



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

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

Licence Number: **MS-00009323**

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

**J H R Brown**  
**13 Wirliegert**  
**Aith**  
**Bixter**  
**ZE2 9NW**

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 **30 July, 2021** until **22 December, 2025**

Signed: .....

Ellie Noble

For and on behalf of the Licensing Authority

Date of issue: 29 July, 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 J H R Brown
- 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**

Blueshell Mussels Limited  
Sparl  
Brae  
Shetland  
ZE2 9QJ

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

Houbanster, Cole Deep, Shetland,

Moorings Area

60° 20.459" N 01° 22.180" W

60° 20.432" N 01° 22.059" W

60° 20.331" N 01° 22.149" W

60° 20.358" N 01° 22.270" W

As shown in Annex One.

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

Deposit of Marine Farm

As described in the application dated 10 May, 2021 and correspondence submitted in support of the application.

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

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

Longlines 100 m, No.4

Grid Moorings, No.8

### **2.5 Contractor and Vessel Details**

To be confirmed

### **3. PART 3 – CONDITIONS**

#### **3.1 General Conditions**

3.1.1 The licensee must ensure that only the licensed objects are deposited during the execution of the licensed activity and that all substances or objects deposited during the execution of the licensed activity 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.

3.1.2 A Marine Emergency Action Card (attached) must be completed for this site which should be sent to oelo@mcga.gov.uk. This is required should search and rescue operations be carried in or near the site, HM Coastguard need to know further details about the deployment to facilitate safe and effective incident coordination.

3.1.3 In case of damage to, or destruction or decay of, the authorised project seaward of MHWS or any part thereof, the applicant must as soon as reasonably practicable and no later than 24 hours following becoming aware of any such damage, destruction or decay, notify Marine Scotland, MCA, the Northern Lighthouse Board, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

3.1.4 The licensee must ensure appropriate steps are taken to minimise damage to the foreshore and seabed by the licensed activity.

3.1.5 The licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.

3.1.6 The licensee must ensure that the licensed objects do not encroach on any recognised anchorage, either charted or noted in nautical publications.

3.1.7 Suitable arrangements should be made to ensure the deployments remain secure to the seabed for the conditions expected in the area, with a programme of regular inspection and maintenance of the works in place

3.1.8 All equipment/components of the marine farm must remain within the licenced area, and match the defined area of the planning permission and the information submitted to the UKHO for the charted limits.

3.1.9 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 licensed objects as required by licence.
- b) The maintenance of the licensed objects.
- c) The drifting or wreck of the licensed objects.

The licensee shall be liable for any expenses incurred in securing such assistance.

3.1.10 If the Licensee proceeds to undertake the Licensed Activity under the authority of this licence, the licensed activity authorised under the previous marine licence (07011/19/0) is not permitted

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

### 3.3 During the Licensed Activity

3.3.1 The licensee must ensure that the licensed objects are maintained at all times in good repair.

3.3.2 The licensee must ensure that any debris or waste materials arising during the course of the licensed activity are removed from the site for disposal at an approved location above the tidal level of Mean High Water Springs.

3.3.3 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.

3.3.4 The licensee must adopt measures to prevent the introduction and spread of invasive non-native species at and to the site.

3.3.5 The licensee must remove the licensed objects from below the level of Mean High Water Springs, or such alterations made, 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 of the licensing authority. The licensee shall be liable for any expense incurred.

3.3.6 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

3.3.7 In the event of the licensed activity being discontinued the licensed objects must be removed and the site cleared to the satisfaction of the licensing authority.

3.3.8 Appropriate recovery arrangements of all the equipment should be in place for decommissioning of the site

3.3.9 Any person authorised by the licensing authority must be permitted to inspect the site at any reasonable time.

3.3.10 The licensee must ensure that:

- a) The site must be marked with a lit yellow Special Mark Buoy fitted with a yellow 'X' topmark.
- b) The light must display a character of flash one yellow every five seconds (FI Y 5s) with a nominal range of 2 nautical miles and be installed above the 'X' topmark.
- c) The buoy must be positioned at the Western seaward midpoint of the longlines.
- d) The buoy diameter must be approximately 1 metre at the waterline and the 'X' topmark should be greater than or equal to 50cm length by 7.5cm width.
- e) Outlying anchor points must not be marked with buoys. Alternative means to locate anchors should be utilised.

3.3.11 The Licensee must ensure that a weekly check of the marking and lighting equipment is made and records kept of its physical state for audit purposes.

### 3.4 Upon Completion of the Licensed Activity

3.4.1 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.

3.4.2 If a new licence is required, the licensee must make an application at least fourteen weeks before the expiry date of this licence. This licence shall not continue in force after the expiry date of 22 December 2025.

## **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.