

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE FOR THE DEPOSIT, CONSTRUCTION AND OPERATION OF MARINE RENEWABLES WORKS IN THE SCOTTISH MARINE AREA

Licence Number: 06642/18/0

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

**Nova Innovation Ltd
45 Timber Bush
Edinburgh
EH6 6QH**

Under the Marine (Scotland) Act 2010,

- 1) To deposit any substance or object (except for dredge spoil) within the Scottish marine area, either in the sea or on or under the seabed;
- 2) 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; and
- 3) To construct any works within the Scottish marine 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 Schedule attached to this licence. The issue of this licence is subject to conditions as set out in Part 3 of the Schedule.

This licence remains in force from **13 April 2018** to **1 April 2038** 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.

This licence replaces licences 04859/15/0 and 04859/15/1

Signed:

.....
Roger May

For and on behalf of the Licensing Authority

Date of issue: 13th April 2018

1. PART 1 – GENERAL

1.1 Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010, and,

- a) **“the Application”** means the application for a marine licence, the Environmental Assessment Report, the extension schedule and the method statement submitted to the Licensing Authority, by the Licensee on 19 February 2018;
- b) **“Commencement of the Works”** means the date on which the first vessel arrives on the Site to begin carrying on any Licensed Activity in connection with the construction of the Works (including the deployment of single turbines, deployment of associated infrastructure and the movement and redeployment of turbines and associated infrastructure), as described in Part 2 of this licence. ;
- c) **“Completion of the Works”** means the date on which the Works (including the deployment of single turbines, deployment of associated infrastructure and the movement and redeployment of turbines and associated infrastructure) have been installed, or the Works have been deemed complete by the Licensing Authority, whichever occurs first;
- d) **“Construction Method Statement”** means the Construction Method Statement submitted within the Schedule and Method Statement in the Application;
- e) **“Decommissioning of the Works”** includes removal of the Works from the seabed, demolishing the Works or dismantling the Works;
- f) **“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);
- g) **“Final Deployment of the Works”** means the date on which the movement and redeployment of turbines and associated infrastructure is concluded, or is deemed complete by the Licensing Authority, whichever occurs first;
- h) **“the 2010 Act”** means the Marine (Scotland) Act 2010;
- i) **“LAT”** means lowest astronomical tide;
- j) **“Licensable Marine Activity”** means the activities listed in section 21 of the 2010 Act;
- k) **“Licensed Activities”** means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under this licence;
- l) **“Licensee”** means Nova Innovations Ltd having its registered offices at 45 Timber Bush, Edinburgh EH6 6QH and registered in Scotland having its registered number as SC358996;
- m) **“MHWS”** means mean high water spring tide;
- n) **“the Licensing Authority”** means the Scottish Ministers;
- o) **“the Site”** means the area outlined in the figure 1 contained in Part 4 of this licence; and
- p) **“the Works”** means the Shetland Tidal Array (as extended), as described in Part 2 of this licence, including the deployment of single turbines, deployment of associated infrastructure, the movement and redeployment of turbines and associated infrastructure, operations and maintenance activities.

All geographical co-ordinates contained within this licence are in latitude and longitude format World Geodetic System 84 (“WGS84”).

1.2 Contacts

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

Marine Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Email: MS.MarineRenewables@gov.scot

1.3 Other authorisations and consents

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

1.4 Variation, suspension, revocation and transfer

Under section 30 (1) of the 2010 Act the Licensing Authority may by notice vary, suspend or revoke this licence granted by them if it appears to the Licensing Authority that there has been a breach of any of 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 this 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 –

- (a) 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
- (b) 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.

2. PART 2 – THE WORKS

2.1 Title of the Works

The title of the Works to which this licence relates to is the ‘Shetland Tidal Array (as extended)’.

