

**MARINE SCOTLAND ACT 2010, PART 4 MARINE LICENSING**

**LICENCE TO DEPOSIT ANY SUBSTANCE OR OBJECT IN THE SCOTTISH MARINE AREA**

Licence Number: **MS-00009109**

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

**Montrose Port Authority  
Harbour Office  
South Quay  
Ferryden  
Montrose DD10 9SL**

to deposit 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 **20 March, 2021** until **04 May, 2021**

Signed: .....

Ellie Noble

For and on behalf of the Licensing Authority

Date of issue 19 March, 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 Montrose Port Authority
- 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**

Harris Holden Ltd  
11 Furzedown Road  
Southampton

SO17 1PN

### **2.2 Location of the Licensed Activity**

Montrose Harbour, Angus,

Place of production of substance

56° 42.213' N 02° 28.282' W

56° 42.338' N 02° 28.136' W

56° 42.195' N 02° 27.833' W

56° 42.175' N 02° 27.815' W

56° 42.167' N 02° 27.772' W

56° 42.223' N 02° 26.581' W

56° 42.223' N 02° 25.828' W

56° 42.212' N 02° 25.828' W

56° 42.166' N 02° 25.963' W

56° 42.182' N 02° 26.648' W

56° 42.131' N 02° 27.730' W

56° 42.107' N 02° 27.903' W

56° 42.142' N 02° 28.143' W

56° 42.213' N 02° 28.282' W

As shown in Annex One.

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

Sea disposal from maintenance dredging.

As described in application dated 08 January, 2021 and correspondence submitted in support of the application.

### **2.4 Descriptions of the substances or objects to be deposited**

**MS-00009109**

**19 March, 2021**

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

246,000 wet tonnes of maintenance dredged substances and objects may be deposited between 20 March 2021 and 04 May 2021 (less any amount already deposited under licence 07149/20/0)

## **2.5 Contractor and Vessel Details**

As per Annex Two

### **3. PART 3 – CONDITIONS**

#### **3.1 General Conditions**

3.1.1. The licensee must deposit the substances or objects described in Part 1 of the Schedule in the following deposit area(s):

3.1.1.1. Deposit Area Name: Lunan Bay, FO010 within a circle with a radius of 0.25 nautical miles, centred at: 56° 39.50' N 002° 26.50' W. Up to a maximum quantity of 221,400 wet tonnes may be deposited during the period of validity of this licence at Lunan Bay.

3.1.1.2. Deposit Area Name: Montrose Bay within the area bounded by joining the following points:

56° 45.039' N 002° 25.416' W  
56° 45.017' N 002° 24.139' W  
56° 42.448' N 002° 26.660' W  
56° 42.446' N 002° 25.269' W

A minimum of 24,600 wet tonnes of sand must be deposited during the period of validity of this licence at Montrose Bay.

3.1.1.3 The total amount of substances or objects deposited must not exceed 246,000 wet tonnes.

3.1.2. The Licensee must ensure that only the materials listed in Part 2 of the licence are used during the execution of the Licensed Activity and that all materials, substances or objects used during the execution of the works are inert and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.3. Only those substances or objects described in Part 2 of the Schedule shall be deposited under authority of the licence.

a) Any unauthorised materials associated with the substances or objects scheduled for deposit, including debris such as demolition waste, wood, scrap metal, tyres and synthetic materials, shall be disposed of on land at an approved location above the tidal level of Mean High Water Springs.

b) All tank/hopper washings shall be deposited in the authorised sea deposit area(s).

3.1.4. 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.

3.1.5. The Licensee must remove the materials, substances or objects from below the level of Mean High Water

Springs, or make such alterations as advised by the Licensing Authority, within one month of notice being given by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replaced without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.6. The licensee must ensure that no deviation from the schedule specified in the licence is made without the further written approval of the licensing authority.

3.1.7. The Licensee must at all times deposit substances and objects in accordance with the licence, the application and the plans and programmes approved by the Licensing Authority.

3.1.8 The method of deposit must be Bottom Dumping.

### **3.2 Prior to the commencement of the Licensed Activity**

3.2.1. 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.

3.2.2. The Licensee must, prior to and no less than seven calendar days before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the date of Commencement of the Licensed Activity authorised under this licence.

3.2.3. The Licensee must ensure that HM Coastguard, in this case nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the Licensed Activity prior to Commencement.

3.2.4. 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.

3.2.5. The Licensee must ensure that only those agents, contractors or sub-contractors notified to the Licensing Authority are permitted to undertake the works.

3.2.6. 3.2.4. The licensee must notify the licensing authority in writing of any vessel not already listed in Part 1 of this licence being used to carry out any licensed activity listed in Part 1 of this licence on behalf of the licensee. Such notification must be received by the licensing authority no less than 24 hours before the commencement of the licensed activity. Notification must include the vessel name, type, IMO number and country of registration as well as the name and address of any vessel operator or contractor.

