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

LICENCE TO DEPOSIT OR USE ANY EXPLOSIVE SUBSTANCE OR ARTICLE IN AND REMOVE ANY SUBSTANCE OR OBJECT FROM THE SCOTTISH MARINE AREA

Licence Number: **MS-00010033**

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

Moray Offshore Windfarm (West) Limited
C/O Shepherd And Wedderburn Llp
Octagon Point
5 Cheapside
London
EC2V 6AA

to deposit or use any explosive substance or article and remove any substance or object 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 **23 December, 2022** until **31 March, 2023**

Redacted

Signed: …….

Jessica Malcolm

For and on behalf of the Licensing Authority

Date of issue: 23 December, 2022

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are Section 115 of the Marine and Coast Access Act 2009 unless otherwise stated.
a) **"the 2009 Act"** means the Marine and Coastal Access Act 2009
b) **"Licensed Activity"** means any activity or activities listed in section 66 of the 2009 Act which is, or are authorised under the licence;
c) **"Licensee"** means Moray Offshore Windfarm (West) Limited
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;

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 Moray Offshore Windfarm (West) Limited
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 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

2.2 Location of the Licensed Activity

Moray West Site & Cable Corridor,

Moray West Site
58° 03.946’ N 02° 54.796’ W
58° 05.426’ N 02° 52.017’ W
58° 06.918’ N 02° 50.583’ W
58° 08.780’ N 02° 49.983’ W
58° 10.551’ N 02° 50.450’ W
58° 11.729’ N 02° 51.382’ W
58° 12.588’ N 02° 52.468’ W
58° 12.223’ N 02° 53.279’ W
58° 10.482’ N 02° 55.851’ W
58° 08.825’ N 02° 59.258’ W
58° 07.380’ N 03° 03.768’ W
58° 06.413’ N 03° 08.237’ W
58° 04.496’ N 03° 10.472’ W
58° 02.650’ N 03° 13.068’ W
58° 00.237’ N 03° 12.986’ W
Cable Corridor
57° 41.573’ N 02° 46.238’ W
57° 42.512’ N 02° 47.675’ W
57° 48.070’ N 02° 53.945’ W
57° 58.663’ N 03° 00.854’ W
58° 00.237’ N 03° 12.986’ W
58° 03.946’ N 02° 54.796’ W
57° 59.012’ N 02° 57.866’ W
57° 48.245’ N 02° 50.819’ W
57° 41.676’ N 02° 43.047’ W
57° 40.914’ N 02° 44.315’ W

As shown in Annex One.

2.3 Description of the Licensed Activity

Clearance of up to thirty unexploded ordnance (UXO) for the Moray West wind farm site and cable corridor and the removal of debris.

As described in the application dated 24 August, 2022 and correspondence submitted in support of the application.

2.4 Descriptions of the substances or articles, including explosives

The licence authorises the deposit or use of the undernoted explosive substance or article and removal of the undernoted substances or objects required in connection with the licensed activity, subject to the maximum amounts as specified below:

Explosive substances or articles to be deposited:

90 no. of between 15 – 250g shock tube detonator PENO explosives (low-order deflagration clearance approach)
30 no. of up to 5kg donor charge (high-order detonation clearance approach)

Explosive substances or articles to be used:

30. no of UXO targets up to 364kg weight
90 no. of between 15 – 250g shock tube detonator PENO explosives (as referred to above)
30 no. of up to 5kg donor charge (as referred to above)

Objects to be deposited temporarily:

30 no. of up to 20kg steel frame

The licence authorises the removal of the undernoted substances and objects required in connection with the licensed activity:

Removal of debris

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only deposit and use the explosive substance or article listed in Part 2 of the licence in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 The Licensee must ensure that the Licensed Activity is carried out in strict accordance with the Moray West Environmental Report (document reference: 8460005-DG0207-MWW-REP-000001) and the European Protected Species Risk Assessment (document reference: 8460005-DG0207-MWW-REP-000002) dated 19 December 2022 but subject to the conditions of this licence.

3.1.3 Only the Substances or Articles listed in Part 2 of the licence may be used during the execution of the Licensed Activity.

3.1.4 Where possible the Licensee must remove all equipment used during the execution of the Licensed Activity from the sea and dispose of them at an approved location above the tidal level of Mean High Water Springs.

3.1.5 In the event of any breach of health and safety or environmental obligations relating to the Licensed Activity during the period of the 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.

3.1.6 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.

3.1.7 All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Licensed Activity must abide by the conditions of this licence.

3.1.8 The Licensee must, where any information upon which the granting of this licence was based has after the granting of this licence altered in any material respect, notify the Licensing Authority of this fact, in writing, as soon as reasonably practicable.

