Scottish Government
Riaghaltas na h-Alba

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00010873**

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

Elixir Distillers Ltd
Alchemy House, 45 Park Royal Road
London
NW10 7LQ

to construct, alter or improve works as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **21 August, 2025** until **30 September, 2025**

[Redacted]

Signed: ……..
Thomas Inglis

For and on behalf of the Licensing Authority

Date of issue: 20 August, 2025

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and
a) **"the 2010 Act"** means the Marine (Scotland) Act 2010;
b) **"Licensed Activity"** means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
c) **"Licensee"** means Elixir Distillers Ltd
d) **"Mean High Water Springs"** means any area submerged at mean high water spring tide;
e) **"Commencement of the Licensed Activity"** means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
f) **"Completion of the Licensed Activity"** means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

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

Marine Directorate - Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB
Email: MD.Marinelicensing@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 30 (1) of the 2010 Act the Licensing Authority may by notice vary, suspend or revoke the licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.
Under section 30 (7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.
Under section 30 (8) of the 2010 Act, on an application made by the licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that –
the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure (‘force majeure'), and
that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2010 Act or the provisions of this licence.

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

ITPEnergised
60 Elliot Street
Glasgow
G3 8DZ

2.2 Location of the Licensed Activity

Port Ellen, Isle of Islay, within the boundary of:

55° 37.693’ N 06° 10.294’ W
55° 37.692’ N 06° 10.295’ W
55° 37.672’ N 06° 10.277’ W
55° 37.671’ N 06° 10.280’ W
55° 37.690’ N 06° 10.298’ W
55° 37.689’ N 06° 10.297’ W
55° 37.660’ N 06° 10.277’ W
55° 37.659’ N 06° 10.280’ W
55° 37.673’ N 06° 10.302’ W
55° 37.673’ N 06° 10.303’ W
55° 37.612’ N 06° 10.273’ W
55° 37.611’ N 06° 10.276’ W

As shown in Annex One.

2.3 Description of the Licensed Activity

Construction of an outfall

As described in the application dated 01 July, 2024 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:

Materials to be used permanently in the course of the Licensable Activity:

Steel : 1600 kilograms
Concrete: 14,600 kilograms
Plastic/Synthetic Diffusers and Associated Fittings: 1 cubic metre
Plastic/synthetic Rock Filter Unit Mesh: 2 cubic metres
Cobbles: 30 cubic metres

Pipe - Seawater Cooling Intake (SCI) - 45 metres
Pipe - Seawater Cooling Return (SCR) - 15 metres
Pipe - Long Sea Outfall (LSO) - 120 metres
Pipe - Intake air Blast System - 45 metres

Materials to be removed in the course of the Licensable Activity:

Cobbles: 10 cubic metres
Boulders: 10 cubic metres

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only construct the works in accordance with this licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 The Licensee must maintain the works in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.3 All conditions attached to the licence bind any person who for the time being owns, occupies or enjoys any use of the works, whether or not the licence has been transferred to that person.

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

3.1.5 All materials used during the execution of the Licensed Activity must be inert and must not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.6 The Licensee must ensure that the Licensed Activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area as described in Part 2 of the licence.

3.1.7 The Licensee must provide written notification of any serious unforeseen incident of harm to the environment or human health, or any serious unforeseen incident of interference with legitimate uses of the sea during the Licensed Activity, to the Licensing Authority within 24 hours of the incident occurring.

3.1.8 The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 484444) of the progress and upon completion of the the Licensed Activity. Such notification must include a copy of the licence, and wherever possible, ’as built plans’, in order that all necessary amendments to nautical publications are made.

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

3.1.10 The Licensee must notify the Licensing Authority within one week of the Licensed Activity being ceased or terminated before completion and, within one month of such notification, submit a decommissioning plan to the Licensing Authority for its approval. The decommissioning plan must set out measures to be taken for decommissioning the Works and be based on best practice at that time. The licensee must carry out all measures in the approved

decommissioning plan within a timescale stipulated by the Licensing Authority. Where approval for the decommissioning plan is not given by the licensing authority, the licensee must carry out the measures to decommission the works as stipulated by the Licensing Authority in any notice served by the Licensing Authority in a timeframe described in the notice. The Licensee shall be liable for all costs.

3.1.11 Where any damage, destruction, decay or catastrophic failure that could result in a danger or obstruction to navigation is caused to the Works or deposited Objects, the Licensee must notify the Licensing Authority, the UK Hydrographic Office, Maritime and Coastguard Agency, Northern Lighthouse Board, Kingfisher Information Services of Seafish and regional fisheries contacts of such damage, destruction, decay or catastrophic failure in writing as soon as reasonably practicable but no later than six hours after becoming aware of any such damage, destruction, decay or catastrophic failure.

The Licensee must submit a plan to remedy the damage, destruction, decay or catastrophic failure, to the Licensing Authority, for its written approval, within a time period stipulated by the Licensing Authority. The Licensee must carry out the remedial action identified in the plan approved by the Licensing Authority within the period stipulated by the Licensing Authority. The Licensee shall be responsible for the cost of carrying out the activity identified in the plan.

3.1.12 If governmental assistance is required (including UK governmental assistance or the assistance of any UK devolved government) to deal with any emergency arising from:

a) the failure to mark and light the Works as required by the 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.

3.1.13 The Licensee must adopt measures to prevent the introduction and spread of invasive non-native species as a result of the Licensed Activity.

3.1.14 In the event of the Licensed Activity being ceased or terminated before completion, the materials used under the authority of the licence must be removed from the seabed to the satisfaction of the Licensing Authority.

3.1.15 The Licensee must ensure that the works are maintained at all times in good repair.

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

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must provide the name and address of any agent, contractor or sub-contractor proposed to be engaged in the activity to the Licensing Authority prior to the Commencement of the Licensed Activity.

3.2.2 The Licensee must issue local notification to marine users, including fisher's organisations, neighbouring port authorities and other local stakeholders, of the commencement of the Licensed Activity at least five days before the Commencement of the Licensed Activity.

The Licensing Authority must be sent a copy of the notification within 24 hours of the notification being sent.

3.2.3 The Licensee must notify HM Coastguard (Zone34@hmcg.gov.uk) prior to the Commencement of the Licensed Activity, of the start date and proposed end date of the Licensed Activity.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

3.3.2 The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.3.3 The Licensee must ensure that a copy of the licence is available for inspection by a Marine Enforcement Officer at:

a) the premises of the Licensee;

b) the premises of any agent, contractor and sub-contractor engaged in the Licensed Activity;

c) location of the Licensed Activity;

d) any vessel or vehicle carrying on the Licensed Activity.

3.3.4 The Licensee must provide a copy of the licence to each agent, contractor and sub-contractor engaged in the Licensed Activity and must ensure that any person engaged in the Licensed Activity is aware of the particulars in Part 2 of the licence and the conditions in Part 3 of the licence.

3.3.5 The Licensee must minimise suspension of sediment and minimise damage to the seabed when carrying on the Licensed Activity.

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

3.3.7 The licensee must ensure the Works do not exceed a maximum of 5% reduction in surrounding depth referenced to Chart Datum without the approval of the Licensing Authority

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

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must submit a written report regarding the materials used during the works to the Licensing Authority. The written report must be submitted on completion of the works and on the forms provided by the Licensing Authority no later than 31 October 2026.

3.4.2 The beach and seabed must be returned as close as reasonably practicable to the original profile following completion of the Licensed Activity unless otherwise agreed in writing with Licensing Authority.

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.