2.2 Description of the Works

An offshore tidal array, known as the Shetland Tidal Array, consisting of six bottom mounted, gravity anchored, non-yawing horizontal axis turbines (Nova M100 device) of 100 kW capacity each. Each tidal turbine comprises a cylindrical nacelle unit, rotor and gravity base to secure it to the seabed. Associated infrastructure, including subsea hub, inter-array cabling and a 1.2 km export cable connecting the Site to Cullivoe Pier,

As of the date of issue, three tidal turbines have been deployed. Turbine 4 and Cable and subsea hub and cable deployment are scheduled to take place in 2019 and Turbines 5 and 6 will be deployed in 2020. Reconfiguration of the array, including redeployment of turbines and associated infrastructure within the Site, will take place during 2021.

A configuration of the consented turbines, and associated infrastructure, is included at Part 4 of this Schedule.

2.3 Location of the Works

Located in the Bluemull Sound, Shetland within the Scottish marine area, near Cullivoe Harbour, within the area bounded by joining the following points:

60° 41.900' N	000° 59.150' W	60° 41.900' N	000° 58.847' W
60° 42.052' N	000° 58.847' W	60° 42.052' N	000° 59.150' W

Cable landing point:

60° 41.883' N 000° 59.933' W

2.4 Deposits

This licence authorises the deposit of the undernoted substances and objects required in connection with the Works, subject to the maximum amounts as specified below:

TEMPORARY DEPOSITS

Nova M100 Turbines	x 6
Comprising of:	
Steel/Iron	50 tonnes x 6 = 300 tonnes
Plastic/Synthetic	30 m ² x 6 = 180 m ²
Concrete	50 m ³ x 6 = 300 m ³
Cable	1,200 m x 4 = 4,800 m
	600 m x 3 = 1,800 m
Subsea hub (sealed steel box containing electrical equipment)	1 tonne
Subsea Sensor Frames	4 x 500kg
Nortek Signature 500 Acoustic Doppler Current Profilers	x 4

2.5 Persons responsible for the deposits of the substances or objects

The operators, vessels and vehicles engaging in the Works must be notified to the Licensing Authority under condition 3.1.2 prior to their engagement in the Works:

Name of Vessel or Vehicle Registration	Operator	Type(s)
To be confirmed	To be confirmed	To be confirmed

2.6 Persons acting on behalf of the Licensee

The name and address of any agents, contractors or sub-contractors appointed to carry out any part, or all, of the Works must be notified to the Licensing Authority under condition 3.1.2 prior to their engagement in the Works:

Role	Company Name	Address	Contact Name
To be confirmed	To be confirmed	To be confirmed	To be confirmed

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, operate and maintain the Works in accordance with this Licence, the Application and supporting documentation submitted with the Application.

Reason: *To ensure compliance with the marine licence, the application for the marine licence and the supporting information.*

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 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 Marine (Scotland) Act 2010.*

3.1.3 Vessels, vehicles agents, contractors and sub-contractors

The Licensee must provide, as soon as reasonably practicable in advance of their engagement in the Works authorised under this licence, the name and function of any vessel, vehicle, agent, contractor or sub-contractor appointed to engage in the Works to the Licensing Authority. Where applicable the notification must include the vessel type, vessel IMO number and vessel owner or operating company.

The Licensee must ensure that any changes to the supplied details must be notified to the Licensing Authority, in writing, 14 days prior to any vessel, vehicle, agent, contractor or sub-contractor engaging in the Works.

The Licensee must ensure that only those vessels, vehicles, operators, agents, contractors or sub-contractors notified to the Licensing Authority are permitted to carry out any part of the Works.

The above details must be recorded in section 2.5 and 2.6 of this licence, if not provided at application these details and any subsequent changes will require a variation to the licence to update section 2.5 and 2.6 prior to engagement in 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, 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.*

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 bad weather conditions, in accordance with s.29(2)(b) of the 2010 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.*

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 of the progress of the Works, in accordance with s.29(3)(c) of the 2010 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 or notifications 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 and annual reports as stipulated with the PEMP.

