

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

LICENCE FOR MARINE SURVEY SEDIMENT REMOVAL

Licence Number: **06926/19/2**

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
Condor House
10 St. Paul's Churchyard
London
EC4M 8AL

Under the Marine (Scotland) Act 2010,

To carry on a licensable marine activity in the execution of work described in part 2 of the attached schedule. The licence is subject to the conditions of use set out, or referred to, in Part 3 of said Schedule.

Under the Marine and Coastal Access Act 2009,

- 1) To use a vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the sea bed within the UK marine licensing area.

As required in the execution of the works (operation) 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 **18 September 2019** to **31 December 2020** or until the Works have been completed. This licence is a variation to licence [06926/19/1](#)

Signed:

.....
Giulia Agnisola

For and on behalf of the Licensing Authority

Date of issue: 18 September 2019

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, the Marine and Coastal Access Act 2009,

- a) **“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, as described in Part 2 of this licence;
- b) **“Completion of the Works”** means the date on which the Works have been carried out or the Works have been deemed complete by the Licensing Authority, whichever occurs first;
- c) **“Company”** means Moray Offshore Windfarm (West) Limited (Company Registration Number 10515140) and having its registered office at Condor House, 10 St. Paul's Churchyard, London, England, EC4M 8AL
- d) **“Completion of the Works”** means the date on which the Works have been installed, or the Works have been deemed complete by the Licensing Authority, whichever occurs first;
- e) **“CPT”** means Cone Penetration Tests;
- f) **“Licensable Marine Activity”** means the activities listed in section 21 of the 2010 and in section 66 of the 2009 Act authorised under this licence;
- g) **“Licensed Activities”** means any activity or activities listed in section 21 of the 2010 Act and section 66 of the 2009 Act which is, or are authorised under this licence;
- h) **“Licensee”** means the Company **OR** e.g. Moray Offshore Windfarm (West) Limited (Company Registration Number 10515140) having its registered offices at Condor House, 5-10 St. Paul's Churchyard, London, England, EC4M 8AL;
- i) **MHWS** means mean high water spring tide.
- j) **“the Application”** means the marine licence application form and supporting information submitted to the Licensing Authority, by the Company on 22 February 2019 received by the Licensing Authority;
- k) **“the 2010 Act”** means the Marine (Scotland) Act 2010;
- l) **“the 2009 Act”** means the Marine and Coastal Access Act 2009;
“the Licensing Authority” means the Scottish Ministers;
- m) **“the Site”** means the area outlined in the figure 1 contained in Part 4 of this licence;
- n) **“the Works”** means the geotechnical surveys being carried out in the offshore export cable corridor and nearshore area.

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 of the 2010 Act and section 72 of the 2009 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 the provisions of this licence or for any such other reason that appears to be relevant to the authority under section 30(2) or (3) of the 2010 Act and section 72(2) or (3) of the 2009 Act, subject to the procedures set out in section 31 of the 2010 Act.

Under section 30 of the 2010 Act and section 72 of the 2009 Act the Licensing Authority may on an application made by the Licensee, vary this licence if satisfied that the variation being applied for is not material.

Under section 30 of the 2010 Act and section 72 of the 2009 Act the Licensing Authority may on an application made by the Licensee, 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 and 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.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act and section 86 of the 2009 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act and 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 ('force majeure') and that the person took steps within a reasonable time to provide full details of the matter to the Licensing Authority as set out in section 40(2) of the 2010 Act and section 86(2) of the 2009 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act and section 89 of the 2009 Act it is an offence for a person to make a statement which is false or misleading in a material way, either 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 and Part 4 of the 2009 Act or by 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 the sheriff of any sheriffdom against a decision taken by the Licensing Authority under section 29(1) of the 2010 Act or section 71(1) of the 2009 Act.

2. PART 2 – THE WORKS

2.1 Title of the Works

The title of the Works to which this licence relates to is the Marine Survey Sediment Removal.

2.2 Description of the Works

Sediment sampling consisting of the following;

- Up to 8 boreholes in the nearshore export cable corridor area.
- Up to 60 Vibrocores and CPTs in the offshore export cable corridor area.

As described in application dated 22nd February 2019 and correspondence submitted in support of the application.

2.3 Location of the Works

Located at the proposed export cable corridor, for Moray Offshore Windfarm (West) of the north coast of the Moray Firth.

Export cable and near shore coordinates.

Cable Route	2° 47.297' W	57° 41.860' N
Cable Route	2° 47.495' W	57° 42.353' N
Cable Route	2° 53.945' W	57° 48.070' N
Cable Route	3° 0.854' W	57° 58.663' N
Cable Route	3° 12.986' W	58° 0.237' N
Cable Route	2° 54.621' W	58° 3.981' N
Cable Route	2° 57.866' W	57° 59.012' N
Cable Route	2° 50.819' W	57° 48.245' N
Cable Route	2° 43.047' W	57° 41.677' N
Cable Route	2° 44.380' W	57° 40.912' N

2.4 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)
Nora B	Tecnoambiente	Geotechnical survey vessel
Ella F	Tecnoambiente	Geotechnical survey vessel
Haven Seajack 1	Causeway Geotech	Jack-up vessel
Forth Fighter	Red7Marine	Tug vessel
Red 7 Multicat	Red7Marine	Multicat vessel
Red7 CTV – Ariel RIB	Red7Marine	Crew transfer vessel (CTV)
Jif Breizh	JifMar	Special Service Multipurpose vessel
Atlantic Voyager	Atlantic Marine & Aviation LLP	Geotechnical survey vessel
Atlantic Discovery	Atlantic Marine & Aviation LLP	Geotechnical survey vessel

