

SCHEDULE 9

Deemed licence under Marine and Coastal Access Act 2009

PART 2

Conditions

Design parameters

- 1.—(1) The total number of cables comprising Work No. 1 must not exceed 6.
- (2) The total length of the cables comprising Work No. 1 must not exceed 396 kilometres.
- (3) The total amount of cable protection for the cables comprising Work No. 1 must not exceed 367,200 square metres and 320,760 cubic metres.
- (4) The finished height of any cable protection must not exceed 10% of the navigable water depth existing before works commence unless otherwise agreed in writing in advance with the MMO and the MCA.

Notifications and inspections

- 2.—(1) The undertaker must ensure that—
 - (a) a copy of this licence and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with Condition 11; and
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with that Condition;
 - (b) within 28 days of receipt of a copy of this licence the persons referred to in subparagraph (a) provide a completed form to the MMO confirming their understanding of the terms and conditions of this licence.
- (2) Only the persons and vessels notified to the MMO in accordance with Condition 11 are permitted to carry out the licensed marine activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
 - (a) the undertaker's registered address;
 - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
 - (c) on board each vessel and at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The document referred to in paragraph (1)(a) must be available for inspection by an authorised enforcement officer at all times at the locations set out in paragraph (3).
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.
- (6) The undertaker must inform the local MMO coastal office in writing at least 5 working days before the commencement of the licensed marine activities or any part of them.

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(7) The Kingfisher Information Service of Seafish must be informed by email to kingfisher@seafish.co.uk of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least 2 weeks before the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of all offshore activities,

and confirmation of notification must be provided to the MMO.

(8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before the commencement of the licensed marine activities or any part of them advising of the start date of Work No. 1 and Work No. 2 and the expected vessel routes from the local construction ports to the relevant locations.

(9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and within 5 days of any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under Condition 7(b). Copies of all notices must be provided to the MMO.

(10) The undertaker must notify the UKHO of the commencement (within 2 weeks), progress and completion (within 2 weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made. Copies of all notices must be provided to the MMO.

(11) In case of damage to, or the destruction or decay of, the authorised scheme or any part of it, the undertaker must, as soon as possible and no later than 24 hours following the identification of damage, destruction or decay, notify Trinity House, the MMO, the MCA and the UKHO.

Offshore safety management

3.—(1) No part of the authorised scheme may be commenced until the MMO, in consultation with the MCA, has given written approval for an emergency response co-operation plan which includes full details of the emergency response co-operation plans for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations as appropriate contained within MCA Marine Guidance Note 543 “Safety of Navigation: Offshore Renewable Energy Installations (OREIs) - Guidance on UK Navigational Practice, Safety and Emergency Response Issues”.

(2) The emergency response co-operation plan must be implemented as approved, unless otherwise agreed in writing by the MMO in consultation with the MCA.

(3) No part of the authorised scheme may commence until the MMO in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the development, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MCA Marine Guidance Note 543 “Safety of Navigation: Offshore Renewable Energy Installations (OREIs) - Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

Aids to navigation

4.—(1) The undertaker must during the whole period of the construction, operation, alteration, replacement or decommissioning of the authorised scheme exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as Trinity House directs.

(2) The undertaker must keep Trinity House and the MMO informed of progress of the authorised scheme including—

- (a) a notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
 - (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
 - (c) notice within 5 working days of completion of construction of the authorised scheme.
- (3) The undertaker must submit reports to Trinity House detailing the working condition of aids to navigation quarterly or at more frequent intervals as specified by Trinity House.
- (4) The undertaker must notify Trinity House and the MMO of any failure of the aids to navigation including timescales and plans for remedying the failure, as soon as possible and no later than 24 hours following the detection of the failure.
- (5) Where Condition 2(11) applies, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House directs.

