

East Anglia THREE  
Offshore Windfarm

East Anglia THREE

# Development Consent Order (Compare Version 5 to Version 6, Validated)

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**East Anglia THREE Limited**

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**East Anglia THREE Offshore Wind Farm**

**Draft Development Consent Order**

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STATUTORY INSTRUMENTS

2016 No.

INFRASTRUCTURE PLANNING

~~THE EAST ANGLIA THREE OFFSHORE WIND FARM ORDER 201X~~ The  
East Anglia Three Offshore Wind Farm Order 201X

Made - - - - ~~201~~  
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An application has been made to the Secretary of State in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009<sup>(a)</sup> for an Order under sections 37, 114, 115, 120 and 149A of the Planning Act 2008 (“the 2008 Act”)<sup>(b)</sup>;

And whereas the application was examined by a Panel appointed as an examining authority by the Secretary of State pursuant to Chapter 4 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010<sup>(c)</sup>;

The examining authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74 of the 2008 Act made a report and recommendation to the Secretary of State;

The Secretary of State, having considered the report and recommendation of the Panel, and decided the application, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in its opinion do not make any substantial change to the proposals;

The Secretary of State, having considered the report and recommendation of the Panel, is satisfied that open space comprised within the Order land, when burdened with the new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public and that, accordingly, section 132(3) of the 2008 Act applies;

The Secretary of State in exercise of the powers conferred by sections 114, 115, 120, and 149A of the 2008 Act the Secretary of State makes the following Order—

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<sup>(a)</sup> S.I. 2009/2264 as amended by the Localism Act (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (S.I. 2012/635) and the Infrastructure Planning (Prescribed Consultees and Interested Parties etc) (Amendment) Regulations 2013 (S.I. 2013/522)

<sup>(b)</sup> 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c.20)

<sup>(c)</sup> S.I. 2010/103, amended by S.I. 2012/635



**PART 1**  
**PRELIMINARY**

**Citation and commencement**

**1.** This Order may be cited as the East Anglia THREE Offshore Wind Farm Order and comes into force on [●] 201[●].

**Interpretation**

**2.**—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(**d**);

“the 1965 Act” means the Compulsory Purchase Act 1965(**e**);

“the 1980 Act” means the Highways Act 1980(**f**);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(**g**);

“the 1990 Act” means the Town and Country Planning Act 1990(**h**);

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**(d)** 1961 c.33  
**(e)** 1965 c.56  
**(f)** 1980 c.66  
**(g)** 1981 c.66  
**(h)** 1990 c.8

“the 1991 Act” means the New Roads and Street Works Act 1991(**i**);

“the 2003 Act” means the Communications Act 2003(**j**);

“the 2004 Act” means the Energy Act 2004(**k**);

“the 2008 Act” means the Planning Act 2008(**l**);

“the 2009 Act” means the Marine and Coastal Access Act 2009(**m**);

“access to works plan” means the plan certified as the access to works plan by the Secretary of State for the purposes of this Order;

“ancillary works” means the ancillary works described in Part 2 of **Schedule 1** (Ancillary Works) and any other works authorised by this Order and which are not development within the meaning of section 32 of the 2008 Act;

“authorised development” means the development and associated development described in Part 1 of **Schedule 1** (Authorised Development) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

“authorised project” means the authorised development and the ancillary works authorised by this Order;

“book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LIDAR buoys, wave buoys and guard buoys;

“cable” in respect of any onshore cable includes direct lay cables and/or cables pulled through cable ducts and in respect of any cable whether onshore or offshore means any Alternating Current (AC) or Direct Current (DC) cables and includes fibre optic cables either within the cable or laid alongside;

“cable crossings” means the crossing of existing sub-sea cables or pipelines or other existing infrastructure by the inter-array, interconnecting and/or export cables authorised by this Order together with physical protection measures including concrete mattresses, rock placement or other protection methods;

“cable ducts” means conduits for the installation of cables;

“carriageway” has the same meaning as in the 1980 Act;

“circuit” means up to three cables;

“commence” means, (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for pre-construction surveys and monitoring and, (b) in respect of any other works comprised in the authorised project, has the meaning given in Requirement 37 and the words “commencement” and “commenced” are construed accordingly;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“connection works” means Work Nos. 5B to 69 and any related further associated development in connection with those works;

“construction consolidation site” means a construction site associated with the connection works including hard standings, lay down and storage areas for construction materials and

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- (i)** 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 78(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18)
- (j)** 2003 (c.21)
- (k)** 2004 c.20. Section 105 was amended by section 69 of the Energy Act 2008 (c.32)
- (l)** 2008 c.29. The relevant provisions of the Planning Act 2008 are amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c.20), and by sections 22 to 27 of the Growth and Infrastructure Act 2013 (c.27). Section 149A was inserted by paragraph 4 in Part 1 of Schedule 8 to the Marine and Coastal Access Act 2009 (c. 23)
- (m)** 2009 c.23

equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas for welfare facilities including offices and canteen and washroom facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“deemed generation assets marine licences” means the licences set out in **Schedule 10** (deemed licence under the 2009 Act – generation assets (licence 1 – phase 1)) and **Schedule 11** (deemed licence under the 2009 Act – generation assets (licence 2 – phase 2)) and deemed by **article 28** (deemed marine licences under the 2009 Act) to have been granted under Part 4 of the 2009 Act, by virtue of section 149A of the 2008 Act;

“deemed interconnection marine licences” means the licences set out in **Schedule 14** (deemed licence under the 2009 Act – interconnection (licence 1 – phase 1)) and **Schedule 15** (deemed licence under the 2009 Act – interconnection (licence 2 – phase 2)) and deemed by **article 28** (deemed marine licences under the 2009 Act) to have been granted under Part 4 of the 2009 Act, by virtue of section 149A of the 2008 Act;

“deemed marine licences” means the deemed interconnection marine licences, the deemed generation assets marine licences and the deemed transmission assets marine licences;

“deemed transmission assets marine licences” means the licences set out in **Schedule 12** (deemed licence under the 2009 Act – transmission assets (licence 1 – phase 1)) and **Schedule 13** (deemed licence under the 2009 Act – transmission assets (licence 2 – phase 2)) and deemed by **article 28** (deemed marine licences under the 2009 Act) to have been granted under Part 4 of the 2009 Act, by virtue of section 149A of the 2008 Act;

“design and access statement” means the document certified as the design and access statement by the Secretary of State for the purposes of this Order;

“draught height” means the distance between the lowest point of the rotating blade of the wind turbine generator and MHWS;

“East Anglia ONE” means the offshore wind farm authorised under the East Anglia ONE Order;

“East Anglia ONE Order” means the East Anglia ONE Offshore Wind Farm Order 2014(**n**) as amended by the East Anglia ONE Offshore Wind Farm (Corrections and Amendments) Order 2016(**o**);

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“highway” and “highway authority” have the same meaning as in the 1980 Act(**p**);

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at two or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment, and “discrete jacket foundation types” includes pre-piled or post-piled jackets, three-legged or four legged jackets, or straight or battered leg jackets;

“jointing bay” means an excavation formed to enable the jointing of high voltage power cables;

“jointing works” means a process by which two or more cables are connected to each other by means of cable joints within a jointing bay;

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(**n**) 2014/1599

(**o**) 2016/447

(**p**) “Highway” is defined in section 328(1) for “highway authority”, see section 1

“land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;

“LAT” means lowest astronomical tide;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of **Schedule 1** (Ancillary Works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of **Schedule 1** (Authorised Development) (but not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the average height of all low waters above Chart Datum;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“MMO” means the Marine Management Organisation;

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“offshore electrical station” means a platform attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, instrumentation, protection and control systems, neutral earthing resistors, reactive compensation, standby electrical generation equipment, fuelling facilities, auxiliary and uninterruptible power supply systems and transformers, accommodation and/or emergency shelter, craneage, metering stations, meteorological equipment, helicopter landing facilities, messing facilities, potable water storage, black water separation equipment, control hub, drainage facilities, access equipment, J-tubes, marking and lighting and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform and, depending on the type of electrical station, low, medium and/or high voltage switch gear, and/or AC filters and/or AC/DC converter with switching devices and/or DC equipment including DC capacitors and DC filters;

“offshore platform” means any offshore electrical station and any offshore accommodation platform;

“offshore works” means Work Nos. 1 to 5A and any ancillary works in connection with those works; “onshore cable corridor” means the onshore area in which the cables will be located within the Order limits;

“onshore substation” means a compound containing electrical equipment including power transformers, switchgear, electrical protection equipment devices (disconnectors, circuit breakers), reactive compensation equipment, harmonic filters, cables, lightning protection masts, control buildings, communications masts, back-up generators, access, fencing and other associated equipment, structures or buildings and, depending on the type of substation, specific equipment such as one or more converter halls, and/or medium or high voltage switchgears;

“Order land” means the land shown on the land plan which is within the limits of land to be acquired and described in the book of reference;

“Order limits” means the limits shown on the works plan within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in paragraph 2 of Part 1 of **Schedule 1** (Authorised Development) of this Order;

“outline access management plan” means the document certified as the outline access management plan by the Secretary of State for the purposes of this Order;

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State for the purposes of this Order;

“outline landscape and ecological management strategy” means the document certified as the outline landscape and ecological management strategy by the Secretary of State for the purposes of this Order;

“outline navigation monitoring strategy” means the document certified as the outline navigation monitoring strategy by the Secretary of State for the purposes of this Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline traffic management plan” means the document certified as the outline traffic management plan by the Secretary of State for the purposes of this Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“outline travel plan” means the document certified as the outline travel plan by the Secretary of State for the purposes of this Order;

“outline written scheme of investigation (onshore)” means the document certified as the outline written scheme of investigation (onshore) by the Secretary of State for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**q**);

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“platform exclusion zone” means the area shown as such on the offshore works plan

“primary construction consolidation site” means a construction consolidation site whose footprint does not exceed the dimensions specified in **requirement 12** (detailed design parameters onshore);

“radar line of sight coverage plan” means the plan certified as the radar line of sight coverage plan by the Secretary of State for the purposes of this Order;

“relevant planning authority” means the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

“requirements” means those matters set out in Part 3 of **Schedule 1** (requirements) to this Order;

“secondary construction consolidation site” means a construction consolidation site whose footprint does not exceed the dimensions specified in **requirement 12** (detailed design parameters onshore);

“single onshore phase” means carrying out Work No. 67 as a single construction operation;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(**r**);

“suction caisson” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for fixity of steel jacket foundations;

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(**q**) 1981 c.67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). There are other amendments to the 1981 Act which are not relevant to this Order.

(**r**) “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act (c.7)

“suction caisson foundation” means a tubular steel structure which penetrates the seabed assisted by a hydrostatic pressure differential and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“temporary stopping up of public rights of way plan” means the plan certified as the temporary stopping up of public rights of way plan by the Secretary of State for the purposes of this Order;

“transition bay” means an underground pit where the offshore export cables comprised in Work No. 5A are jointed to the connection works;

“tribunal” means the Lands Chamber of the Upper Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations pursuant to the deemed marine licences set out in Schedules 10, 12, and 14 (Licence 1 – Phase 1) and Schedules 11, 13 and 15 (Licence 2 – Phase 2) respectively;

“two onshore phases” means carrying out Work No. 67 as two separate construction operations linked to two offshore phases;

“undertaker” means East Anglia THREE Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“watercourse” includes all rivers, streams, creeks, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation; and

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate, save in respect of the parameters referred to Requirements 2 to 9 and 12 in Part 3, Schedule 1 (requirements) and Conditions 1 to 6 in Part 2 of the deemed marine licences.

(4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(5) Unless otherwise stated, references in this Order to points identified by letters are to be construed as references to the points so lettered on the works plan.

(6) The expression “includes” may be construed without limitation.

## PART 2

### PRINCIPAL POWERS

#### **Development consent etc. granted by the Order**

**3.—**(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

(a) development consent for the authorised development; and

(b) consent for the ancillary works,  
to be carried out within the Order limits.

(2) Subject to the requirements and conditions in the deemed marine licences, Work Nos. 1 to 5A must be constructed anywhere within the Order limits seaward of MHWS and Work Nos. 5B to 69 must be constructed anywhere within the Order limits landward of MLWS.

#### **Power to construct and maintain authorised project**

4.—(1) The undertaker may at any time construct and maintain the authorised project, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain a licence under Part 4 of the 2009 Act (marine licensing).

#### **Benefit of the Order**

5.—(1) Subject to paragraphs (2) and (3), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) below) and such related statutory rights as may be agreed between the undertaker and the transferee;
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) below) and such related statutory rights as may be so agreed.

(2) Subject to paragraph (3), the undertaker may with the written consent of the Secretary of State—

- (a) where an agreement has been made in accordance with paragraph (1)(a), transfer to the transferee the whole of the deemed generation assets marine licences and/or the whole of the deemed transmission assets marine licences and/or the whole of the deemed interconnector marine licences and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) where an agreement has been made in accordance with paragraph (1)(b), grant to the lessee, for the duration of the period mentioned in paragraph (1)(b), the whole of the deemed generation assets marine licences and/or the whole of the deemed transmission assets marine licences and/or the whole of the deemed interconnector marine licences and such related statutory rights as may be so agreed.