3.1.9 The Licensee must carry out noise monitoring for in-situ underwater measurement of explosive ordnance disposal for UXO (including low order deflagration and high order techniques) in line with National Physical Laboratory guidance V2 available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/955204/NPL_20 and the UXO monitoring methodology named "NM UXO overview and methodology V2" submitted to the Licensing Authority on 22 December 2022. The Licensee must ensure that monitoring of the noise generated by the Licensed Activity is recorded in a manner suitable to provide for clear reports on underwater noise to be submitted to the Licensing Authority within 28 days of the Completion of the Licensed Activities.

3.1.10 The Licensee must ensure that the mitigation measures for high order detonation detailed within the in the MMMP (Appendix B of the UXO Clearance Environmental Report and UXO Clearance European Protected Species – Risk Assessment, both dated 19 December 2022) is implemented for low order deflagration and high order detonation methods.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must complete and submit a proposed activity form in the online Marine Noise Registry for all Licensed Activities that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise no later than seven days prior to Commencement of the Licensed Activity. If any aspects of the Licensed Activity 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 seven days prior to Commencement of the Licensed Activity.

3.2.2 The Licensee must, prior to and no less than 24 hours before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the date of Commencement of the Licensed Activities authorised under the licence.

3.2.3 The Licensee must provide the name and function of any agent, contractor or sub-contractor appointed to undertake the Licensed Activities, as soon as is reasonably practicable prior to the Licensed Activities commencing.

3.2.4 The Licensee must issue local notification to marine users, including fisherman's organisations, neighbouring port authorities and other local stakeholders, at least 5 days prior to the Commencement of the Licensed Activity to ensure that they are made fully aware of the Licensed Activity through local Notice to Mariner or any other appropriate means. The Licensing Authority must be sent a copy of the notification within 24 hours of issue.

3.2.5 The Licensee must ensure that HM Coastguard (in this case zone4@hmcg.gov.uk) is notified at least 7 days prior to the Commencement of the Licensed Activity. Such notification must include emergency contact information for the vessel and the expected timescales of the operation. The Licensing Authority must be sent a copy of the notification within 5 days of issue. Verbal communication should be made directly with the HM Coastguard at the Commencement of the Licensed Activity and again to notify the Completion of the Licensed Activity. This can be established either by using the appropriate radio channels/ frequencies or via telephone on 01224 592 334.

3.2.6 The Licensee must notify The Source Data Receipt team, UK Hydrographic Office (email: sdr@ukho.gov.uk) at least 5 days prior to the Commencement of the Licensed Activity to permit the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system. Such notification must include the start and end date of the Licensed Activity, a description of the works, position of the works area and details of any marking arrangements. A copy of the notification must be sent to the Licensing Authority within 5 working days of the notification being sent.

3.3 During the Licensed Activity

3.3.1 Only those vessels, agents, contractors or sub-contractors 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 copies of the licence are available for inspection by any authorised Enforcement Officer at:

a) the premises of the Licensee;
b) the premises of any agent acting on behalf of the Licensee; and
c) the site of the Licensed Activity.

3.3.4 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake the Licensed Activity.

3.3.5 The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Licensed Activity.

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

3.3.7 The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during all Licensed Activity authorised under this licence.

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

3.3.9 The Licensee must ensure that low order techniques for UXO clearance are used only when it is not possible to avoid or relocate the UXO.

3.3.10 The Licensee must ensure that high order detonation techniques for UXO clearance are used only when it is

not possible to undertake UXO clearance using low-order deflagration techniques. All possible opportunities to undertake clearance using low order deflagration must have failed before use of high order detonation techniques.

3.3.11 The Licensee must ensure that where any UXO encountered exceeds 365kg, this is left in situ with no clearance to take place until an appropriate protocol for disposal has been approved, in writing, by the Licensing Authority in consultation with NatureScot and any other advisors as required..

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must, no later than 14 days following the Completion of the Licensed Activity notify the Licensing Authority, in writing, of the date of the Completion of the Licensed Activity.

3.4.2 The Licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the completion of the Licensed Activity.

3.4.3 The Licensee must complete and submit a Close-out Report for the licensable marine activities 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 Licensed Activity.

3.4.4 The Licensee must submit a written report regarding the deposit and use of the licensed substances and/or articles to the Licensing Authority no later than 28 days following the Completion of the Licensed Activity. The report must confirm the nature and quantity of all objects cleared, removed or disposed of during the Licensed Activities and the date and location of each UXO that has been detonated. The report must also confirm the method used to remove each UXO, the considerations made and justification for selecting the method used to remove each UXO including, as appropriate, the failure of other methods, and the details of the amount and type of explosive substance or article utilised for the UXO clearance.

3.4.5 The Licensee must provide the Licensing Authority with the Marine Mammal Observers' records no later than 28 days following Completion of the Licensed Activity.

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

3.4.7 The Licensee must undertake an 'As-Left' survey following the use of clearance techniques on UXO to confirm if the targets have been completely disrupted, disintegrated and neutralised.

3.4.8 The Licensee must provide a report based on the noise monitoring to the Licensing Authority no later than 28 days following Completion of the Licensed Activity. This report must clearly detail the underwater noise levels generated by the Licensed Activity.

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.