2.5 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
Geotechnical Survey Contractor	Tecnoambiente	Ronda de Can Fatjó, 19B Parc Tecnològic del Vallès 08290 Cerdanyola, Barcelona, Spain	Héctor Calls Martínez Marc Sentis
Drilling Contractor	Causeway Geotech Ltd	8 Drumahiskey Road, Ballymoney, Co. Antrim, N. Ireland, BT53 7QL	Neil Haggan
Tug, Multicat and CTV Contractor	Red7Marine	Harbour Landing, Fox's Marina, Wherstead, Ipswich IP2 8NJ, United Kingdom	Simon Benham
Geotechnical Survey Contractor	JifMar	Jifmar Offshore Services, 120 Avenue Napoléon Bonaparte, 13100 Aix-En- Provence	Glenn Moth
Geotechnical survey vessel operator	Atlantic Marine & Aviation LLP	Maritime House, Basin Road North Hove, East Sussex, BN41 1WR, United Kingdom	Andrew McIennan
Geotechnical Survey Contractor	Geoforce Technical Service Ltd	Ellough Industrial Estate, Unit 10, NR34 8TS, United Kingdom	James McDonald

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 and operate the Works in accordance with this Licence, the Application and all supporting information (submitted by the Company on 22/02/19).

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

3.1.2 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, 7 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 2.4 and 2.5 of this licence, if not provided at application these details and any subsequent changes will require a variation to the licence to update section 2.4 and 2.5 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 and section 72 of the 2009 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 and s.85(1)(b) of the 2009 Act.

3.1.3 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 OSPAR, the Licensing Authority is obliged to immediately report force majeure incidents to the OSPAR Commission.

Reason: *To provide a defence for the Master to protect himself and his crew in bad weather conditions, in accordance with s.40 of the 2010 Act and s.86 of the 2009 Act.*

3.1.4 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 inform the Licensing Authority of any material changes to the licensed activities and allow consideration of any requirement for variation in accordance with s.30 (3) of the 2010 Act or s.72 (3) of the 2009 Act.*

3.1.5 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.

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 and s.71(3)(c) of the 2009 Act.*

3.1.6 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 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 and s.71(2)(b) of the 2009 Act.

3.1.7 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 and s.71(2)(b) of the 2009 Act.

3.1.8 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 and s.71(2)(b) of the 2009 Act.

3.1.9 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 and s.71(2)(b) of the 2009 Act.*

3.2 Conditions specific to the Works

3.2.1.1 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 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.

Reason: *To keep the Scottish Ministers informed of any such incidents which may be in the public interest, in accordance with s.29(3)(c) of 2010 Act and s.71(3)(b) of the 2009 Act.*

3.2.1.2 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 and s.71(2)(b) of the 2009 Act.*

3.2.1.3 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, to the satisfaction of the Licensing Authority. Should the Works be discontinued prior to Completion of the Works, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Works.

Reason: *To mitigate the effects of the activity on the Site, in accordance with s.29(3)(e) of the 2010 Act and under section 72(3) of the 2009 Act to allow the removal of Works already installed.*

3.2.1.4 Commencement date of the Works

The Licensee must, prior to and no less than 7 days before the Commencement of the Works, notify the Licensing Authority, in writing, of the date of Commencement of the Works authorised under this Licence.

The Licensee must notify the Licensing Authority, in writing, of the date of Completion of the Works authorised under this licence.

Separate notifications are required at times of commencement and completion.

Reason: *To inform the Licensing Authority of the commencement date of the Works, in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.*

3.2.1.5 Reporting

The Licensee must, within 28 days of Completion of the Works or within 28 days of the date of expiry of the licence, whichever is the sooner, submit a written report to the licensing authority stating the nature and quantity of all substances and objects deposited below MHWS under authority of this licence. Where appropriate, nil returns must be provided.

Reason: To inform the Licensing Authority of the Completion of the Works in accordance with s.29(3)(c) of the Marine (Scotland) Act 2010 and s.71(2)(b) of the 2009 Act.

3.2.1.6 Navigation and Charting

The Licensee must, no later than 7 days prior to Commencement of the Works, ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the National Maritime Operations Centre (nmoccontroller@hmcg.gov.uk), are made fully aware of the Works through local Notice to Mariners or by any other appropriate means. The Notice to Mariners must include the proposed start date and clearly state the nature and duration of the Works.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, no later than 7 days 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 ensure that no deviation from this licence is made without the further written consent of the Licensing Authority.

Reason: To mitigate against and reduce the navigational risk to other legitimate users of the sea, and ensure environmental mitigation is undertaken in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.

3.2.1.7 Markings, lighting and signals of the Works and Jack up vessels

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

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 and s.71(2)(b) of the 2009 Act.

3.2.2 Conditions upon Completion of the Works

3.2.2.1 Date of Completion of the Works

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

Reason: To inform the Licensing Authority of the Completion of the Works, in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.

PART 4 – PROJECT LOCATION

1. Figure 1 – Location of Burrow Mud (SS.SM_u.CFiMu.SpN_{Meg}) Biotope (derived from survey) in the Offshore Export Cable Corridor.