(3) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the whole of the benefit of the provisions of the deemed marine licences.

(4) Where paragraph (8) applies no consent of the Secretary of State is required.

(5) Where an agreement has been made in accordance with paragraph (1) or (2) references in this Order to the undertaker, except in paragraph (9), include references to the transferee or lessee.

(6) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) or (2) are subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(7) Where an agreement has been made in accordance with paragraph (1) or (2)—

- (a) the benefit (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker save in the case of a deemed marine licence transferred or granted in respect of any breach of an obligation by the undertaker which occurs prior to such transfer or grant or which occurs as a result of any activity carried out by the undertaker on behalf of the transferee.

(8) This paragraph applies where—

- (a) the transferee or lessee is a person who holds a licence under the Electricity Act 1989; or
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
  - (i) no such claims have been made,
  - (ii) any such claim has been made and has been compromised or withdrawn,
  - (iii) compensation has been paid in final settlement of any such claim,
  - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or
  - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.

(9) The provisions of **article 8** (street works), **article 10** (temporary stopping up of streets), **article 15** (compulsory acquisition of land), **article 17** (compulsory acquisition of rights), **article 23** (temporary use of land for carrying out the authorised project) and **article 24** (temporary use of land for maintaining the authorised project) have effect only for the benefit of the named undertaker and a person who is a transferee or lessee and is also—

- (a) in respect of Works Nos. 5B to 66 a person who holds a licence under the Electricity Act 1989; or
- (b) in respect of functions under **article 8** (street works) relating to a street, a street authority.

(10) Where paragraph (8) applies, the undertaker must provide written notification to the Secretary of State, the MMO, and the relevant planning authority at least 14 days prior to transferring and/or granting any benefit under paragraph (1) or (2).

#### **Application and modification of legislative provisions**

**6.**—(1) Regulation 6 of the Hedgerows Regulations 1997(s) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

“(k) or for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.”

#### **Defence to proceedings in respect of statutory nuisance**

**7.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(t) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974(u); or
  - (ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—

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(s) SI 1997/1160

(t) 1990 c.43. There are amendments to this Act which are not relevant to the Order.

(u) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to the Order.



- (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in compliance with **requirement 26** (control of noise during operational phase); or
- (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction or maintenance of the authorised project.

## PART 3

### STREETS

#### **Street works**

**8.**—(1) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets specified in **Schedule 2** (streets subject to street works) as is within the Order limits and may—

- (a) place apparatus under the street;
- (b) maintain apparatus under the street or change its position; and
- (c) execute any works required for or incidental to any works referred to in sub-paragraphs (a) and (b).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

#### **Temporary stopping up of public rights of way**

**9.**—(1) The undertaker may, in connection with the carrying out of the authorised project, temporarily stop up each of the public rights of way specified in columns (2) of **Schedule 3** (public rights of way to be temporarily stopped up) to the extent specified in column (3), by reference to the letters shown on the public rights of way to be temporarily stopped up plan.

#### **Temporary stopping up of streets**

**10.**—(1) Subject to paragraph (3), the undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street within the Order limits and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(3) The undertaker must not temporarily stop up, alter or divert any street without the consent of the street authority which may attach reasonable conditions to any consent.

(4) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (3) that street authority is deemed to have granted consent.

### **Access to works**

**11.**—(1) The undertaker may, for the purposes of the authorised project—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of **Schedule 4** (access to works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority in accordance with **requirement 16** (highway access and improvements), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

(2) If the relevant planning authority fails to notify the undertaker of its decision within 28 days of receiving an application for approval under paragraph (1)(b) that relevant planning authority is deemed to have granted approval.

### **Agreements with street authorities**

**12.**—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) any temporary stopping up, alteration or diversion of a street authorised by this Order; or
- (b) the carrying out in the street of any of the works referred to in **article 8(1)** (street works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

## **PART 4**

### **SUPPLEMENTAL POWERS**

#### **Discharge of water**

**13.**—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain subject to the obtaining of consent and approval respectively pursuant to sub-paragraphs (3) and (4) below.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 of the Water Industry Act 1991(v) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to

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(v) 1991 c.56. Section 106 was amended by sections 36(2) and 99 of the Water Act 2003 (c.37), and Section 35(8)(a) of the Competition and Services (Utilities) Act 1992 (c.43) and amended by sections 32 and 42 of, and paragraph 16(2) of Schedule 3 to, the Flood and Water Management Act 2010 (date in force to be appointed see section 49(3)(h)(i)). There are other amendments to this section which are not relevant to this Order.

such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to article 13(1) except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of, or construct any works in, under, over or within 8 metres of, any watercourse forming part of a main river, or within 16 metres of a tidally influenced main river without the prior written consent of the Environment Agency.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulation 12 of the Environmental Permitting (England and Wales) Regulations 2010<sup>(w)</sup>.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991, as amended by the Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in that Act.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

#### **Authority to survey and investigate the land onshore**

**14.—**(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised project and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required on entering the land, produce written evidence of their authority to do so; and

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<sup>(w)</sup> S.I. 2010/675, as amended by the Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (SI 2011/2043), the Environmental Permitting (England and Wales) (Amendment No. 2) Regulations 2011 (SI 2011/2933), the Environmental Permitting (England and Wales) (Amendment) Regulations 2012 (SI 2012/630), the Controlled Waste (England and Wales) Regulations 2012 (S.I. 2012/811).

- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes may be made under this article—
- (a) in land forming a railway without the consent of Network Rail Infrastructure Limited; or
  - (b) in land held by or in right of the Crown without the consent of the Crown.
- (5) No trial holes may be made under this article—
- (a) in land located within the highway boundary without the consent of the highway authority; or
  - (b) in a private street without the consent of the street authority,
- but such consent must not be unreasonably withheld.
- (6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (7) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—
- (a) under paragraph (5)(a) in the case of a highway authority; or
  - (b) under paragraph (5)(b) in the case of a street authority;
- that authority is deemed to have granted consent.

## PART 5

### POWERS OF ACQUISITION

#### **Compulsory acquisition of land**

**15.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental, to it.

(2) This article is subject to paragraph (2) of **article 17** (compulsory acquisition of rights) and **article 23** (temporary use of land for carrying out the authorised project).

#### **Time limit for exercise of authority to acquire land compulsorily**

**16.**—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat may be served under Part 1 of the 1965 Act; and
- (b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by **article 19** (application of the Compulsory Purchase (Vesting Declarations) Act 1981)(**x**).

(2) The authority conferred by **article 23** (temporary use of land for carrying out the authorised project) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

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(**x**) 1981 c.66. Sections 2, 6 and 11 were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). There are other amendments to the 1981 Act which are not relevant to this Order.

## Compulsory acquisition of rights

**17.**—(1) The undertaker may acquire compulsorily such rights or impose restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under **article 15** (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this article, **article 18** (private rights) and **article 25** (statutory undertakers), in the case of the Order land specified in column (1) of **Schedule 5** (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 of the 1965 Act, as substituted by paragraph 5 of **Schedule 6** (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires an existing right over land or restrictive covenant under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) **Schedule 6** (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of restrictive covenants.

(5) In any case where the acquisition of new rights under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

## Private rights

**18.**—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under article 15 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 15 (compulsory acquisition of land)—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 17 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry) in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or **article 25** (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land,

(iii) the undertaker's entry onto the land, or

(iv) the undertaker's taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

### **Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

**19.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, has effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there is substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority must include the particulars specified in subsection (3) in a notice which is—

(a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and

(b) published in a local newspaper circulating in the area in which the land is situated”.

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and after “given” there is inserted “and published”.

(5) In that section, for subsections (5) and (6) there is substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

(a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or

(b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

(a) in subsection (1), after “publication” there is inserted “in a local newspaper circulating in the area in which the land is situated”; and

(b) subsection (2) is omitted.

(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” is omitted.

(8) References to the 1965 Act in the 1981 Act is construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil only**

**20.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of **article 15** (compulsory acquisition of land) or **article 17** (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent **article 21** (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

### **Acquisition of part of certain properties**

**21.**—(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as divided land) (as applied by section 125 of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner is required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner is required to sell only the land subject to the notice to treat must, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner is required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but

- (b) the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

### **Rights under or over streets**

**22.**—(1) The undertaker may enter on and appropriate so much of the subsoil of or air-space over any street within the Order limits as may be required for the purposes of the authorised project and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised project.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised project**

**23.**—(1) The undertaker may, in connection with the carrying out of the authorised project—

- (a) enter on and take temporary possession of—



- (i) the land specified in columns (1) and (2) of **Schedule 7** (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act (apart from land specified in plots 449A, 450, 453, 454, 454A, 454B, 454C, 457, 458, 459, 460, 461, 462 and 463 of the book of reference which are identified for freehold acquisition);
- (b) remove any buildings and vegetation from that land;
  - (c) construct temporary works (including the provision of means of access), haul roads, security fencing, bridges, structures and buildings on that land;
  - (d) use the land for the purposes of a working site with access to the working site in connection with the authorised project; and
  - (e) construct any works, or use the land, as specified in relation to that land in column 3 of **Schedule 7** (land of which temporary possession may be taken), or any mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of **Schedule 7** (land of which temporary possession may be taken), unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to replace a building removed under this article.

(5) The undertaker must pay compensation to the owners and occupiers of land which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from—

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under **article 17** (compulsory acquisition of rights) to the extent that such land is listed in column (1) of Schedule 5; or
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under **article 20** (acquisition of subsoil only).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

## Temporary use of land for maintaining authorised project

**24.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised project for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) In this article “the maintenance period”, in relation to any part of the authorised project, means the period of 5 years beginning with the date on which the authorised project first exports electricity to the national electricity transmission network.

## Statutory undertakers

**25.** Subject to the provisions of **Schedule 8** (protective provisions) the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plan within the limits to the land to be acquired and described in the book of reference; and
- (b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

## Recovery of costs of new connections

**26.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under **article 25** (statutory undertakers) any person who is the owner or

occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under **article 25** (statutory undertakers), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003; and

“public utility undertaker” has the same meaning as in the 1980 Act.

## PART 6 OPERATIONS

### **Operation of generating station**

**27.**—(1) The undertaker is hereby authorised to operate the generating station comprised in the authorised project.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

### **Deemed marine licences under the 2009 Act**

**28.**—(1) Under Part 4 Chapter 1 of the 2009 Act (marine licensing), the undertaker is granted the deemed marine licences contained in **Schedules 10 to 15** to carry out the works and make the deposits specified in Part 1 of the deemed marine licences, subject to the conditions set out in Part 2 of the deemed marine licences—

- (a) Generation Assets (Licence 1 – Phase 1) (set out in **Schedule 10**)
- (b) Generation Assets (Licence 2 – Phase 2) (set out in **Schedule 11**)
- (c) Transmission Assets (Licence 1 – Phase 1) (set out in **Schedule 12**)
- (d) Transmission Assets (Licence 2 – Phase 2) (set out in **Schedule 13**)
- (e) Interconnection (Licence 1 – Phase 1) (set out in **Schedule 14**)
- (f) Interconnection (Licence 2 – Phase 2) (set out in **Schedule 15**)

**PART 7**  
**MISCELLANEOUS AND GENERAL**

**Application of landlord and tenant law**

**29.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants may prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease).

**Operational land for purposes of the 1990 Act**

**30.** Development consent granted by this Order is treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

**Felling or lopping of trees and removal of hedgerows**

**31.**—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) The undertaker may, for the purposes of the authorised project—

- (a) subject to paragraph (2) above, remove any hedgerows within the Order limits and specified in **Schedule 9, Part 1** (removal of hedgerows) that may be required for the purposes of carrying out the authorised project; and
- (b) remove the important hedgerows as are within the Order limits and specified in **Schedule 9, Part 2** (removal of important hedgerows).

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerow Regulations 1997(y).