Reason: *To ensure that all reports and notifications are submitted within a reasonable timescale after the licence is granted, in accordance with s.29(3)(c) of the 2010 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 before 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.*

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 CO₂ 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.*

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 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 (SMWWC; www.marinecode.org) 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.*

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.*

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.*

3.1.13 Emergencies

If the assistance of a Government Department (to include departments of Administrations other than the Scottish Government) 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 licensee is aware of financial liabilities, in accordance with s.29(2)(b) of the 2010 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, within three months of the issue date of this licence, unless otherwise agreed with the Licensing Authority, submit a Project Environmental Monitoring Programme (“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”), Shetland Islands Council (“SIC”) and Whale and Dolphin Conservation (“WDC”), and any other ecological advisors or organisations 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 tidal array where this is deemed necessary by the Licensing Authority. Lifespan in this context includes pre-construction, construction, maintenance and operational phases.

The Licensing Authority must approve all initial methodologies for the above monitoring, in writing and, where appropriate, in consultation with SNH, SIC and WDC.

Monitoring must be done in such a way so as to ensure that the data which is collected allows useful and valid comparisons between different phases of the Works. Monitoring may also serve the purpose of verifying key predictions in the Application. In the event that further potential adverse environmental effects are identified, for which no predictions were made in the Application, the Licensing Authority may require the Licensee to undertake additional monitoring.

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

- a. pre-construction, construction, operation and maintenance monitoring or data collection as relevant in terms of the environmental assessment report and any subsequent monitoring or data collection for:
 1. Marine mammals
 2. Birds

The PEMP is a live document and must be regularly reviewed by the Licensing Authority, at timescales to be determined by them to identify the appropriateness of ongoing monitoring. Following such reviews, the Licensing Authority may 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 SNH, WDC and SIC, and any other ecological, or such other advisors as may be required at the discretion of the Licensing Authority.

The Licensee must submit monitoring reports detailing bird and marine mammal observations, as well as associated raw data of said monitoring or data collection, to the Licensing Authority at timescales to be determined by them. 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. Where it would appear to the Licensee that there may be a delay in the submission of the reports or notifications to the Licensing Authority, then the Licensee must advise the Licensing Authority of this fact as soon as is reasonably 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 the licence or the reporting strategy contained within the PEMP.

Where appropriate and reasonable, the PEMP must also take account of, and implement recommendations from, the Construction Method Statement ("CMS") and any other such plans required by the terms of this licence.

The Licensing Authority may agree, in writing, that monitoring may be reduced or ceased before the end of the lifespan of the Works.

Reason: To ensure that appropriate and effective monitoring of the impacts of the Works is undertaken, in accordance with s.29(3)(c) of the 2010 Act.

3.2.1.2 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 2010 Act.

3.2.1.3 Bunding and storage facilities

The Licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils and 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.*

3.2.1.4 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 Project Environmental Monitoring Plan (“PEMP”) and the Decommissioning Programme (“DP”) to the satisfaction of the Licensing Authority. Should the Works be discontinued prior to expiry date of this marine licence, the Licensee must inform the Licencing 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.*

3.2.1.5 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.*

3.2.2 Prior to the commencement of the Works (including deployment of single turbines or associated infrastructure and the movement and redeployment of turbines and associated infrastructure)

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 deployment authorised under this Licence.

Reason: *To inform the Licensing Authority of the commencement date of the Works, in accordance with s.29(3)(c) of the 2010 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 if safety and environmental protection in accordance with s.29(3)(d) of the 2010 Act.*

3.2.2.3 Construction Method Statement

The Works must, at all times, be constructed in accordance with the Construction Method Statement (“CMS”) as submitted at Application within the Schedule and Method Statement. Any updates or amendments made to the submitted 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, in accordance with s.29(3)(a) of the 2010 Act.*

3.2.2.4 Cable Plan

The Licensee must, within three months of the issue date of this licence, submit a Cable Plan (“CaP”) (to include Cable Protection Risk Assessment) 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 or organisations as may be required at the discretion of the Licensing Authority. The CaP must be in accordance with the Environmental Assessment Report.

Any consented cable protection works must ensure existing and future safe navigation is not compromised. The Licensing Authority will accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum.

3.2.2.5 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 Works.