Chemicals, drilling and debris

- 5.—(1) Unless otherwise agreed in writing by the MMO, all chemicals used in the construction of the authorised scheme must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(1).
- (2) Unless otherwise agreed in writing by the MMO, the undertaker must ensure that any coatings and any treatments are suitable for use in the marine environment and are used in accordance with Pollution Prevention Guidelines or guidelines approved by the Health and Safety Executive.
- (3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment including bunding of a minimum of 110% of the total volume of all reservoirs and containers.
- (4) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment. Concrete and cement mixing and washing areas must be contained to prevent run off entering the water through the freeing ports.
- (5) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team within 24 hours.
- (6) The undertaker must ensure that any debris arising from the construction of the authorised scheme or from equipment or temporary works placed seaward of MHWS is removed within 4 weeks of completion of the authorised scheme unless otherwise agreed with the MMO.
- (7) Subject to paragraph (10), at least 10 days before the commencement of licensed marine activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the authorised scheme or any phase of it. The audit sheet must include details of—
- (a) loading facilities;
 - (b) vessels;
 - (c) equipment;
 - (d) shipment routes;
 - (e) transport;
 - (f) working schedules; and
 - (g) all components and materials to be used in the construction of the authorised scheme.
- (8) The audit sheet must be maintained throughout the construction of the authorised scheme (or relevant phase) and must be submitted to the MMO for review at fortnightly intervals during periods of active offshore construction.

(1) [S.I. 2002/1355](#), amended by [S.I. 2011/982](#).

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(9) If the undertaker discovers that any materials on the audit sheet are unaccounted for, the undertaker must inform the MMO within 6 hours of the discovery. The notification must include a description of the materials unaccounted for and, where known, provide the co-ordinates where they may be located. Where the MMO thinks it is appropriate to do so, the MMO may require the undertaker to carry out a side-scan survey to plot all the potential obstructions within the relevant area of the offshore Order limits (and this area may be extended at the reasonable discretion of the MMO). Where practicable, the undertaker must remove any obstruction that the MMO believes to be associated with the licensed marine activities at the undertaker's expense.

(10) As an alternative to the completion of an audit sheet, with written approval from the MMO, the undertaker may introduce a dropped object procedure. If a dropped object procedure is introduced, any dropped objects must be reported to the MMO using the dropped object procedure form within 6 hours of the undertaker becoming aware of an incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) and may require obstructions to be removed from the seabed at the undertaker's expense.

(11) The undertaker must agree with the MMO, before commencement of works, whether the dropped object procedure or audit sheet is to be used.

(12) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source free from contaminants and containing minimal fines.

(13) If any rock material used in the construction of the authorised scheme is misplaced or lost seaward of MHWS, the undertaker must report the loss to the MMO, Trinity House, the MCA and the UKHO as soon as possible and in any event within 6 hours and, if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material), the undertaker must endeavour to locate the material and recover it.

Force majeure

6.—(1) If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits otherwise than in accordance with this licence because the safety of human life or of the vessel is threatened, full details of the circumstances of the deposit must be notified to the MMO within 48 hours.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

7. The licensed marine activities or any part of those activities except for horizontal directional drilling works within Work No. 2 must not be commenced until the following (as far as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) a plan (to be approved after consultation with Trinity House, the MCA and the statutory nature conservation body) which shows the length and arrangement of the cables comprising Work Nos. 1 and 2 to ensure conformity with the description of Work Nos. 1 and 2 and compliance with Condition 1;
- (b) a construction and monitoring programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works;
 - (iii) proposed pre-construction surveys, baseline report format and content, post-construction monitoring and related reporting in accordance with paragraph (g) and Conditions 12 and 13; and