### **Certification of plans etc**

**32.**—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the land plan (document reference 2.2 – version 1);
- (b) the works plan (document reference 2.4 – revision A onshore and revision B offshore);
- (c) the access to works plan (document reference 2.5);
- (d) the temporary stopping up of public rights of way plan (document reference 2.6 – revision B);
- (e) the important hedgerows plan (document reference 2.10 – revision 4);
- (f) the radar line of sight coverage plan (document reference 2.11);
- (g) the book of reference (December 2016 – version 3);
- (h) the outline code of construction practice (November 2016 – revision B) (document reference 8.1);
- (i) the design and access statement (October 2016) (document reference 8.3);
- (j) the outline written scheme of investigation (onshore) (November 2016 – version 2) (document reference 8.4);
- (k) the outline written scheme of investigation (offshore) (November 2016 – version 2) (document reference 8.5);
- (l) the outline landscape and ecological management strategy (November 2016 – version 2) (document reference 8.6);
- (m) the outline traffic management plan (November 2015 – version 1) (document reference 8.7);
- (n) the outline travel plan (November 2015 – version 1) (document reference 8.8);
- (o) the outline access management plan (November 2016 – revision B) (document reference 8.9);
- (p) the outline offshore operations and maintenance plan (November 2015 – version 1) (document reference 8.10);
- (q) the outline navigation monitoring strategy (November 2015 – version 1) (document reference 8.11);
- (r) the in principle monitoring plan (October 2016 – version 2) (document reference 8.12);
- (s) the draft marine mammal mitigation protocol (November 2015 – version 1) (document reference 8.15); and
- (t) the In principle East Anglia Three Project Southern North Sea pSAC Site Integrity Plan (December 2016),

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and

- (b) identifies that provision by a number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made

the reference in the plan or document concerned is construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

### **Arbitration**

**33.** Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

### **Requirements, appeals, etc**

**34.**—(1) The provisions of section 72 of the 1990 Act applies so that the requirements numbered 11 to 31 and 36 are deemed to be imposed as and as if they were conditions imposed upon the grant of planning permission pursuant to section 72 of the 1990 Act and the development consent granted by this Order was a planning permission granted under the 1990 Act.

(2) Sub-section (1) of section 78 of the 1990 Act applies to the development consent granted by this Order and to the requirements specified in paragraph (1) except that it is modified so as to read for the purposes of this Order only as if there were inserted after subsection (b) the following—

“(bb) refuse an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions; or”

(3) Sections 78 and 79 of the 1990 Act has effect in relation to any appeal under the terms of this article except that the Secretary of State in question is the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order if section 103(1) of the 2008 Act applied.

(4) The terms of any development order, and other rules and regulations which apply to applications pursuant to conditions or the subject matter of section 78 of the 1990 Act applies, insofar as not inconsistent with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and any other orders, rules or regulations made under the 2008 Act, to any application or appeal made under the requirements specified in paragraph (1).

### **Abatement of works abandoned or decayed**

**35.** Where Work No. 1(a) to (d) or Work No. 2 or any part of those works is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense to repair and restore or remove Work No. 1(a) to (d) or Work No. 2 or any relevant part of those works, without prejudice to any notice served under section 105(2) of the 2004 Act. The notice may also require the restoration of the site of the relevant part(s) of Work No. 1(a) to (d) or Work No. 2 to a safe and proper condition within an area and to such an extent as may be specified in the notice.

### **Saving provisions for Trinity House**

**36.** Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

### **Crown rights**

**37.**—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (i) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (ii) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
- (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department~~;~~~~or~~.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

**Protective provisions**

**38. Schedule 8** (protective provisions) has effect.

Signed by authority of the Secretary of State for Business, Energy & Industrial Strategy

[Address]

[Name]  
Head of [Unit]

Date 201[X] Department for Business, Energy & Industrial Strategy

# SCHEDULES

## SCHEDULE 1

Article 2

### AUTHORISED PROJECT

#### PART 1

##### Authorised Development

1. A nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act which is located in the North Sea approximately 69km from the Suffolk coast, comprising—

*Work No. 1*

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 1,200 MW comprising up to 172 wind turbine generators each fixed to the seabed by one of four foundation types (namely, monopile, jacket, suction caisson or gravity base), fitted with rotating blades and situated within the area shown on the works plan and further comprising (b) to (e) below;
- (b) up to one accommodation platform fixed to the seabed within the area shown on the works plan by one of two foundation types (namely jacket or gravity base);
- (c) up to two meteorological masts fixed to the seabed within the area shown on the works plan by one of four foundation types (namely monopile, jacket, suction caisson or gravity base);
- (d) up to 12 buoys fixed to the seabed within the area shown on the works plan;
- (e) a network of subsea inter-array cables within the area shown on the works plan between the wind turbine generators and between the wind turbine generators and Work No.2 including one or more cable crossings;

and associated development within the meaning of section 115(2) of the 2008 Act comprising—

*Work No. 2* – up to six offshore electrical stations fixed to the seabed within the area shown on the works plan by one of two foundation types (namely jacket or gravity base);

*Work No. 3* – a network of subsea cables within the area shown on the works plan between the offshore electrical stations comprising Work No. 2 and for the transmission of electricity and electronic communications including one or more cable crossings;

*Work No. 4* – up to four cables to connect Work No. 2 with the East Anglia ONE Offshore Wind Farm;

*Work No. 5A* – Up to four cables between Work No. 2 and Work No. 5B consisting of subsea cables along routes within the Order limits seaward of MHWS including one or more cable crossings;

#### **In the county of Suffolk, district of Suffolk Coastal**

*Work No. 5B* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from mean low water springs at Bawdsey Cliffs to Work No. 7 together with a temporary transition bay compound;

*Work No. 6* – A new temporary vehicular access track running in an easterly direction from the eastern side of Ferry Road to Work No. 7 and Work No. 5B, together with modifications to the junction of the new vehicular access track and Ferry Road and a new temporary vehicular access ramp to the beach at Bawdsey Cliffs;



*Work No. 7* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 5B to Work No. 8, together with up to four transition bays and a temporary transition bay compound, and a new temporary vehicular access track from Ferry Road;

*Work No. 8* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 7 to Work No. 12 crossing under Ferry Road and running in a westerly then north-westerly direction;

*Work No. 9* – Temporary widening and upgrade of an existing access track running in a north-westerly direction from the western side of Ferry Road to Work No. 8;

*Work No. 10* – Temporary widening and upgrade of an existing access track running in a north-westerly then westerly direction from Work No. 8 and a new temporary vehicular access track running from the existing access track in a south-westerly direction to Work No. 8;

*Work No. 11* – Temporary widening and upgrade of an existing access track running in a south-easterly direction from the southern side of Dock Road to Duke’s Lane, then temporary widening and upgrade of Duke’s Lane running in a south-westerly then south-easterly direction to Work No. 8 and a new temporary vehicular access track from Duke’s Lane to Work No. 8, together with modifications to the junction of the new temporary vehicular access track and Duke’s Lane;

*Work No. 12* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 8 to Work No. 13 running in a south-westerly direction and passing under the River Deben;

*Work No. 13* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 12 to Work No. 17 running in a westerly direction then north-westerly direction;

*Work No. 14* – A new temporary vehicular access track running in a north-westerly direction from Work No. 13 and temporary widening and upgrade of an existing access track running in a south-westerly direction to Work No. 13;

*Work No. 15* – Temporary widening and upgrade of an existing access track running in a northerly direction from the northern side of Lower Falkenham Road and with two upper branches, one running in a north-westerly direction and the other in a north-easterly direction, to Work No. 13;

*Work No. 16* – Temporary widening and upgrade of two existing access tracks, the first running in a south-easterly direction from the southern side of Park Lane to Work No. 13, and the second running in a north-westerly direction from the northern side of Park Lane with two upper branches, the first running in a westerly direction to Work No. 19, and the second continuing in an easterly then northerly direction past Sluice Farm and then in north westerly direction to the east side of The Thicket, together with a new temporary vehicular access track running from the existing access track on the east side of The Thicket in a westerly direction to Work No. 20;

*Work No. 17* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 13 to Work No. 19 running in a north-westerly direction;

*Work No. 18* – A new temporary secondary construction consolidation site;

*Work No. 19* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 17 to Work No. 20 crossing under Park Lane and running in a northerly direction;

*Work No. 20* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 19 to Work No. 21 running in a northerly direction;

*Work No. 21* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 20 to Work No. 25 running in a northerly direction and crossing under The Street and Ipswich Road;

*Work No. 22* – A new temporary secondary construction consolidation site;

*Work No. 23* – Temporary widening and upgrade of an existing access track running in an easterly direction from the eastern side of Woodbridge Road to Work No. 22;

*Work No. 24* – A new temporary access track running in an easterly direction from the eastern side of Newbourne Road to Work No. 21;

*Work No. 25* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 21 to Work No. 28 crossing under Woodbridge Road and running in an easterly then north-westerly direction and crossing under Waldringfield Road, then running in a north-easterly direction and crossing under Waldringfield Road;

*Work No. 26* – Temporary widening and upgrade of an existing access track running in an easterly direction from the eastern side of Waldringfield Road to Work No. 25;

*Work No. 27* – Temporary widening and upgrade of an existing access track running in a northerly then easterly direction from the northern side of Waldringfield Road to Work No. 25;

*Work No. 28* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 25 to Work No. 29 running in a northerly direction and crossing under Martlesham Creek and the East Suffolk Railway line;

*Work No. 29* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 28 to Work No. 30 running in a westerly direction and crossing under Sandy Lane;

*Work No. 30* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 29 to Work No. 32 crossing under Top Street and running in a westerly direction;

*Work No. 31* – A new temporary primary construction consolidation site;

*Work No. 32* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 30 to Work No. 34 and running in a westerly direction;

*Work No. 33* – Temporary widening and upgrade of an existing access track known as Brock Lane running in a westerly direction from the western side of Top Street to Work No. 31 and continuing to Work No. 34;

*Work No. 34* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 32 to Work No. 35 running in a north-westerly direction and crossing under the A12 highway;

*Work No. 35* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 34 to Work No. 38 running in a north-easterly then westerly direction;

*Work No. 36* – Temporary widening and upgrade of an existing access track running in a southerly direction to Work No. 35;

*Work No. 37* – A new temporary access track from the southern side of Lodge Road to Work No. 35;

*Work No. 38* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 35 to Work No. 39 running in a westerly direction and crossing under Lodge Road;

*Work No. 39* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 38 to Work No. 41 running in a north-westerly direction and crossing under Holly Lane then running in a westerly direction and crossing under Church Road;

*Work No. 40* – A new temporary secondary construction consolidation site;

*Work No. 41* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 39 to Work No. 45 crossing under Butts Road then running in a westerly direction then a north-westerly direction and crossing under Grundisburgh Road and Clopton Road then running in a south-westerly direction;

*Work No. 42* – A new temporary vehicular access track running in a southerly direction from the southern side of the existing access road to Work No. 41;

*Work No. 43* – Temporary widening and upgrade of an existing access track running in a southerly direction from the southern side of Grundisburgh Road to Work No. 41;

*Work No. 44* – Temporary widening and upgrade of an existing access track running in a northerly then westerly direction from the northern side of Grundisburgh Road to Work No. 41;

*Work No. 45* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 41 to Work No. 47 crossing under Witnesham Road and running in a north-westerly direction;

*Work No. 46* – A new temporary secondary construction consolidation site;

*Work No. 47* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 45 to Work No. 48 crossing under Cockfield Hall Lane then running in a north-westerly then south-westerly direction;

#### **In the county of Suffolk, district of Mid Suffolk**

*Work No. 48* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 47 to Work No. 49 running in a westerly direction and crossing under Henley Road and an unnamed road;

*Work No. 49* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 48 to Work No. 50 running in a south-westerly direction and crossing under Old Ipswich Road and the A14 highway;

*Work No. 50* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 49 to Work No. 52 running in a westerly direction and crossing under Paper Mill Lane;

*Work No. 51* – A new temporary primary construction consolidation site;

*Work No. 52* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 50 to Work No. 55 running in a westerly and crossing under the River Gipping, the Great Eastern Mainline Railway and Bramford Road;

*Work No. 53* – A new temporary vehicular access track running in a westerly direction from the western side of Paper Mill Lane to Work No. 52;

*Work No. 54* – A new temporary vehicular access track running in an easterly direction from the eastern side of Bramford Road to Work No. 52;

*Work No. 55* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 52 to Work No. 58 running in a south-westerly direction and crossing under Pound Lane, Somersham Road and Tye Lane;

*Work No. 56* – Temporary widening and upgrade of an existing access track running in an easterly direction from the eastern side of Somersham Road to Work No. 55;

*Work No. 57* – Temporary widening and upgrade of an existing access track running in a southerly then westerly direction from and to Work No. 55;

*Work No. 58* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 55 to Work No. 62 running in a south westerly direction and passing under Miller's Wood;

*Work No. 59* – A new temporary vehicular access track running in a south-westerly then south-easterly direction from and to Work No. 58;

*Work No. 60* – A new temporary vehicular access track running in a northerly direction from Work No. 61A to Work No. 58, together with modifications to the junction of the new temporary access track and Bullen Lane;

*Work No. 61* – A new temporary secondary construction consolidation site;

*Work No. 61A* – Temporary widening and upgrade of Bullen Lane;

*Work No. 62* – Onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from Work No. 58 to Work No. 63 and/or Work. No 64;

*Work No. 63* – Onshore connection works consisting of up to four circuits pulled through existing ducts or laid directly underground from Work No. 62 and/or Work No. 64 to Work No. 67, and continuing from Work No. 67 to Work No. 66;

*Work No. 64* – Onshore connection works consisting of up to four circuits pulled through existing ducts or laid directly underground from Work No. 62 to Work No. 63, and landscaping works including bunding and planting;

*Work No. 65* – A new temporary lay down area and landscaping works including planting;

*Work No. 66* – Onshore connection works consisting of up to four circuits pulled through existing ducts or laid directly underground from Work No. 63 running in a southerly direction to a connection point at the existing National Grid Bramford substation;

*Work No. 67* – Works comprising onshore substations;

*Work No. 68* – Landscaping works including bunding and planting;

*Work No. 69* – Landscaping works including bunding and planting;

and in connection with Work Nos. 1 to 5A and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the deemed marine licences;

and in connection with such Work Nos. 5B to 69 and to the extent that they do not otherwise form part of any such work—

- (a) haul roads, ramps, and other vehicular and/or pedestrian means of access, including creation of new tracks and footpaths, and/or widening, upgrades and improvements of existing tracks and footpaths;
- (b) bunds, embankments, swales, landscaping and boundary treatments;
- (c) spoil storage;
- (d) jointing bays, manholes, kiosks, marker posts and other works associated with laying cables and/or pulling cables through cable ducts;
- (e) water supply works, foul drainage provision, surface water management systems, temporary drainage during installations of cables and culverting;
- (f) works of restoration;
- (g) fencing or other means of enclosure; and
- (h) such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project;

which fall within the scope of the works assessed by the environmental statement.

