

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00009422**

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

**Mocean Energy Ltd
Floor 2
Murchison House
10 Max Born Crescent
EH3 8HA**

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 **19 August, 2021** until **30 December, 2021**

Signed:

Stef Sweeting

For and on behalf of the Licensing Authority

Date of issue: 18 August, 2021

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 Mocean Energy 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 Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.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

European Marine Energy Centre Ltd
Old Academy
Stromness
Orkney
KW16 3AW

2.2 Location of the Licensed Activity

Berth 2, Scapa Flow, European Marine Energy Centre (EMEC) Orkney, within the area bounded by joining the following points:

58.53.59' N 002.57.47' W
58.53.19' N 002.57.47' W
58.53.19' N 002.56.53' W
58.53.59' N 002.56.53' W

As shown in Annex One.

2.3 Description of the Licensed Activity

Construction, operation and removal of the Mocean Energy M100P Wave Energy Converter ("WEC").

As described in the application dated 09 June, 2020 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:

No 1 - M100P Wave Energy Converter
No 2 - Mooring lines
No 2 - Anchors (either 2 x chain clump weight anchors or 2 x drag anchors)

Comprised of:

Steel/Iron - 275 tonne;
Plastic/Synthetic - 12 tonne;
Cable - 200 kg;
Aluminium (stator segments, anodes) - 120 kg;
Copper - 140 kg;
Rubber - 50 kg.

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must at all times construct and maintain the Licensed Activity in accordance with this licence, the Application and the plans and programmes approved by the Licensing Authority.

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

3.1.3 In the event of any breach of health and safety or environmental obligations relating to the licensed activity during the period of this Licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Licensing Authority within a period of time to be agreed by the Licensing Authority.

3.1.4 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 both progress and on completion of the the licensed activity supply a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

3.1.5 The Licensee must issue local notification to marine users – including fisherman's organisations, neighbouring port authorities and other local stakeholders to ensure that they are made fully aware of the Licensed Activity.

3.1.6 The Licensee must adhere to all mitigation and monitoring as detailed within the Project Environmental Monitoring Plan ("PEMP") submitted with the application, unless otherwise agreed with the Licensing Authority. The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code as detailed within the PEMP during installation, operation, inspection and removal activities authorised under this licence. The Licensee must submit a written report to the Licensing Authority detailing all monitoring and mitigation implemented during installation, operation and removal activities. The written report must be submitted no later than 1 calendar month after completion of each phase of the works.

3.1.7 Should the Licensee proceed to undertake the Licensed Activity under the authority of this licence, the Licensed Activity authorised under the previous marine licence in favour of Mocean Energy Ltd, dated 29 April 2021 (MS-00009295) is not permitted.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must ensure that HM Coastguard, in this case renewables@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the activity prior to commencement.

3.2.2 There must be no Commencement of the works unless a Decommissioning Programme ("DP") has been submitted to and approved in writing by the the Licensing Authority. The DP must outline measures for the decommissioning of the works, restoration of the sea bed and will include without limitation, proposals for the removal of the works, the management and timing of the removal and environmental management provisions. The works must be decommissioned in accordance with the approved DP unless otherwise agreed by the Licensing Authority.

3.2.3 The Licensee must, no later than 3 calendar months prior to the Commencement of the works (or at an

alternative date as agreed with the Licensing Authority), provide the Licensing Authority with Third Party Certification or Verification (or a suitable alternative as agreed in writing with the Licensing Authority) for the WEC and its mooring arrangements.

3.2.4 The Licensee must, no later than one calendar month prior to commencement of the Licensed Activity, or at an alternative date as agreed with the Licensing Authority, submit an Emergency Response Co-operation Plan ("ERCoP") to the Licensing Authority for its written approval. The ERCoP must be in line with the EMEC overarching ERCoP and be agreed with the Offshore Energy Liaison Officer, HM Coastguard, MCA (oelo@mcga.gov.uk) prior to submission.

3.2.5 The Licensee must survey the site for the presence of Priority Marine Features and protected habitats and species, and submit a report in writing to the Licensing Authority no later than one month prior to commencement of the Licensed Activity. Where Priority Marine Features and protected habitats and species are present, these must be avoided through micro-siting of anchors and lines/chains on the seabed.

3.2.6 The Licensee is authorised to undertake visual inspections as detailed within the maintenance schedule submitted to the Licensing Authority. If maintenance is required, the Licensee must no later than one calendar month prior to commencement of the maintenance activities, submit an updated maintenance plan detailing the schedule for maintenance and inspection of the works to the Licensing Authority for its written approval. In the event that any maintenance activities are licensable marine activities, and are not covered by this licence, a new marine licence may be required prior to undertaking that activity.

3.2.7 The Licensee must complete a statutory sanction application for all navigational marking and lighting of the activity and associated infrastructure and submit it to the Northern Lighthouse Board at navigation@nlb.org.uk.

3.3 During the Licensed Activity

3.3.1 The Licensee must at all times construct and maintain the Licensed Activity in accordance with this licence, the application and the plans and programmes approved by the Licensing Authority.

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

3.3.3 The Licensee must ensure that the licensed activity is maintained at all times in good repair.

3.3.4 The works must be predominantly yellow in colour and fitted with a light flashing yellow once every 5 seconds and visible from all directions. The light should be mounted on the highest point of the superstructure and have a nominal range of 3 nautical miles. A passive radar reflector must be fitted at a similar elevation in order to enhance the radar profile of the device and a yellow "St Andrews Cross" topmark should be installed below the light. The dimensions of this topmark should not be less than 750mm x 150mm. The WEC must be marked by AIS as an Aid to Navigation, transmitting a Type 21 message. A separate AIS licence, issued by OFCOM will be required.

3.3.5 The Licensee must ensure the works is actively monitored during installation, operation and removal phases and any catastrophic failure events must be responded to as described within the approved EMEC ERCoP.

3.3.6 The Licensee must ensure the UK Hydrographic Office is provided with all relevant details, including 'as laid'

positions, of all infrastructure to ensure updates are applied to appropriate navigational charts.

3.4 Upon Completion of the Licensed Activity

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

3.4.2 The Licensee must, no later than 14 days following the Completion of the works notify the Licensing Authority, in writing, of the date of the Completion of the works and/or Licensed Activity.

3.4.3 The Licensee must notify the UK Hydrographic Office to permit the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.

3.4.4 The Licensee must submit a written report to the Licensing Authority stating the nature and total quantity, in wet tonnes, of all substances or objects deposited under authority of the licence. The written report must be submitted to the Licensing Authority within one month of construction and on the forms provided by the Licensing Authority.

3.4.5 The Licensee must apply to the Northern Lighthouse Board for a Statutory Sanction to Discontinue an Aid to Navigation via navigation@nlb.org.uk.

3.4.6 The Licensee must take all reasonable, appropriate and practicable steps to ensure the removal of all substances and objects, and restore the site to its original condition, in accordance with the PEMP and the 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.

3.4.7 The Licensee must undertake a survey of the site following the removal of all substances and objects and submit the results of the survey, together with a written report, detailing the substances and objects removed, to the Licensing Authority. The written report must be submitted to the Licensing Authority no later than one month after completion of the removal activities.

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.