- (iv) an indicative written construction programme (insofar as not shown in accordance with sub-paragraph (ii)),
- with details in accordance with sub-paragraph (iii) to be submitted to the MMO at least 4 months before the first survey unless otherwise agreed in writing with the MMO;
- (c) a construction method statement (to be approved after consultation with the statutory nature conservation body) in accordance with the construction methods assessed in the environmental statement and including details of—
 - (i) cable installation including cable landfall, cable protection and pipeline crossings;
 - (ii) contractors;
 - (iii) vessels and vessels transit corridors; and
 - (iv) associated and ancillary works;
 - (d) a project environmental management plan to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during the construction and operation of the authorised scheme in relation to all activities carried out;
 - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements; and
 - (iv) the appointment and responsibilities of a fisheries liaison officer and an environmental liaison officer;
 - (e) a cable protection plan (to be approved after consultation with the statutory nature conservation body) providing details of the need, type, sources, quantity and installation methods for cable armouring and a statement of the total area and volume of cable armouring material to be installed, to be within the scope of the environmental impact assessment recorded in the environmental statement;
 - (f) a cable specification and installation plan for the offshore Order limits (to be approved after consultation with Trinity House, the MCA and the statutory nature conservation body) to include—
 - (i) technical specification of the cables including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice; and
 - (ii) a detailed cable-laying plan incorporating a burial risk assessment to ascertain suitable burial depths and cable-laying techniques including cable protection;
 - (g) a written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean low water (to be approved after consultation with Historic England) in accordance with the outline offshore written scheme of investigation and industry good practice to include—
 - (i) details of responsibilities of the undertaker, archaeological consultant and contractor inclusive of a programme for the production of reports and publication of results;
 - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;
 - (iii) archaeological analysis and reporting of survey data, and a timetable, which must be submitted to the MMO within 4 months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;

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- (v) monitoring during and post-construction including a conservation programme for finds;
 - (vi) archiving of archaeological material inclusive of any completed and agreed archaeological reports produced through the written scheme of archaeological investigation that are to be deposited by the undertaker within a public archive in accordance with the OASIS (outline access to the index of archaeological investigations) system; and
 - (vii) a reporting and recording protocol including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;
- (h) a mitigation scheme (to be approved after consultation with the statutory nature conservation body) for Annex 1 habitat biogenic reef (*Mytilus edulis* and/or *Sabellaria spinulosa*) features (or biogenic reef outside the Inner Dowsing, Race Bank and North Ridge Site of Community Importance) identified by the survey referred to in Condition 12(4)(a); and
- (i) an offshore operations and maintenance plan (to be approved after consultation with the statutory nature conservation body) in accordance with the outline offshore operations and maintenance plan to be submitted to the MMO at least 4 months before commencement of operation of the authorised scheme and to provide for review and resubmission every 3 years during the operational phase.

Archaeological reports

8.—(1) Any archaeological reports produced in accordance with Condition 7(g)(iii) must be agreed with Historic England.

(2) The undertaker must ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment by submitting a Historic England OASIS form with a digital copy of the report within 6 months of the completion of construction of the authorised scheme.

(3) If the report relates to the intertidal area, the undertaker must notify the MMO and Lincolnshire County Council that the OASIS report has been submitted to the National Record of the Historic Environment within 2 weeks of the submission.

Pre-construction plans and documentation: horizontal directional drilling works within Work No. 2

9.—(1) Horizontal directional drilling works within Work No. 2 must not be commenced until the following have been submitted to and approved in writing by the MMO (as far as relevant to those works)—

- (a) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details of contractors, vessels and vessel transit corridors;
- (b) a written scheme of archaeological investigation (to be approved after consultation with Historic England) in accordance with the outline offshore written scheme of investigation and industry good practice; and
- (c) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents.

(2) The undertaker must also comply with Condition 2(6) to (9) before horizontal directional drilling works are commenced.

Pre-construction plans and documentation: time for submission, etc.

10.—(1) Each plan, programme, scheme or statement required to be approved under Condition 7 or 9 must be submitted for approval at least 4 months before the intended start of construction, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) No licensed marine activities may be commenced until the MMO has approved in writing each plan, programme, scheme or statement required to be approved under Condition 7 or 9; and the licensed marine activities must, where relevant, be carried out in accordance with the approved plan, programme, scheme or statement unless otherwise agreed in writing by the MMO (after consultation with every person required to be consulted before approval of the original plan, programme, scheme or statement).