**2.** The grid coordinates for that part of the authorised project which is seaward of MHWS are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 46' 18.078" N	3° 2' 15.841" E	99	52° 2' 56.210" N	1° 36' 30.422" E
2	52° 30' 20.026" N	2° 48' 33.266" E	100	52° 2' 55.965" N	1° 36' 29.813" E
3	52° 21' 27.702" N	2° 46' 4.457" E	101	52° 2' 55.703" N	1° 36' 29.224" E
4	52° 21' 25.414" N	2° 46' 4.374" E	102	52° 2' 55.425" N	1° 36' 28.655" E
5	52° 21' 23.834" N	2° 46' 4.110" E	103	52° 3' 53.611" N	1° 35' 40.499" E
6	52° 21' 22.268" N	2° 46' 3.678" E	104	52° 2' 14.707" N	1° 35' 9.305" E
7	52° 21' 20.724" N	2° 46' 3.080" E	105	52° 2' 14.565" N	1° 35' 9.040" E
8	52° 21' 19.206" N	2° 46' 2.318" E	106	52° 0' 43.447" N	1° 33' 4.952" E
9	52° 21' 17.722" N	2° 46' 1.395" E	107	52° 0' 43.076" N	1° 33' 4.472" E
10	52° 21' 16.278" N	2° 46' 0.316" E	108	52° 0' 42.691" N	1° 33' 4.023" E
11	52° 21' 14.881" N	2° 45' 59.085" E	109	52° 0' 42.293" N	1° 33' 3.605" E
12	52° 21' 13.535" N	2° 45' 57.708" E	110	52° 0' 41.883" N	1° 33' 3.218" E
13	52° 21' 12.248" N	2° 45' 56.189" E	111	52° 0' 41.461" N	1° 33' 2.865" E
14	52° 21' 11.884" N	2° 45' 55.697" E	112	52° 0' 41.030" N	1° 33' 2.545" E
15	52° 26' 58.467" N	2° 45' 50.653" E	113	52° 0' 40.589" N	1° 33' 2.260" E
16	52° 45' 10.569" N	2° 45' 33.773" E	114	52° 0' 40.140" N	1° 33' 2.011" E
17	52° 45' 6.907" N	2° 44' 40.427" E	115	52° 0' 39.685" N	1° 33' 1.797" E
18	52° 30' 36.607" N	2° 44' 41.630" E	116	51° 58' 47.510" N	1° 32' 13.971" E
19	52° 31' 32.110" N	2° 44' 38.806" E	117	51° 57' 36.634" N	1° 29' 50.826" E
20	52° 31' 32.077" N	2° 44' 38.805" E	118	52° 0' 41.137" N	1° 27' 15.227" E
21	52° 27' 48.317" N	2° 44' 29.313" E	119	51° 57' 51.572" N	1° 26' 41.476" E
22	52° 20' 39.779" N	2° 35' 43.596" E	120	51° 57' 51.622" N	1° 26' 40.671" E
23	52° 19' 21.003" N	2° 35' 42.287" E	121	51° 57' 51.647" N	1° 26' 39.863" E
24	52° 19' 19.701" N	2° 35' 42.202" E	122	51° 57' 51.646" N	1° 26' 39.054" E
25	52° 19' 18.121" N	2° 35' 41.945" E	123	51° 57' 51.619" N	1° 26' 38.246" E

26	52° 19' 16.555" N	2° 35' 41.519" E	124	51° 57' 51.567" N	1° 26' 37.441" E
27	52° 19' 15.009" N	2° 35' 40.927" E	125	51° 57' 51.489" N	1° 26' 36.642" E
28	52° 19' 13.490" N	2° 35' 40.172" E	126	51° 57' 51.385" N	1° 26' 35.850" E
29	52° 19' 12.005" N	2° 35' 39.255" E	127	51° 57' 51.257" N	1° 26' 35.068" E
30	52° 19' 10.559" N	2° 35' 38.183" E	128	51° 57' 51.181" N	1° 26' 34.683" E
31	52° 19' 9.160" N	2° 35' 36.958" E	129	51° 57' 51.104" N	1° 26' 34.298" E
32	52° 19' 7.813" N	2° 35' 35.587" E	130	51° 57' 51.080" N	1° 26' 34.194" E
33	52° 19' 6.523" N	2° 35' 34.075" E	131	52° 0' 2.565" N	1° 25' 32.077" E
34	52° 19' 5.297" N	2° 35' 32.429" E	132	52° 0' 1.828" N	1° 25' 30.107" E
35	52° 19' 4.140" N	2° 35' 30.655" E	133	52° 0' 0.831" N	1° 25' 27.444" E
36	52° 19' 3.800" N	2° 35' 30.087" E	134	52° 0' 0.799" N	1° 25' 27.357" E
37	52° 18' 18.898" N	2° 34' 13.648" E	135	52° 0' 0.748" N	1° 25' 27.271" E
38	52° 18' 15.833" N	2° 34' 13.645" E	136	52° 0' 0.655" N	1° 25' 27.123" E
39	52° 27' 57.918" N	2° 34' 5.046" E	137	52° 0' 0.633" N	1° 25' 27.079" E
40	52° 27' 52.453" N	2° 33' 59.829" E	138	52° 0' 0.615" N	1° 25' 27.030" E
41	52° 14' 17.007" N	2° 33' 46.245" E	139	52° 0' 0.542" N	1° 25' 26.883" E
42	52° 14' 16.167" N	2° 33' 38.948" E	140	52° 0' 0.465" N	1° 25' 26.741" E
43	52° 24' 0.479" N	2° 29' 6.650" E	141	52° 0' 0.263" N	1° 25' 26.337" E
44	52° 23' 14.798" N	2° 26' 39.878" E	142	51° 59' 59.939" N	1° 25' 25.678" E
45	52° 14' 1.882" N	2° 26' 45.354" E	143	51° 59' 59.627" N	1° 25' 25.040" E
46	52° 13' 55.527" N	2° 26' 44.591" E	144	51° 59' 59.306" N	1° 25' 24.402" E
47	52° 9' 28.063" N	2° 25' 36.366" E	145	51° 59' 59.030" N	1° 25' 23.861" E
48	52° 9' 31.781" N	2° 25' 35.028" E	146	51° 59' 59.015" N	1° 25' 23.828" E
49	52° 20' 54.386" N	2° 21' 15.039" E	147	51° 59' 59.009" N	1° 25' 23.816" E
50	52° 20' 47.385" N	2° 21' 9.270" E	148	51° 59' 58.926" N	1° 25' 23.634" E
51	52° 13' 39.649" N	2° 17' 18.125" E	149	51° 59' 58.853" N	1° 25' 23.473" E

52	52° 13' 35.674" N	2° 15' 59.368" E	150	51° 59' 58.772" N	1° 25' 23.293" E
53	52° 13' 33.795" N	2° 15' 22.225" E	151	51° 59' 57.690" N	1° 25' 21.148" E
54	52° 11' 17.487" N	2° 11' 34.133" E	152	51° 59' 57.689" N	1° 25' 21.146" E
55	52° 11' 17.575" N	2° 11' 33.361" E	153	51° 59' 57.555" N	1° 25' 20.881" E
56	52° 11' 17.638" N	2° 11' 32.583" E	154	51° 59' 57.555" N	1° 25' 20.880" E
57	52° 11' 17.678" N	2° 11' 31.800" E	155	51° 59' 57.516" N	1° 25' 20.807" E
58	52° 11' 17.694" N	2° 11' 31.015" E	156	51° 59' 57.517" N	1° 25' 20.807" E
59	52° 11' 17.686" N	2° 11' 30.230" E	157	51° 59' 57.517" N	1° 25' 20.806" E
60	52° 11' 17.654" N	2° 11' 29.447" E	0	52° 25' 56.467" N	2° 34' 8.342" E
61	52° 11' 17.598" N	2° 11' 28.667" E	1	52° 21' 53.636" N	2° 34' 13.872" E
62	52° 11' 17.518" N	2° 11' 27.893" E	2	52° 21' 25.053" N	2° 34' 13.842" E
63	52° 11' 17.415" N	2° 11' 27.126" E	3	52° 25' 31.270" N	2° 34' 8.916" E
64	52° 12' 22.845" N	2° 11' 9.965" E	4	52° 21' 19.547" N	2° 31' 49.797" E
65	52° 12' 27.654" N	2° 10' 3.953" E	5	52° 21' 19.145" N	2° 31' 2.229" E
66	52° 10' 22.645" N	2° 5' 24.993" E	6	52° 21' 19.716" N	2° 30' 12.848" E
67	52° 10' 22.513" N	2° 5' 24.211" E	7	52° 23' 26.292" N	2° 30' 2.994" E
68	52° 10' 22.357" N	2° 5' 23.442" E	8	52° 23' 25.515" N	2° 30' 1.705" E
69	52° 10' 22.176" N	2° 5' 22.686" E	9	52° 23' 24.756" N	2° 30' 0.388" E
70	52° 11' 6.526" N	2° 2' 15.690" E	10	52° 23' 24.016" N	2° 29' 59.042" E
71	52° 9' 32.963" N	2° 2' 11.440" E	11	52° 23' 23.294" N	2° 29' 57.670" E
72	52° 8' 46.527" N	1° 57' 45.569" E	12	52° 23' 22.592" N	2° 29' 56.270" E
73	52° 8' 46.517" N	1° 57' 45.508" E	13	52° 21' 19.237" N	2° 29' 57.051" E
74	52° 9' 40.842" N	1° 57' 7.198" E	14	52° 23' 21.910" N	2° 29' 54.846" E
75	52° 8' 11.619" N	1° 54' 29.428" E	15	52° 23' 21.248" N	2° 29' 53.395" E
76	52° 9' 37.650" N	1° 53' 5.293" E	16	52° 23' 20.606" N	2° 29' 51.921" E
77	52° 8' 11.641" N	1° 52' 54.353" E	17	52° 23' 19.985" N	2° 29' 50.423" E

78	52° 8' 11.629" N	1° 52' 53.580" E	18	52° 23' 19.385" N	2° 29' 48.903" E
79	52° 8' 11.594" N	1° 52' 52.809" E	19	52° 23' 18.807" N	2° 29' 47.360" E
80	52° 8' 11.536" N	1° 52' 52.041" E	20	52° 23' 18.250" N	2° 29' 45.797" E
81	52° 8' 11.455" N	1° 52' 51.279" E	21	52° 23' 17.715" N	2° 29' 44.213" E
82	52° 8' 11.351" N	1° 52' 50.524" E	22	52° 23' 17.202" N	2° 29' 42.609" E
83	52° 8' 11.224" N	1° 52' 49.779" E	23	52° 21' 17.285" N	2° 29' 40.473" E
84	52° 8' 11.075" N	1° 52' 49.044" E	24	52° 21' 17.055" N	2° 29' 38.731" E
85	52° 8' 10.904" N	1° 52' 48.323" E	25	52° 19' 10.175" N	2° 27' 36.407" E
86	52° 8' 10.711" N	1° 52' 47.616" E	26	52° 22' 33.114" N	2° 27' 20.941" E
87	52° 8' 10.498" N	1° 52' 46.925" E	27	52° 18' 50.889" N	2° 26' 0.710" E
88	52° 8' 10.264" N	1° 52' 46.251" E	28	52° 13' 59.087" N	2° 25' 25.766" E
89	52° 8' 10.009" N	1° 52' 45.598" E	29	52° 13' 58.494" N	2° 23' 27.683" E
90	52° 8' 33.339" N	1° 49' 15.275" E	30	52° 13' 56.853" N	2° 23' 2.476" E
91	52° 8' 25.361" N	1° 48' 48.294" E	31	52° 20' 22.815" N	2° 22' 19.439" E
92	52° 7' 42.887" N	1° 46' 40.770" E	32	52° 18' 12.421" N	2° 21' 12.115" E
93	52° 4' 57.710" N	1° 44' 58.279" E	33	52° 18' 15.739" N	2° 21' 10.581" E
94	52° 5' 44.773" N	1° 40' 57.350" E	34	52° 13' 46.402" N	2° 19' 32.631" E
95	52° 2' 57.010" N	1° 36' 33.019" E	0	52° 21' 49.261" N	2° 44' 44.274" E
96	52° 2' 56.838" N	1° 36' 32.348" E	1	52° 26' 58.439" N	2° 44' 31.396" E
97	52° 2' 56.647" N	1° 36' 31.690" E	2	52° 27' 8.502" N	2° 35' 52.305" E
98	52° 2' 56.438" N	1° 36' 31.048" E	3	52° 21' 19.758" N	2° 35' 44.827" E

## PART 2

### Ancillary Works

1. Works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised development;



- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (c) temporary works for the benefit or protection of land or structures affected by the authorised development.