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

3.2.2.6 Navigation and Charting

The Licensee must, no later than 1 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 Chart 3292 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 National Maritime Operations Centre (nmcontroller@hmcg.gov.uk), are made fully aware of the Works through local Notice to Mariners or by any other appropriate means, in consultation with Shetland Ports and Harbours.

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.

The Licensee must, no later than **3** months prior to the Commencement of the Works, submit a Navigational Risk Assessment for approval by the Licensing Authority, in consultation with the NLB and MCA and any other such advisors as required at the discretion of the Licensing Authority. The Licensee must ensure that the Works are carried out in accordance with the agreed Navigational Risk Assessment.

The Licensee must gain the approval/agreement of the responsible local navigation authority or the Harbour Authority/Commissioners/Council prior to the Commencement of the Works. If deemed necessary, the responsible local navigation authority or Harbour Authority/Commissioners/Council may require the issue of local warnings to alert those navigating in the vicinity to the presence of the Works.

The Licensee must, no later than **1** calendar month prior to the Commencement of the Works, ensure that the details of these Works are made available for inclusion in the Clyde Cruising Club Sailing Directions and Anchorages, if necessary.

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

3.2.2.7 Third Party Certification or Verification

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) e.g. of the basis of design of the device and turbine base.

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

3.2.3 During the Construction of the Works (including deployment of turbines and associated infrastructure and the redeployment or movement of turbines and associated infrastructure)

3.2.3.1 Transportation audit sheet

The Licensee must submit to the Licensing Authority a detailed transportation audit sheet for each calendar month during the period when construction of the Works is actively undertaken. This sheet must be submitted within 14 days of the end of each calendar month. It must cover all aspects of the construction of the Works. The transportation audit sheet must include, but not be limited to, information on the loading facility, vessels, equipment, shipment routes, schedules and all materials deposited (as described in Part 2 of this licence) in that calendar month. Where, following the submission of a transportation audit sheet to the Licensing Authority, any alteration is made to the component parts of the transportation audit sheet, the Licensee must notify the Licensing Authority of the alteration in the following month's transportation audit sheet. Where appropriate, nil returns must be provided.

If the Licensee becomes aware of any substances or objects on the transportation audit sheet that are missing, or becomes aware that an accidental deposit has occurred, the Licensee must contact the Licensing Authority as soon as practicable after becoming aware,

for advice on the appropriate remedial action (which may include requiring charts to be amended to show such deposits). Should the Licensing Authority deem it necessary, the Licensee must undertake a side scan sonar survey in grid lines (within operational and safety constraints) across the area of the Works, to include cable routes and vessel access routes from local service port(s) to the Site to locate the substances or objects. If the Licensing Authority is of the view that any accidental deposits associated with the construction of the works are present, then the deposits must be removed by the Licensee as soon as is practicable following the giving of such a view by the Licensing Authority, 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.*

3.2.3.2 Nature and quantity of deposited substances and objects

The Licensee must, in addition to the transportation audit sheets which are required to be submitted to the Licensing Authority under condition 3.2.3.1 following the Commencement of the Works, submit audit reports, in writing, to the Licensing Authority, stating the nature and quantity of all substances and objects deposited below MHWS under the authority of this licence. Such audit reports must be submitted by the Licensee at six-monthly intervals, with the first such report being required to be submitted on a date no later than 1 month following the Commencement of the Works. 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.*

3.2.3.3 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 Admiralty Chart 3292 and publications through the national Notice to Mariners system.

The Licensee must notify local mariners, fishermen's organisations and HM Coastguard, in this case The National Maritime Operations Centre (nmcontroller@hmcg.gov.uk), on a weekly basis of the progress of Construction of the Works through local Notice to Mariners or any other appropriate means in consultation with Shetland Ports and Harbours.

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 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 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. Under no circumstances will the depth reduction compromise safe navigation.

The Licensee must ensure that all turbines are installed at a depth to ensure 15 meters minimum clearance above the turbine blades relative to LAT.

The Licensee must ensure that the works do not encroach on any recognised anchorage, either charted or noted in nautical publications, within the consented area.