3.2.7. The licensee must notify the licensing authority in writing of the name and address of any contractor not already listed in Part 1 of this licence being used to carry out any licensed activity listed in Part 1 of this licence. Such notification must be received by the licensing authority no less than 24 hours before the commencement of the



licensed activity.

3.2.8. The licensee must provide a monitoring plan to the licensing authority for approval at least four weeks prior, or less if agreed with the licensing authority, to the deposit of any dredged substances and objects at Montrose Bay (as defined in Part 1 of the Schedule). The monitoring plan must describe the monitoring to be undertaken with regard to the trialled deposit of dredged substances and objects at Montrose Bay (as defined in Part 1 of the Schedule).

3.2.9. The licensee must ensure that monitoring is undertaken in line with the monitoring plan approved by the licensing authority in Condition 3.2.8. of the licence.

3.2.10. The licensee must ensure that the deposit of substances or objects north of Montrose harbour avoids Dronners Dyke and the crash sites of WWII military aircraft.

### **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 deposit operations.

3.3.2. The Licensee shall ensure that a log of activities is maintained on each vessel employed to undertake the deposit operations. The log(s) shall be kept onboard the vessel(s) throughout the deposit operations, and be available for inspection by any authorised Enforcement Officer. The log(s) shall be retained for a period of six calendar months following expiry of the licence, and copies of the log(s) may be requested during that period for inspection by the Licensing Authority. The log(s) shall record in English the following information:

- a) the name of the vessel;
- b) the nature and quantity of each substance or object loaded for deposit;
- c) the date and time of departure from port, and the date and time of arrival at the authorised sea deposit area(s), on each occasion that the vessel proceeds to the designated sea deposit area(s);
- d) the date, time and position of commencement, and the date, time and position of completion, of each deposit operation;
- e) the course(s) and speed(s) throughout each deposit operation. (Multiple changes may be recorded as "various");
- f) the weather, including wind strength and direction, sea-state and tidal set throughout each deposit operation;
- g) the rate of discharge during each deposit operation, if appropriate, and the duration of each deposit operation. (If

the rate of discharge is not constant, the maximum and mean rates of discharge should be indicated);

h) comments on the deposit operations, including any explanations for delays in the deposit operations;

i) the signature of the Master at the foot of each page of the record

3.3.3. In the event of the Licensed Activity being discontinued the materials used or substances and objects deposited under the authority of the licence shall be removed to the satisfaction of the Licensing Authority.

3.3.4. The Licensee must ensure that a copy of the licence is given to each contractor employed to undertake the licensed activities. The Licensee must also ensure that copies of the licence and all other relevant documents are available for inspection by any authorised Enforcement Officer at:

a) the premises of the Licensee;

b) the premises of the producer of the substances or objects for deposit, and the premises of any contractor responsible for the storage, transport or deposit of the substances or objects; and

c) site of the Licensed Activity/on board the vessel(s) employed to undertake the Licensed Activities.

3.3.5. The licensee must ensure that a dedicated watch is kept by a trained Marine Mammal Observer ("MMO") or someone following the general guidance for and acting in the role of an MMO. A watch must be undertaken prior to disposal commencing to ensure no marine mammals are within 500 metres of the disposal operation. If marine mammals are observed within this area then disposal operations should be stopped until the area has been clear for at least 20 minutes. A formal log of marine mammal sightings must be maintained whether or not marine mammals are sighted and the completed logs must be returned to the licensing authority. The log must contain the name of person acting in the role of an MMO, time of deposit activity, start and finish times of the observation period, observations of marine mammals and any action taken as a result.

3.3.6. The licensee must ensure the best method of practice is used to minimise re-suspension of sediment during these works.

3.3.7. If in the opinion of the licensing authority the assistance of a Government Department, including the broadcast of navigational warnings, is required to deal with any emergency arising from:

a) The failure to mark and light the works as required by licence.

b) The maintenance of the works.

c) The drifting or wreck of the works.

The owner of the works shall be liable for any expenses incurred in securing such assistance

### **3.4 Upon Completion of the Licensed Activity**

3.4.1. The Licensee must ensure that a monitoring plan of the sea deposit site is submitted to the licensing authority

for its written approval within three months of the beginning of the first dredging campaign. The plan should include, but not be limited to, bathymetric surveys and video or drop camera surveys and sampling and chemical testing of the deposit site sediment in line with the Marine Scotland pre-disposal sampling guidance.

3.4.2. 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 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.

3.4.3. Any person authorised by the licensing authority must be permitted to inspect the licensed activities at any reasonable time.

3.4.4. In the event of the licensee becoming aware that any of the information on which the issue of the licence was based has changed, the licensing authority must be immediately notified of the details.

**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.