## PART 3

### Requirements

#### **Time limits**

1. The authorised project must commence no later than the expiration of five years beginning with the date this Order comes into force.

#### **Detailed offshore design parameters**

2.—(1) Subject to paragraph (3), wind turbine generators forming part of the authorised project must not—

- (a) exceed a height of 247 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a height of 150.6 metres to the height of the centreline of the generator shaft forming part of the hub when measured from LAT;
- (c) exceed a rotor diameter of 220 metres;
- (d) be less than 675 metres from the nearest wind turbine generator in either direction perpendicular to the approximate prevailing wind direction (crosswind) or be less than 900 metres from the nearest wind turbine generator in either direction which is in line with the approximate prevailing wind direction (downwind);
- (e) have a draught height of less than 22 metres from MHWS.

(2) The number of turbines with a draught height of less than 24m from MHWS comprised in the authorised project must not exceed 52 turbines

(3) References to the location of a wind turbine generator in paragraph (1) and (2) above are references to the centre point of that turbine.

3.—(1) The total number of offshore electrical stations forming part of the authorised project must not exceed six, the total number of accommodation platforms must not exceed one and the total number of meteorological masts must not exceed two.

(2) The dimensions of any offshore electrical stations forming part of the authorised project (excluding towers, helipads, masts and cranes) must not exceed 70 metres in height when measured from LAT, 80 metres in length and 120 metres in width.

(3) The dimensions of any accommodation platform forming part of the authorised project must not exceed 60 metres in height when measured from LAT, 70 metres in length and 70 metres in width.

(4) Each meteorological mast must not exceed a height of 160 metres above LAT.

(5) Each meteorological mast must not have more than one supporting foundation.

(6) The dimensions of any buoy forming part of the authorised project must not exceed 6 metres in height (excluding any apparatus or equipment fixed to the buoy), 4 metres in length and 4 metres in width and the anchor footprint must not exceed 4m<sup>2</sup>.

(7) Offshore platforms forming part of the authorised project must not be erected within the platform exclusion zone, whose co-ordinates are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 30'	2° 48'	3	52° 32'	2° 45'

	20.0268"N	33.264"E		10.4568"N	31.9572"E
2	52° 31'	2° 45'	4	52° 30'	2° 48'
	32.0664"N	31.8672"E		48.7369"N	57.7512"E

(8) In the case of two offshore phases, each phase must comprise (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 600 MW comprising up to 86 wind turbine generators; (b) up to one accommodation platform (which may be constructed under one or other phase, but not under both phases); (c) up to two meteorological masts (one or both of which may be constructed under either phase, but not two under both phases); (d) up to 12 buoys fixed to the sea bed (some or all of which may be constructed under either phase but not all under both phases); (e) a network of subsea inter-array cables; and (f) up to 3 offshore electrical stations.

4.—(1) The total length of the cables and the volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work No. 1(e) (inter-array)	550 kilometres	49,500 m <sup>3</sup>
Work No. 3 (platform link)	240 kilometres	28,480 m <sup>3</sup>
Work No. 4 (interconnection)	380 kilometres	47,960 m <sup>3</sup>
Work No. 5A (export cable)	664 kilometres	81,260 m <sup>3</sup>

5.—(1) In relation to a wind turbine generator, each gravity base foundation must not have—

- (a) a diameter at the level of the seabed which is more than 60 metres;
- (b) a base height, where there is a flat base and a cylindrical shaft, which is more than 12 metres above the level of the seabed;
- (c) a base height, where there is a conical base, which is more than 2 metres above the level of the seabed;
- (d) a column diameter, where there is a flat or conical base, which is more than 9 metres at LAT.

(2) In relation to a wind turbine generator, each suction caisson foundation must not have—

- (a) a diameter at the level of the seabed which is more than 30 metres;
- (b) a base height where there is a flat base, which is more than 5 metres above the level of the seabed;
- (c) a column diameter which is more than 9 metres at LAT.

(3) In relation to a wind turbine generator, each jacket foundation must not have—

- (a) a width spacing between its legs at the level of the seabed which is more than 43.5 metres;
- (b) a pile diameter which is more than 4 metres in the case of pin piles or a suction caisson diameter which is more than 10 metres;
- (c) more than one pile per leg or more than one suction caisson per leg;
- (d) more than four legs.

(4) In relation to a wind turbine generator, each monopile foundation forming part of the authorised development must not have a diameter which is more than 12 metres.

6.—(1) In relation to a meteorological mast, each gravity base foundation must not have a diameter at the level of the seabed which is more than 20 metres.

(2) In relation to a meteorological mast, each suction caisson foundation must not have a diameter at the level of the seabed which is more than 15 metres.

(3) In relation to a meteorological mast, each jacket foundation must not have a footprint at the seabed which is more than 625 m<sup>2</sup>.

(4) In relation to a meteorological mast, each monopile foundation forming part of the authorised development must not have a diameter which is more than 8 metres.

7.—(1) In relation to an offshore electrical station, each gravity base foundation must not have a footprint at the seabed which is more than 8,011 m<sup>2</sup>.

(2) In relation to an offshore electrical station, each jacket foundation must not have—

- (a) a footprint at the seabed which is more than 15,855 m<sup>2</sup>;
- (b) more than one pile per leg or more than one suction caisson per leg.

8.—(1) In relation to any accommodation platform, each gravity base foundation must not have a footprint of more than 15,855 m<sup>2</sup>.

(2) In relation to any accommodation platform, each jacket foundation must not have—

- (a) a footprint at the seabed which is more than 15,855 m<sup>2</sup>;
- (b) more than one pile per leg or more than one suction caisson per leg.

9. The total amount of scour protection for the wind turbine generators, accommodation platform, meteorological masts and offshore electrical stations forming part of the authorised project must not exceed 2,673,260 m<sup>2</sup>.

### **Offshore decommissioning**

10. No offshore works may commence until a written decommissioning programme in compliance with [any notice served upon the undertaker by the Secretary of State/the notice dated [•] pursuant to section 105(2) of the 2004 Act] has been submitted to the Secretary of State for approval.

### **Stages and phasing of authorised development onshore**

11.—(1) The connection works may not be commenced until a written scheme setting out the stages of the connection works has been submitted to, and approved by, the relevant planning authority

(2) Work No. 67 may not be commenced until a written scheme setting out whether it is to be carried out in a single onshore phase or in two onshore phases has been submitted to, and approved by, the relevant planning authority.

(3) In the event that Work No. 67 is to be carried out in two onshore phases, at least 14 days' prior notice of commencement of the second onshore phase must be given to the relevant planning authority.

(4) The written schemes specified in paragraphs (1) and (2) must be implemented as approved by the relevant planning authority.

### **Detailed design parameters onshore**

12.—(1) The total number of buildings housing the principal electrical equipment for an onshore substation comprised in Work No.67 must not exceed two.

(2) Construction works for the buildings referred to in paragraph (1) above must not commence until details of the layout, scale and external appearance of the same have been submitted to and approved by the relevant planning authority. The onshore substations must be carried out in accordance with the approved details.

(3) Any details provided by the undertaker pursuant to paragraph (2) must accord with the design and access statement and be within the Order limits.

(4) Buildings comprised in Work No. 67 must not exceed a height of 25 metres above existing ground level and external electrical equipment comprised in Work No. 67 must not exceed a height of 15 metres above existing ground level.

(5) For the purposes of this requirement 'existing ground level' means 54 metres above ordnance datum.

(6) The total footprint of the buildings housing the principal electrical equipment for an onshore substation comprised in Work No. 67 must not exceed 116 metres in length and 85 metres in width.

(7) The fenced compound area (excluding its accesses) for the onshore substations comprised in Work No. 67 must not exceed 3.04ha.

(8) In relation to the kiosks to be located within the onshore cable corridor—

- (a) No stage of the connection works may commence until for that stage details of the scale and appearance of the kiosks have been submitted to and approved in writing by the relevant planning authority;
- (b) the footprint of each kiosk must not exceed 1 metre in width, 0.75 metres in length and 1 metre in height; and
- (c) the kiosks must be constructed in accordance with the approved details.

(9) The footprint of the construction consolidation sites must not exceed the following—

- (a) 3,600 m<sup>2</sup> in the case of a primary construction consolidation site; or
- (b) 1,200 m<sup>2</sup> in the case of a secondary construction consolidation site.

(10) In the event that Work No. 67 is to be carried out in two onshore phases neither phase must comprise more than one onshore substation.

(11) The footprint of each jointing bay compound must not exceed 3,740 m<sup>2</sup>.

(12) The total length of the haul road must not exceed 18.05km.

### **Landfall method statement**

**13.**—(1) No part of Work No. 5B, Work No. 6 or Work No. 7 may commence until a method statement for the construction of Work No. 5B, Work No. 6 or Work No. 7 has been submitted to and approved by the relevant planning authority in consultation with Natural England.

(2) The method statement referred to in paragraph (1) must include measures to minimise the impact of the works on cliff stability and coastal erosion as well as proposals for ongoing inspection and maintenance of those works during the operation of the authorised project.

(3) The method statement must be implemented as approved.

### **Provision of landscaping**

**14.**—(1) No stage of the connection works may commence until for that stage a written landscaping management scheme and associated work programme (which accords with the outline landscape and ecological management strategy) has been submitted to and approved by the relevant planning authority in consultation with Natural England.

(2) The landscaping management scheme must include details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting, including any trees;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;
- (f) minor structures, such as furniture, refuse or other storage units, signs and lighting;
- (g) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports;
- (h) details of existing trees to be retained with measures for their protection during the construction period;
- (i) retained historic landscape features and proposals for restoration, where relevant;

- (j) implementation timetables for all landscaping works;
  - (k) proposed finished heights, form and gradient of earthworks in relation to Work No. 64, Work No. 68 and/or Work No 69;
  - (l) maintenance of the landscaping, including irrigation arrangements in relation to Work No. 64, Work No. 65, Work No. 68 and/or Work No. 69; and
  - (m) soil retention, handling and protection.
- (3) The landscaping management scheme must be implemented as approved.

### **Implementation and maintenance of landscaping**

**15.**—(1) All landscaping works must be carried out in accordance with the landscaping management schemes approved under **requirement 14** (provision of landscaping), and in accordance with the relevant recommendations of appropriate British Standards.

(2) Any tree or shrub planted as part of an approved landscaping management scheme that, within a period of five years (save in relation to Work Nos. 64, 65, 68 and 69, for which the relevant period is ten years) after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

### **Highway accesses and improvements**

**16.**—(1) No stage of the connection works may commence until for that stage written details (which accord with the outline access management plan) of the siting, design, layout and any access management measures for any new, permanent or temporary means of access to a highway to be used by vehicular traffic, or any alteration to an existing means of access to a highway used by vehicular traffic, has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority.

(2) The highway accesses for that stage must be constructed or altered and the works described in paragraph (1) above in relation to access management measures must be carried out, as the case may be, in accordance with the approved details before they are brought into use for the purposes of the authorised project.

(3) No stage of the connection works may commence until for that stage, a scheme of traffic management measures (in accordance with table 2 of the outline traffic management plan) has been submitted to, and approved by the relevant planning authority in consultation with the relevant highway authority. The scheme must describe whether the proposed measures are to be temporary or permanent.

(4) The traffic management measures must be carried out in accordance with the approved details.

### **Fencing and other means of enclosure**

**17.**—(1) No stage of the connection works may commence until for that stage written details of all proposed permanent and temporary fences, walls or other means of enclosure of the connection works have been submitted to and approved by the relevant planning authority.

(2) All construction consolidation sites must remain securely fenced in accordance with the approved details at all times during construction of the relevant stage of the connection works.

(3) Any temporary fencing must be removed on completion of the relevant stage of the connection works.