Reporting of engaged agents, contractors and vessels

11.—(1) The undertaker must notify the MMO in writing of any agents, contractors, sub-contractors or vessels that will carry out any licensed marine activity.

(2) Notification must be received by the MMO no less than 24 hours before the commencement of the licensed marine activity.

(3) The undertaker must submit a movement sheet weekly thereafter.

Pre-construction monitoring and surveys

12.—(1) The undertaker must submit details for written approval by the MMO after consultation with the statutory nature conservation body of—

- (a) proposed pre-construction surveys including methodologies and timings; and
- (b) a proposed format and content for a pre-construction baseline report.

(2) The survey proposals must specify the objectives of each survey and explain how the survey will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(4) The pre-construction surveys referred to in paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) appropriate surveys to determine the location, extent and composition of any Annex 1 habitat biogenic reef features (*Mytilus edulis* and/or *Sabellaria spinulosa*) within the Inner Dowsing, Race Bank and North Ridge Site of Community Importance or biogenic reef features in whole or in part inside the areas within the offshore Order limits in which it is proposed to carry out construction works;
- (b) swath bathymetric surveys, to International Hydrographic Organization Order IA standard, and side-scan sonar surveys of the areas within the offshore Order limits in which it is proposed to carry out construction works, the data and survey reports to be provided to the UKHO; and
- (c) 1 high-resolution bathymetric and side-scan sonar survey of the areas within the offshore Order limits in which it is proposed to carry out construction works including a 500-metre buffer area around the site of each works. This should include the identification of sites of historic or archaeological interest in accordance with the written scheme of archaeological investigation.

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(5) The undertaker must carry out the surveys agreed under paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO after consultation with the statutory nature conservation body.

Post-construction

13.—(1) The undertaker must submit details for approval by the MMO after consultation with the statutory nature conservation body of—

- (a) proposed post-construction surveys including methodologies and timings; and
- (b) a proposed format, content and timings for providing reports on the results.

(2) The survey proposals must specify the objectives of each survey and explain how the survey will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post-construction surveys referred to in paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) dependent on the outcome of the survey undertaken in Condition 12(4)(a), a survey to determine the effects of construction activity on the location, extent and composition of Annex 1 habitats or potential Annex 1 habitat qualifying biogenic features in whole or in part inside the areas within the offshore Order limits in which construction works have been carried out;
- (b) a swath bathymetric survey to International Hydrographic Organization Order IA standard within 12 months of the completion of the licensed marine activities across the areas within the offshore Order limits in which licensed marine activities have been carried out to—
 - (i) ensure the cables have been buried and located within the offshore Order limits; and
 - (ii) provide information on bedform morphology,

and the data and survey reports must be provided to the UKHO. The results of the post-cable lay survey must be submitted to the MMO as part of a cable burial risk assessment which must include detail of cable burial management including surveys and notification of cable exposure over the lifetime of the project; and

- (c) a subsequent swath bathymetric survey focused on agreed locations to demonstrate that any changes to bedforms or sediment movement are within the ranges predicted in the environmental statement.

(4) The undertaker must carry out the surveys agreed under paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO after consultation with the statutory nature conservation body.

Bathing water quality

14.—(1) Work No. 2 must not be undertaken between 15th May and 30th September (the “bathing season”) in any year unless a scheme to protect the status of bathing water quality under Directive [2006/7/EC](#) of the European Parliament and of the Council of 15th February 2006 concerning the management of bathing water quality, as determined by a review of Environment Agency baseline data before construction, has been submitted to and approved in writing by the MMO after consultation with the Environment Agency and East Lindsey District Council.

(2) The scheme must—

- (a) include an assessment of the impact of any works in the intertidal area (with a particular focus on the potential bacti issues that may be caused by disturbed sediment) which will be undertaken during the bathing season; and

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- (b) identify measures to be implemented to mitigate any identified risks to ensure the status of bathing water quality under the Directive is not impacted.