alternative as agreed in writing with the Licensing Authority) of the basis of design for all OSPs foundations, jacket and OSP platform structures.

**Reason:** *To provide independent certification or verification of the technology, materials or equipment, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

### 3.2.2.16 Marine Archaeology Reporting Protocol ("MARP")

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a MARP to the Licensing Authority for their written approval, which sets out what the Licensee must do on discovering any marine archaeology during the construction, operation, maintenance and monitoring of the Works, in writing. Such approval may be given only following consultation by the Licensing Authority with Historic Scotland and any such other advisors as may be required at the discretion of the Licensing Authority. The MARP must be implemented in full, at all times, by the Licensee.

**Reason:** *To mitigate the effects of the activity on the Site, in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.*

### 3.2.2.17 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 and s.71(3)(c) of the 2009 Act.*

### 3.2.2.18 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 Co-operation Plan (“ERCoP”) for the construction and operation phases. The ERCoP must 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 3 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 and s.71(3)(c) of the 2009 Act.

### 3.2.3 During the construction of the Works

#### 3.2.3.1 Operation and Maintenance Plan (“OMP”)

The Licensee must, no later than 3 months prior to the commissioning of the first OSP, submit an OMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH, SEPA, MCA, NLB, Aberdeenshire Council and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The OMP must set out the procedures and good working practices for the operations and maintenance of the OSPs, substructures, and cable network of the Works. Environmental sensitivities which may affect the timing of the operation and maintenance activities must be considered in the OMP.

The OMP must, so far as is reasonably practicable, be consistent with the EMP, the PEMP, the VMP, the NSP, the CaP and the LMP.

**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 and s.71(3)(b) of the 2009 Act.

#### 3.2.3.2 Transportation audit sheet

The Licensee must submit a Transportation Audit Report (“TAR”) in line with condition 3.2.3.3 below.

**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 and s.71(3)(c) of the 2009 Act.

#### 3.2.3.3 Transportation audit report

The Licensee must submit to the Licensing Authority a detailed TAR for each calendar month during the construction phase of the Works. The TAR must be submitted within 14 days of the end of that calendar month.

The TAR must include the nature and quantity of all substances and objects deposited and materials used in construction (as described in Part 2 of this licence) in that calendar month. Alterations and updates can be made in the following month’s TAR. Where appropriate, nil returns must be provided.

If the Licensee becomes aware of any substances, objects or materials on the TAR that are missing, or becomes aware that an accidental deposit has occurred, the Licensee must notify the Licensing Authority as soon as practicable. The Licensee must undertake such survey as directed by the Licensing Authority to locate the substances, objects and materials. If the Licensing Authority is of the view that any accidental deposits have occurred and should be removed, then the materials must be removed by the Licensee as soon as is practicable 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 and s.71 (3)(c) of the 2009 Act.*

### 3.2.3.4 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 nautical charts and publications through the national Notice to Mariners system.

The Licensee must notify, from Kirkwall to Peterhead, local mariners, fishermen's organisations and HM Coastguard, in this case Maritime Rescue Coordination Centre Shetland, of the progress of Construction of the Works through local Notice to Mariners or any other appropriate means.

The Licensee must ensure that the progress the of 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 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 advisers as required by the Licensing Authority.

The Licensee must ensure that any cable-laying vessel permitted to engage in the Works is equipped with an automatic identification system ("AIS") and automatic radar plotting aids ("ARPA").

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 Works must be marked and/or lighted as required by the NLB and the marking to be continued unless and until the Licensing Authority rescind this direction.

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

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 and s.71(2)(b) of the 2009 Act.

### 3.2.3.5 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 agreed LMP and requirements of the MCA, NLB, the Civil Aviation Authority (“CAA”) 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 and section 72(3)(c) of the 2009 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, the CAA, and the MCA.

The Licensee must, as construction of the Works progresses, ensure that any OSP constructed within the Site prior to the construction of any WTGs, will have its marking and lighting amended, in accordance in the LMP, to suit the layout of any surrounding WTGs that form part of any wind farm development located within the Site.

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 and s.71(2)(b) of the 2009 Act.

### 3.2.3.6 Noise registry

The Licensee must, submit at quarterly intervals, the appropriate, completed noise registry form in the online Marine Noise Registry at <https://mnr.jncc.gov.uk/login>, stating the date(s), location(s) and nature of such activities under authority of this licence.

**Reason:** To ensure compliance with reporting requirements on marine noise, in accordance with s.29(3)(c) of the 2010 Act and 71(3)(c) of the 2009 Act.

## 3.2.4 Conditions upon Completion of the Works

### 3.2.4.1 Date of Completion of the Works

The Licensee must, no later 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 and s.71 (3)(c) of the 2009 Act.

### 3.2.4.2 Nature and quantity of deposited substances and objects

The Licensee must, no later than 1 calendar month following 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 and s.71(3)(c) of the 2009 Act.*

### 3.2.4.3 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 and s.71(3)(c) of the 2009 Act.*

### 3.2.4.4 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 nautical charts and publications through the national Notice to Mariners system.

The Licensee must, within 1 month of Completion of the Works, provide the “as-built” positions and maximum heights of all OSPs, along with any sub-sea infrastructure and changes to navigable depths, 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 Maritime Rescue Coordination Centre Shetland is 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 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 and s.71(2)(b) of the 2009 Act.*

### 3.2.4.5 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 it 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 and section 72 of the 2009 Act.

The Licensee must ensure that the required IALA availability target for Category 1 Aids to Navigation (“AtoN”) is achieved through redundancy, monitoring and repair, must be in place and arrangements made to warn the mariner promptly of any AtoN fault and its subsequent return to fully operational service.

The Licensee must ensure that the marking and lighting of any OSP within the Site is amended, in accordance in the LMP, to suit the final layout of the WTGs that form part of any wind farm development located within the Site.

**Reason:** *To ensure safe appropriate marking and lighting of the offshore Works, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

#### 3.2.4.6 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 and s.71(3)(c) of the 2009 Act.*

#### 3.2.4.7 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 and UK marine licensing area as a result of the undertaking of the licensed activities.

The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code, where appropriate, during all installation, operation and maintenance activities authorised under this licence.

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.

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 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 Site of the Works 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 and s.71(2)(b) of the 2009 Act.*

#### 3.2.4.8 Operation and Maintenance

The Licensee must operate and maintain the Works in accordance with the approved OMP.

The Licensing Authority must be notified at least 3 calendar months in advance of any maintenance of the Works. In the event that these works are not covered by the licence and are considered by the Licencing Authority as being material and being licensable marine activities then the works will require a new Marine Licence.

**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 and s.71(3)(b) of the 2009 Act.*

#### **3.2.4.9 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 and s.71(3)(d) of the 2009 Act.*

#### **3.2.4.10 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 and s.71(3)(a) of the 2009 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.