(4) Any approved permanent fencing in relation to an onshore substation must be completed before that onshore substation is brought into use and maintained for the operational lifetime of the onshore substation.

### **Surface and foul water drainage**

**18.**—(1) No stage of the connection works may commence until for that stage written details of the surface and (if any) foul water drainage system (including means of pollution control) have, after consultation with the relevant drainage authorities, Suffolk County Council and the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The details agreed in paragraph (1) must accord with the proposals for a surface water and drainage management plan contained in the outline code of construction practice and include a surface water drainage scheme for Work No. 67, which is based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

(3) The surface and foul water drainage system for the relevant stage must be constructed in accordance with the approved details.

### **Contaminated land and ground water**

**19.**—(1) Work No. 41 must not commence until a written scheme applicable to that work, to mitigate the potential for release of contaminants within the Order limits has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The written scheme referred to in paragraph (1) must be implemented as approved.

### **Archaeology**

**20.**—(1) No stage of the connection works may commence until for that stage a written scheme of archaeological investigation (which accords with the outline written scheme of investigation (onshore)) has, after consultation with Historic England and Suffolk County Council, been submitted to and approved by the relevant planning authority.

(2) In the event that site investigation is required, the scheme must include details of the following—

- (a) an assessment of significance and research questions; and
- (b) the programme and methodology of site investigation and recording;
- (c) the programme for post investigation assessment;
- (d) provision to be made for analysis of the site investigation and recording;
- (e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- (f) provision to be made for archive deposition of the analysis and records of the site investigation; and
- (g) nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.

(3) Any archaeological works or watching brief must be carried out in accordance with the approved scheme.

(4) In the event that site investigation is required, the site investigation and post investigation assessment must be completed for that stage in accordance with the programme set out in the written scheme of archaeological investigation and provision made for analysis, publication and dissemination of results and archive deposition secured for that stage.

### **Ecological management plan**

**21.**—(1) No stage of the connection works may commence until for that stage a written ecological management plan (which accords with the outline landscape and ecological management strategy) reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has been submitted to and approved by the relevant planning authority in consultation with Natural England.

(2) The ecological management plan must include an implementation timetable and must be carried out as approved.

(3) Construction works between Ferry Road and the River Deben must be carried out in accordance with the embedded mitigation relating to onshore ornithology contained in Table 2 of the outline landscape and ecological management strategy, which must be incorporated into the ecological management plan.

### **Code of construction practice**

**22.**—(1) No stage of the connection works may commence until for that stage a code of construction practice (which must accord with the outline code of construction practice) has been submitted to and approved by the relevant local planning authority, in consultation with the relevant highway authority.

(2) The code of construction practice must include—

- (a) a surface water and drainage management plan;
- (b) watercourse crossing method statements;
- (c) a flood plan;
- (d) a written scheme for noise and vibration management during construction;
- (e) an air quality monitoring plan;
- (f) artificial light emissions plan;
- (g) a site waste management plan;
- (h) a pollution prevention and emergency incident response plan;
- (i) a project community and public relations procedure;
- (j) a public rights of way management plan; and
- (k) a project environmental management plan.

(3) The code of construction practice approved in relation to the relevant stage of the connection works must be followed in relation to that stage of the connection works.

### **External lighting and control of artificial light emissions**

**23.**—(1) No stage of the connection works may commence until written details of any external lighting to be installed in connection with that stage (which includes any relevant measures identified in the artificial light emissions plan contained in the outline code of construction practice), including measures to prevent light spillage, have, after consultation with the highway authority, been submitted to and approved by the relevant planning authority; and any approved means of lighting must be installed in accordance with the approved details and retained for the duration of the construction period for that stage.

(2) Any means of construction lighting approved under paragraph (1) above must be removed on completion of the relevant stage of the connection works.

(3) Work No. 67 must not be commenced until a written scheme for the management and mitigation of artificial light emissions during the operation of Work No. 67, including measures to minimise lighting pollution and the hours of lighting, has been submitted to and approved by the relevant planning authority.

(4) The approved scheme for the management and mitigation of artificial light emissions must be implemented before and maintained during the operation of Work No. 67.

### **Control of noise during construction**

**24.**—(1) No stage of the connection works may commence until a noise and vibration management scheme for construction of that stage (which must accord with the written scheme for noise and vibration management contained in the outline code of construction practice) has been

submitted to and approved by the relevant planning authority. The scheme for noise and vibration management must form part of the code of construction practice.

(2) The scheme must set out the particulars of—

- (a) the construction works, and the method by which they are to be carried out;
- (b) the noise attenuation measures to be taken to minimise noise resulting from the construction works, including any noise limits; and
- (c) a scheme for monitoring the noise during the construction works to ensure compliance with the noise limits and effectiveness of the attenuation measures.

(3) The approved noise and vibration management scheme must be implemented before and maintained during construction of the relevant stage of the connection works.

(4) The construction works must be undertaken in accordance with the approved noise and vibration management scheme.

### **Construction hours**

**25.**—(1) Construction work for the connection works must only take place between 0700 hours and 1900 hours Monday to Saturday, with no activity on Sundays or bank holidays, except as specified in paragraph (2).

(2) Outside the hours specified in paragraph (1), construction work may be undertaken for essential and non-intrusive activities including but not limited to:

- (a) continuous periods of operation that are required as assessed in the environmental statement, such as concrete pouring;
- (b) fitting out works associated with the onshore substation(s) comprised within Work No. 67;
- (c) delivery to the connection works of abnormal loads that may cause congestion on the local road network;
- (d) connection works carried out on the foreshore;
- (e) daily start up or shut down;
- (f) electrical installation; and
- (g) non-destructive testing.

(3) All construction work undertaken in accordance with paragraph (2)(a) to (d) must be agreed with the relevant planning authority in writing in advance, and must be carried out within the agreed time.

### **Control of noise during operational phase**

**26.**—(1) No part of Work No. 67 may commence until written details that provide for the insulation of that part against the transmission of noise and vibration have been submitted to and approved by the relevant planning authority. Work No. 67 must thereafter be implemented in accordance with the approved details.

(2) The rating level of operational noise immissions (including any relevant penalties for tonal or impulsive noise in accordance with BS4142:2014) from Work No. 67 alone (including transformers, air handling units and cooling fans) must not exceed 5dB above the background ( $L_{A90,1hr}$ ) level during the daytime (07:00 – 23:00) and 35 dB  $L_{Aeq,15 min}$  during the night time (23:00 – 07:00) at Bullenhall Farm (610287, 246601) Hill Farm (609088, 245652) and Woodlands Farm (609597, 246806).

(3) Sub-paragraph (2) does not apply to any emergency event, maintenance and repairs or to any commissioning or testing event previously notified to the relevant planning authority.

(4) Within three months of the completion of commissioning of any part of Work No. 67, the undertaker must submit measurements to the relevant planning authority taken in the vicinity of the relevant property or properties specified at sub-paragraph (2) to confirm the rating level of operational noise immissions do not exceed the levels specified in sub-paragraph (2), including



details of any remedial works and a programme of implementation should the immissions exceed the stated levels.

(5) Measurements must be undertaken in accordance with the equipment specifications, measurement procedures and monitoring equipment positioning guidelines outlined in BS 4142:2014.

(6) For the purposes of this requirement, “completion of commissioning” means the date when the circuits have been fully tested and verified that they are able to transmit their rated power capacity to the grid connection point and National Grid has issued an FON (final operation notification) to the generator.

### **Traffic**

**27.**—(1) No stage of the connection works may commence until for that stage the following have been submitted to and approved by the relevant local planning authority in consultation with the relevant highway authority—

- (a) a traffic management plan which must be in accordance with the outline traffic management plan;
- (b) a travel plan which must be in accordance with the outline travel plan; and
- (c) an access management plan which must be in accordance with the outline access management plan.

(2) The plans approved under paragraph (1) must be implemented upon commencement of the relevant stage of the connection works.

### **Port travel plan**

**28.**—(1) Work Nos. 1, 2, 3, 4 or 5A must not be commenced until a travel plan for the onshore port-related traffic to and from the selected base port or ports and relating to the authorised project, has been submitted to and approved by the relevant planning authority in consultation with the relevant highway authority. The travel plan must be implemented as approved at all times specified within the travel plan during the construction and/or operation of the authorised project.

(2) For the purposes of this requirement—

“relevant planning authority” and “relevant highway authority” mean the planning or highway authority or authorities in whose area the relevant port is located;

“selected base port” or “ports” means a port or ports situated in England and/or Wales; and

“base port” means the port used by management personnel for construction of the authorised project and for the ongoing operational management of the authorised project.

### **European protected species onshore**

**29.**—(1) No stage of the connection works may commence until final pre-construction survey work has been carried out to establish whether a European protected species is present on any of the land affected, or likely to be affected, by that stage of the connection works or in any of the trees to be lopped or felled as part of that stage of the connection works.

(2) Where a European protected species is shown to be present, the relevant part(s) of the connection works must not begin until, after consultation with Natural England and the relevant planning authority, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority. The connection works must be carried out in accordance with the approved scheme.

(3) “European protected species” has the same meaning as in regulations 40 and 44 of the Conservation (Natural Habitats, &c.) Regulations 2010(z).

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(z) S.I. 2010/490

### **Restoration of land used temporarily for construction**

**30.** Any land landward of mean low water within the Order limits which is used temporarily for construction of the connection works and not ultimately incorporated in permanent works or approved landscaping, must be reinstated in accordance with such details the relevant planning authority in consultation with the relevant highway authority may approve, as soon as reasonably practicable and in any event within twelve months of completion of the relevant stage of the connection works, save that if approved by the relevant local planning authority Work No. 65 may be retained between any phases of construction works for Work No.67.

### **Onshore decommissioning**

**31.**—(1) Within three months of the cessation of commercial operation of the connection works an onshore decommissioning plan must be submitted to and approved by the relevant planning authority.

(2) The decommissioning plan must be implemented as approved.

### **Aviation Safety**

**32.**—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2009(**aa**) and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the CAA.

(2) The undertaker must notify the Defence Infrastructure Organisation, at least 14 days prior to the commencement of the authorised development, in writing of the following information—

- (a) the date of the commencement of construction of the authorised development;
- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator, mast and platform to be constructed;
- (e) the latitude and longitude of each wind turbine generator, mast and platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised development.

### **Ministry of Defence surveillance operations**

**33.**—(1) No construction of any radar line of sight wind turbine generator (RLSWTG) forming part of the authorised development and within radar line of sight of the air defence radar at Remote Radar Head (RRH) Trimmingham may commence until the Secretary of State having consulted with the Ministry of Defence confirms satisfaction in writing that appropriate mitigation will be implemented and maintained for the life of the authorised development and that arrangements have been put in place with the Ministry of Defence to ensure that such appropriate mitigation is implemented.

(2) For the purposes of this requirement—

- (a) “appropriate mitigation” means measures to prevent or remove any adverse effects which the operation of the authorised development will have on the air defence radar at Remote Radar Head (RRH) Trimmingham and the Ministry of Defence’s air surveillance and control operations;

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(**aa**) S.I 2009/3015

- (b) “approved mitigation” means the appropriate mitigation measures agreed with the Ministry of Defence at the time the Secretary of State confirms satisfaction in writing in accordance with sub-paragraph (1);
- (c) “Ministry of Defence” means the Ministry of Defence as represented by Defence Infrastructure Organisation – Safeguarding, Kington Road, Sutton Coldfield, B75 7RL or any successor body;
- (d) “RLSWG” means a wind turbine generator which exceeds the following heights when measured above Mean Sea Level (Newlyn) to the tip of the vertical blade—
  - (i) 193 metres in area A;
  - (ii) 207 metres in area B;
  - (iii) 223 metres in area C;
- (e) “areas A, B and C” means the areas defined by radar line of sight radii shown on the radar line of sight coverage plan.

(3) The undertaker must thereafter comply with all other obligations contained within the approved mitigation for the life of the authorised development.

### **Requirement for written approval**

**34.** Where under any of the above requirements the approval or agreement of the Secretary of State, the relevant planning authority or another person is required, that approval or agreement must be given in writing.

### **Amendments to approved details**

**35.—(1)** With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another person, the approved details must be carried out as approved unless an amendment or variation is previously agreed in writing by the relevant planning authority or that other person in accordance with paragraph (2).

(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or that other person that the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) The approved details must be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or that other person.

### **Reuse of temporary works**

**36.—(1)** In the event that any temporary works which have been constructed pursuant to the East Anglia ONE Order are proposed to be reused by the undertaker in connection with the authorised project, such reuse may not commence until a scheme which accords with paragraph (2) has been submitted to and approved by the relevant planning authority.

(2) The scheme to be submitted for approval under paragraph (1) must include:

- (a) details of the temporary works to be reused which must accord with the parameters for temporary works contained at requirement 12;
- (b) a timetable and details for the removal of such part of the temporary works which do not accord with the parameters for temporary works contained at requirement 12;
- (c) details of any transferee to whom the temporary works have been transferred pursuant to Article 5 of the East Anglia ONE Order as well as the date of such transfer; and

- (d) proposals to notify the relevant planning authority of any subsequent transfers pursuant to Article 5 of the East Anglia ONE Order pending reinstatement of the reused temporary works in accordance with requirement 28 of the East Anglia ONE Order.