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

3.2.3.4 Markings, lighting and signals of the Works

The Licensee must ensure that the Works are marked and lit in accordance with the requirements of the NLB 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.

The Licensee must not display any marks and lights additional to those required by virtue of this licence without the written approval of the Licencing Authority following consultation with the NLB and MCA.

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.*

3.2.4 Conditions upon Completion of the Works (including deployment of turbines and associated infrastructure and redeployment or movement of turbines and associated infrastructure)

3.2.4.1 Date of Completion of the Works

The Licensee must, no later than 1 calendar month following the deployment of single turbines and associated infrastructure and the movement or redeployment of turbines and associated infrastructure notify the Licensing Authority, in writing, of the date of Completion.

The Licensee must, no later than 1 calendar month following the Final Deployment of the Works, notify the Licensing Authority, in writing.

Reason: *To inform the Licensing Authority of the completion of the works, in accordance with s.29(3)(c) of the 2010 Act.*

3.2.4.2 Nature and quantity of deposited substances and objects

The Licensee must, no later than 1 calendar month following the Completion of the Works and the Final Deployment 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 MHSW 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, in accordance with s.29(3)(c) of the 2010 Act.*

3.2.4.3 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 following the Final Deployment of the Works.

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

3.2.4.4 Navigational Safety

The Licensee must notify the UKHO of the deployment of each turbine and associated infrastructure, the movement and redeployment of turbines and associated infrastructure and of the Final Deployment of the Works to facilitate the promulgation of maritime safety information and updating of Admiralty Chart 3292 and publications through the national Notice to Mariners system.

The Licensee must, within 1 month of deployment of each turbine, and following the movement and redeployment of the turbines and associated infrastructure and the Final Deployment of the Works, provide the “as-installed” or “as-reconfigured” turbine location(s) and associated infrastructure and minimum water depth to the UKHO for nautical charting purposes.

The Licensee must ensure that local mariners, fishermen's organisations, Shetland Ports and Harbours and HM Coastguard, in this case The National Maritime Coastguard Centre (nmcontroller@hmcg.gov.uk), are made fully aware of the deployment of each turbine, reconfiguration of the turbine array and Final Deployment of the Works.

The Licensee must ensure that the deployment of each turbine and associated infrastructure, movement and redeployment of the turbines and the associated infrastructure, and the Final Deployment 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 the devices are actively monitored during the Operation and Maintenance phases. The Licensee must ensure that a contingency plan is in place to respond to any reported catastrophic failures which may result in the devices, or part(s) of the device(s), breaking loose and becoming a buoyant hazard. This contingency plan should include the transmission of local Radio Navigation Warnings.

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 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.*

3.2.4.5 Markings, lighting and signals of the Works

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

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

3.2.4.6 Operation and Maintenance of the Works

The Licensee must operate and maintain the Works in accordance with the submitted Method Statement and Schedule, as supplied at Application. Any updates or amendments made to submitted Method Statement and Schedule must be submitted, in writing, to the Licensing Authority for their prior written approval.

The Licensee must ensure that the Communications Strategy, submitted within the Schedule and Method Statement at Application, is implemented during pre-operation and post-operation. Any updates or amendments made to the submitted Communication Strategy must be submitted, in writing, to the Licensing Authority for their prior written approval.

The Licensing Authority must be notified at least 1 calendar month in advance of the movement and redeployment of the turbines and associated infrastructure or 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.

The Licensee must ensure that the devices are actively monitored during the Operation and Maintenance phases. The Licensee must ensure that a contingency plan is in place to respond to any reported catastrophic failures which may result in the devices, or part(s) of the device(s), breaking loose and becoming a buoyant hazard. This contingency plan should include the transmission of local Radio Navigation Warnings.

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.*

3.3 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.*

3.4 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*

4. PART 4 – PROJECT LOCATION

Figure 1 – Nova Innovations Ltd Project Location showing Licence Boundary and Turbine Layout at the Shetland Tidal Array Site, Bluemull Sound, Shetland