(3) The scheme must be implemented as approved.

**Notification of site clearance and archaeological works**

37.—(1) For the purposes of any works landward of MHWS “commence” means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than operations consisting of site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements, save that site clearance works landward of MHWS and archaeological works within Work Number 67 must first have been notified to the relevant planning authority for confirmation that the works do not constitute commencement and either:

- (i) the relevant planning authority has confirmed that the works do not constitute commencement;
- (ii) no response has been received by the undertaker within 5 working days of notification (the “initial period”); or
- (iii) within the initial period the relevant planning authority requests in writing an additional period of 10 working days to make such a determination and no response is received by the undertaker within that additional period of 10 working days

in which case the works shall be construed not to constitute commencement, , and the words “commencement” and “commenced” are construed accordingly.

**SCHEDULE 2**

Article 8

**STREETS SUBJECT TO STREET WORKS**

<i>(1)</i> <b>Area</b>	<i>(2)</i> <b>Street subject to street works</b>
Suffolk Coastal District	Ferry Road at reference point A – B on the works plan
Suffolk Coastal District	Track at reference point S1 – S2 on the works plan
Suffolk Coastal District	Track at reference point S3 – S4 on the works plan
Suffolk Coastal District	Track at reference point S5 – S6 on the works plan
Suffolk Coastal District	Track at reference point S7 – S8 on the works plan
Suffolk Coastal District	Track at reference point S9 – S10 on the works plan
Suffolk Coastal District	Track at reference point S11 – S12 on the works plan
Suffolk Coastal District	Park Lane at reference point C – D on the works plan
Suffolk Coastal District	Track at reference point S13 – S14 on the works plan

Suffolk Coastal District	Track at reference point S15 – S16 on the works plan
Suffolk Coastal District	The Street at reference point E – F on the works plan
Suffolk Coastal District	Track at reference point S17 – S18 on the works plan
Suffolk Coastal District	Track at reference point S19 – S20 on the works plan
Suffolk Coastal District	Ipswich Road at reference point G – H on the works plan
Suffolk Coastal District	Woodbridge Road at reference point I – J on the works plan
Suffolk Coastal District	Track at reference point S21 – S22 on the works plan
Suffolk Coastal District	Track at reference point S23 – S24 on the works plan
Suffolk Coastal District	Track at reference point S25 – S26 on the works plan
Suffolk Coastal District	Track at reference point S27 - S28 on the works plan
Suffolk Coastal District	Waldringfield Road at reference point K – L on the works plan
Suffolk Coastal District	Waldringfield Road at reference point M – N on the works plan
Suffolk Coastal District	Track at reference point S29 – S30 on the works plan
Suffolk Coastal District	Track at reference point S31 – S32 on the works plans
Suffolk Coastal District	Track at reference point S33 – S34 on the works plan
Suffolk Coastal District	Track at reference point S35 – S36 on the works plan
Suffolk Coastal District	Sandy Lane at reference point O – P on the works plan
Suffolk Coastal District	Track at reference point S37 – S38 on the works plan
Suffolk Coastal District	Top Street at reference point Q – R on the works plan
Suffolk Coastal District	Track at reference point S39 – S40 on the works plan
Suffolk Coastal District	A12 at reference point S – T on the works plan
Suffolk Coastal District	Track at reference point S41 – S42 on the works plan
Suffolk Coastal District	Track at reference point S43 – S44 on the works plan
Suffolk Coastal District	Track at reference point S45 – S46 on the works plan
Suffolk Coastal District	Track at reference point S47 – S48 on the works plan
Suffolk Coastal District	Lodge Road at reference point U – V on the works plan
Suffolk Coastal District	Holly Lane at reference point W – X on the

	works plan
Suffolk Coastal District	Church Road at reference point Y – Z on the works plan
Suffolk Coastal District	Butts Road at reference point AA – BB on the works plan
Suffolk Coastal District	Track at reference point S49 – S50 on the works plan
Suffolk Coastal District	Grundisburgh Road at reference point CC – DD on the works plan
Suffolk Coastal District	Clopton Road at reference point EE – FF on the works plan
Suffolk Coastal District	Witnesham Road (B1077) at reference point GG – HH on the works plan
Suffolk Coastal District	Cockfield Hall Lane at reference point II – JJ on the works plan
Mid Suffolk District	Henley Road at reference point KK – LL on the works plan
Mid Suffolk District	Track at reference point S51 – S52 on the works plan
Mid Suffolk District	Unnamed road at reference point MM – NN on the works plan
Mid Suffolk District	Track at reference point S53 to S54 on the works plan
Mid Suffolk District	Old Ipswich Road at reference point OO – PP on the works plan
Mid Suffolk District	A14 at reference point QQ – RR on the works plan
Mid Suffolk District	Papermill Lane at reference point SS – TT on the works plan
Mid Suffolk District	Bramford Road (B1113) at reference point UU – VV on the works plan
Mid Suffolk District	Pound Lane at reference point WW – XX on the works plan
Mid Suffolk District	Track at reference point S55 to S66 on the works plan
Mid Suffolk District	Somersham Road at reference point YY – ZZ on the works plan
Mid Suffolk District	Track at reference point S57 to S58 on the works plan
Mid Suffolk District	Track at reference point S59 – S60 on the works plan
Mid Suffolk District	Tye Lane at reference point AAA – BBB on the works plan
Mid Suffolk District	Track at reference point S61 – S62 on the works plan
Mid Suffolk District	Track at reference point S63 – 64 on the works plan

## SCHEDULE 3

Article 9

### PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

<i>(1) Area</i>	<i>(2) Public rights of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
Suffolk Coastal District	Footpath E-242/005/0	reference Approximately 478 metres of footpath reference E-242/005/0 shown in orange between points marked A to B on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-242/015/0	reference Approximately 355 metres of footpath reference E-242/015/0 shown in orange between points marked B to C on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-242/003/0	reference Approximately 161 metres of footpath reference E-242/003/0 shown in orange between points marked B to D on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Bridleway E-352/034/0	reference Approximately 185 metres of bridleway reference E-352/034/0 shown in green between points marked E to F on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Bridleway E-352/053/0	reference Approximately 423 metres of bridleway reference E-352/053/0 shown in green between points marked F to G on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-352/025/0	reference Approximately 213 metres of footpath reference E-352/025/0 shown in orange between points marked H to I on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-352/024/0	reference Approximately 36 metres of footpath reference E-352/024/0 shown in orange between points marked I to J on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-352/014/0	reference Approximately 17 metres of footpath reference E-352/014/0 shown in orange between points marked K to L on the public rights of way to be

			temporarily stopped up plan
Suffolk Coastal District	Footpath E-352/013/X	reference	Approximately 71 metres of footpath reference E-352/013/X shown in orange between points marked L to M on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Bridleway E-352/013/0	reference	Approximately 5.5 metres of bridleway reference E-352/013/0 at some point between points N and O shown in green on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-410/008/0	reference	Approximately 5.5 metres of footpath reference E-410/008/0 at some point between points P and Q shown in orange on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-537/031/0	reference	Approximately 412 metres of footpath reference E-537/031/0 shown in orange between points marked R to S on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Bridleway E-410/006/0	reference	Approximately 91 metres of bridleway reference E-410/006/0 shown in green between points marked S to T on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Bridleway E-537/024/0	reference	Approximately 5.5 metres of bridleway reference E-537/024/0 at some point between points U and V shown in green on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-388/044/0	reference	Approximately 164 metres of footpath reference E-388/044/0 shown in orange between points marked X to Y on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-388/046/0	reference	Approximately 151 metres of footpath reference E-388/046/0 shown in orange between points marked Y to Z on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-388/045/0	reference	Approximately 5.5 metres of footpath reference E-388/045/0 at some point between points AA and BB shown in orange



			on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-388/016/0	reference	Approximately 5.5 metres of footpath reference E-388/016/0 at some point between points CC and DD shown in orange on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-388/009/A	reference	Approximately 190 metres of footpath reference E-388/009/A shown in orange between points marked EE to FF on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-272/010/0	reference	Approximately 120 metres of footpath reference E-272/010/0 shown in orange between points marked FF to GG on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-272/010/0	reference	Approximately 5.5 metres of footpath reference E-272/010/0 at some point between points HH and II shown in orange on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-272/008/0	reference	Approximately 173 metres of footpath reference E-272/008/0 shown in orange between points marked JJ to KK on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Footpath E-272/011/0	reference	Approximately 5.5 metres of footpath reference E-272/011/0 at some point between points LL and MM shown in orange on the public rights of way to be temporarily stopped up plan
Suffolk Coastal District	Restricted byway E-547/005/0	reference	Approximately 5.5 metres of restricted byway reference E-547/005/0 at some point between points NN and OO shown in purple on the public rights of way to be temporarily stopped up plan
Mid Suffolk District	Bridleway E-547/010/0	reference	Approximately 5.5 metres of bridleway reference E-547/010/0 at some point between points PP and QQ shown in green on the public rights of way to be temporarily stopped up plan
Mid Suffolk District	Bridleway E-102/002/0	reference	Approximately 5.5 metres of bridleway reference

			E-102/002/0 at some point between points RR and SS shown in green on the public rights of way to be temporarily stopped up plan
Mid Suffolk District	Footpath E-194/021/0	reference	Approximately 5.5 metres of footpath reference E-194/021/0 at some point between points TT and UU shown in orange on the public rights of way to be temporarily stopped up plan
Mid Suffolk District	Footpath W-155/010/0	reference	Approximately 300 metres of footpath reference W-155/010/0 shown in orange between points marked VV to WW on the public rights of way to be temporarily stopped up plan
Mid Suffolk District	Footpath W-155/008/0	reference	Approximately 415 metres of footpath reference W-155/008/0 shown in orange between points marked WW to XX on the public rights of way to be temporarily stopped up plan
Mid Suffolk District	Footpath W-155/002/0	reference	Approximately 5.5 metres of footpath reference W-155/002/0 at some point between points YY and ZZ shown in orange on the public rights of way to be temporarily stopped up plan
Mid Suffolk District	Bridleway W-155/001/0	reference	Approximately 1320 metres of bridleway reference W-155/001/0 shown in green between points marked AAA to BBB on the public rights of way to be temporarily stopped up plan

## SCHEDULE 4 ACCESS TO WORKS

Article 11

<i>(1)</i> <b>Area</b>	<i>(2)</i> <b>Description of access</b>
Suffolk Coastal District	Vehicular access from Ferry Road to the east marked at point A on the access to works plan
Suffolk Coastal District	Vehicular access from Ferry Road to the west marked at point B on the access to works plan
Suffolk Coastal District	Vehicular access from the B1083 to the south marked at point C on the access to works plan
Suffolk Coastal District	Vehicular access from Lower Falkenham Road

	to the north marked at point D on the access to works plan
Suffolk Coastal District	Vehicular access from Park Lane to the south marked at point E on the access to works plan
Suffolk Coastal District	Vehicular access from Park Lane to the east marked at point F on the access to works plan
Suffolk Coastal District	Vehicular access from unnamed track to the west and east marked at point G on the access to works plan
Suffolk Coastal District	Vehicular access from The Street to the south marked at point CR1 on the access to works plan
Suffolk Coastal District	Vehicular access from The Street to the north marked at point CR2 on the access to works plan
Suffolk Coastal District	Vehicular access from Woodbridge Road to the east marked at point H on the access to works plan
Suffolk Coastal District	Vehicular access from Newbourne Road to the east marked at point I on the access to works plan
Suffolk Coastal District	Vehicular access from Ipswich Road to the north marked at point K on the access to works plan
Suffolk Coastal District	Vehicular access from Woodbridge Road to the east marked at point L on the access to works plan
Suffolk Coastal District	Vehicular access from Waldringfield Road to the north-east marked at point M on the access to works plan
Suffolk Coastal District	Vehicular access from Waldringfield Road to the east marked at point N on the access to works plan
Suffolk Coastal District	Vehicular access from Waldringfield Road to the east marked at point CR3 on the access to works plan
Suffolk Coastal District	Vehicular access from Waldringfield Road to the west marked at point CR4 on the access to works plan
Suffolk Coastal District	Vehicular access from Waldringfield Road to the north marked at point CR5 on the access to works plan
Suffolk Coastal District	Vehicular access from Waldringfield Road to the south marked at point O on the access to works plan
Suffolk Coastal District	Vehicular access from Waldringfield Road to the north marked at point P on the access to works plan
Suffolk Coastal District	Vehicular access from Sandy Lane to the south marked at point Q on the access to works plan
Suffolk Coastal District	Vehicular access from Sandy Lane to the west marked at point R on the access to works plan
Suffolk Coastal District	Vehicular access from Top Street to the north marked at point S on the access to works plan
Suffolk Coastal District	Vehicular access from Top Street to the west marked at point T on the access to works plan

Suffolk Coastal District	Vehicular access from Seckford Hall Road to the south marked at point U on the access to works plan
Suffolk Coastal District	Vehicular access from Lodge Road to the south marked at point V on the access to works plan
Suffolk Coastal District	Vehicular access from Holly Lane to the east and west marked at point W on the access to works plan
Suffolk Coastal District	Vehicular access from Grundisburgh Road to the south marked at point X on the access to works plan
Suffolk Coastal District	Vehicular access from Grundisburgh Road to the south marked at point Y on the access to works plan
Suffolk Coastal District	Vehicular access from Grundisburgh Road to the south marked at point Z on the access to works plan
Suffolk Coastal District	Vehicular access from Grundisburgh Road to the north marked at point AA on the access to works plan
Suffolk Coastal District	Vehicular access from Clopton Road to the west marked at point AB on the access to works plan
Suffolk Coastal District	Vehicular access from Witnesham Road to the east and west marked at point AC on the access to works plan
Mid Suffolk District	Vehicular access from Henley Road to the east and west marked at point AD on the access to works plan
Mid Suffolk District	Vehicular access from Old Ipswich Road to the east marked at point AE on the access to works plan
Mid Suffolk District	Vehicular access from Paper Mill Lane to the east marked at point AF on the access to works plan
Mid Suffolk District	Vehicular access from Paper Mill Lane to the west marked at point AG on the access to works plan
Mid Suffolk District	Vehicular access from Bramford Road to the east marked at point AH on the access to works plan
Mid Suffolk District	Vehicular access from Bramford Road to the west marked at point AI on the access to works plan
Mid Suffolk District	Vehicular access from Pound Lane to the north marked at point CR6 on the access to works plan
Mid Suffolk District	Vehicular access from Pound Lane to the south marked at point CR7 on the access to works plan
Mid Suffolk District	Vehicular access from Somersham Road to the east marked at point AK on the access to works plan
Mid Suffolk District	Vehicular access from Somersham Road to the south marked at point AJ on the access to works plan

SCHEDULE 5

Article 17

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

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*(1) Number of land shown on land plan*

*(2) Purpose for which rights may be acquire*

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1-9

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) construct, lay and install by way of pull-through within the cable ducts and jointing works, repair, renew, upgrade, inspect, remove and replace underground electrical cables and ducts, including pulling underground electrical cables and other apparatus through existing ducts, together with such telemetry and fibre optic lines, structures, jointing bays, ducting and other apparatus, protection and safety measures and equipment which is ancillary to the purposes of transmitting electricity along such electrical cables (which collectively for the purposes of this schedule are referred to as the “cables”);
- (b) effect access to offshore apparatus and carry out works for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project that communicate between the onshore and offshore elements of the authorised project;
- (c) install, retain, and connect apparatus to connect onshore transmission apparatus to offshore transmission apparatus;
- (d) enter and be upon the land and remain with or without plant, vehicles, vessels, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables, or use of the cable ducts and jointing bays;
- (e) retain and use the cables, cable ducts and jointing bays for the purpose of the transmission of telecommunications and electricity;
- (f) pass and repass with or without

vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying down, installing, adjusting, altering, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing bays;

- (g) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (h) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables, cable ducts and jointing bays;
- (i) retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (j) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduit or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers); and

alter, lop, uproot and replant trees, shrubs and hedges for the purposes of enabling the right to pass and repass.

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining,

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20A – 20F  
38A  
44 – 51  
80A  
82A  
91A

99 – 102  
100A – 100C  
107  
117  
117A - 117B  
133  
156A  
175A  
181A – 181B  
185  
231 – 232  
235 – 237  
237A  
257 – 258  
269A  
304A  
311A  
315A  
391  
398  
401  
401A – 401B  
423A – 423G  
429A  
436 – 437  
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447 – 448  
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- repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (b) retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all hardstandings for the purposes of access to adjoining land and highway;
  - (c) retain, maintain and use existing temporary supporting or protective structures and erect temporary supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;
  - (d) alter, lop, uproot and replant trees, shrubs and hedges for the purposes of enabling the right to pass and repass to adjoining land;
  - (e) retain and maintain existing temporary permissive paths and lay out temporary permissive paths for public use (if applicable);
  - (f) effect access to the highway;
  - (g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;
  - (h) remove fences, hedges or other barriers during any period during which construction, upgrading, improvement, renewal or removal are being carried out and/or for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and
  - (i) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

“adjoining land” for the purposes of this paragraph 1 means such other parts of the land within the Order limits required for the authorised project.

1. The right to enter onto and remain on the land for the purposes of construction, installation,

222 – 223  
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operation, maintenance and decommissioning of the authorised project and to –

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of pull-through within the cable ducts and jointing works;
- (b) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (d) retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables, or use of the cable ducts and jointing works;
- (f) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
- (g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables, cable ducts and jointing works;
- (h) install and maintain cable marker posts to identify the location of the cables, cable ducts and jointing works as required for routine integrity testing;
- (i) remove, store and stockpile materials (including excavated material) within



the Order land;

- (j) remove fences, hedges, or other barriers within the land during any period during when construction, maintenance, repair or renewal are being carried out (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement of the original fences, hedges or other barriers following the exercise of the rights);
- (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);
- (l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;
- (m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the cables, cable ducts and jointing works;
- (o) carry out environmental mitigation, remediation and/or enhancement works;
- (p) install, construct, use and remove temporary welfare facilities during any periods of maintenance, repair, replacement, renewal, during any periods of maintenance, repair, replacement, renewal, upgrade and removal of the cables, cable ducts and jointing works;
- (q) when the cables are temporarily unusable, to lay down install use maintain and inspect on the surface of the land electric lines telecommunications and ancillary equipment associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and
- (r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised project.

2. The right to enter and remain on the land for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised project, and to –

- (a) enter upon the land and to create temporary secure areas;
- (b) place equipment on the land, including portakabins and welfare equipment;
- (c) store plant and/or materials and/or equipment;
- (d) create car parking sites, site offices, site areas for temporary security and welfare facilities;
- (e) effect access to the highway;
- (f) create fuel storage and bunded facilities for the storage of materials ancillary to the implementation of the authorised project; and
- (g) access the underground electrical cables, cable ducts and jointing works and any other land used or to be used in connection with the installation and use of the underground electrical cables, cable ducts and jointing works, over the compound area within the land, for purposes in connection with the installation and use of the underground electrical cables.

3. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (b) retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all hardstandings for the purposes of access to adjoining land and highway;
- (c) erect temporary supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;

- (d) alter, lop, uproot and replant trees, shrubs and hedges for the purposes of enabling the right to pass and repass to adjoining land;
- (e) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (f) effect access to the highway;
- (g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;
- (h) remove fences, hedges or other barriers during any period during which construction, upgrading, improvement, renewal or removal are being carried out and/or for the exercise of the power to access the cables, cable ducts and jointing works (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and
- (i) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

“adjoining land” for the purposes of this paragraph 3 means such other parts of the land within the Order limits required for the authorised project.

4. A restrictive covenant over the land for the benefit of the remainder of the Order land to

- (a) prevent anything to be done in or upon the Order land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);
- (b) prevent anything to be done by way of hard surfacing of the Order land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the Undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised project

nor make it materially more difficult or expensive to maintain the authorised project);

- (c) prevent anything to be done by way of excavation of any kind in the Order land nor any activities which increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the Undertaker save as are reasonably required for agricultural activities or are required to be carried out by National Grid in order to exercise their rights in relation to their apparatus within the Order land; and
- (d) prevent the planting or growing within the Order land of any trees, shrubs or underwood without the consent in writing of the Undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised project nor make it materially more difficult or expensive to access the relevant part of the authorised project).

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118 – 132  
134 – 142  
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1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of pull-through within the cable ducts and jointing works;
- (b) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (d) retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all

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216 – 218  
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218A  
220A  
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415A – 415B  
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422 – 426  
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- hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables, or use of the cable ducts and jointing works;
  - (f) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
  - (g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables, cable ducts and jointing works;
  - (h) install and maintain cable marker posts to identify the location of the cables, cable ducts and jointing works as required for routine integrity testing;
  - (i) remove store and stockpile materials (including excavated material) within the Order land;
  - (j) remove fences, hedges, or other barriers within the land during any period during when construction, maintenance, repair or renewal are being carried out (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement of the original fences, hedges or other barriers following the exercise of the rights);
  - (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);
  - (l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;
  - (m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
  - (n) remove archaeological artefacts where

they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the cables, cable ducts and jointing works;

- (o) carry out environmental mitigation, remediation and/or enhancement works;
- (p) install, construct, use and remove temporary welfare facilities during any periods of maintenance, repair, replacement, renewal, during any periods of maintenance, repair, replacement, renewal, upgrade and removal of the cables, cable ducts and jointing works;
- (q) when the cables are temporarily unusable, to lay down install use maintain and inspect on the surface of the land electric lines telecommunications and ancillary equipment associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and
- (r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised project.

2. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (b) retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all hardstandings for the purposes of access to adjoining land and highway;
- (c) erect temporary supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining

land and highway;

- (d) alter, lop, uproot and replant trees, shrubs and hedges for the purposes of enabling the right to pass and repass to adjoining land;
- (e) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (f) effect access to the highway;
- (g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;
- (h) remove fences, hedges or other barriers during any period during which construction, upgrading, improvement, renewal or removal are being carried out and/or for the exercise of the power to access the cables, cable ducts and jointing works (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and
- (i) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

“adjoining land” for the purposes of this paragraph 2 means such other parts of the land within the Order limits required for the authorised project.

3. A restrictive covenant over the land for the benefit of the remainder of the Order land to

- (a) prevent anything to be done in or upon the Order land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);
- (b) prevent anything to be done by way of hard surfacing of the Order land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the Undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to

relevant part of the authorised project nor make it materially more difficult or expensive to maintain the authorised project);

- (c) prevent anything to be done by way of excavation of any kind in the Order land nor any activities which increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the Undertaker save as are reasonably required for agricultural activities or are required to be carried out by National Grid in order to exercise their rights in relation to their apparatus within the Order land; and
- (d) prevent the planting or growing within the Order land of any trees, shrubs or underwood without the consent in writing of the Undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised project nor make it materially more difficult or expensive to access the relevant part of the authorised project).

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1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of pull-through within the cable ducts;
- (b) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables and cable ducts;
- (d) retain and maintain existing hardstandings and lay down new, use,



repair, alter and remove all hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables and cable ducts;

- (e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables and cable ducts;
- (f) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
- (g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables and cable ducts;
- (h) install and maintain cable marker posts to identify the location of the cables and cable ducts as required for routine integrity testing;
- (i) remove store and stockpile materials (including excavated material) within the Order land;
- (j) remove fences, hedges, or other barriers within the land during any period during when construction, maintenance, repair or renewal are being carried out (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement of the original fences, hedges or other barriers following the exercise of the rights);
- (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);
- (l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;
- (m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (n) remove archaeological artefacts where they would prevent or cause it to be

materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the cables and cable ducts;

- (o) carry out environmental mitigation, remediation and/or enhancement works;
- (p) install, construct, use and remove temporary welfare facilities during any periods of maintenance, repair, replacement, renewal, during any periods of maintenance, repair, replacement, renewal, upgrade and removal of the cables and cable ducts;
- (q) when the cables are temporarily unusable, to lay down install use maintain and inspect on the surface of the land electric lines telecommunications and ancillary equipment associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and
- (r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised project.

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246 – 248  
372 – 376  
378 – 379  
378A  
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1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of pull-through within the cable ducts;
- (b) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables and cable ducts;
- (d) retain and use the cables for the purposes of the transmission of electricity and telecommunications; and
- (e) install, alter, re-lay, maintain, protect,

adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers).

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466 – 471  
471A – 471B

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) construct, lay and install by way of drilling and/or trenching, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables;
- (b) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of pull-through within the cable ducts and jointing works;
- (c) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (d) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (e) retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (f) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables, or use of the cable ducts and jointing works;
- (g) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
- (h) place and use plant, machinery and temporary structures within the land for

the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables, cable ducts and jointing works;

- (i) install and maintain cable marker posts to identify the location of the cables, cable ducts and jointing works as required for routine integrity testing;
- (j) remove store and stockpile materials (including excavated material) within the Order land;
- (k) remove fences, hedges, or other barriers within the land during any period during when construction, maintenance, repair or renewal are being carried out (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement of the original fences, hedges or other barriers following the exercise of the rights);
- (l) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);
- (m) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;
- (n) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (o) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the cables, cable ducts and jointing works;
- (p) carry out environmental mitigation, remediation and/or enhancement works;
- (q) install, construct, use and remove temporary welfare facilities during any periods of maintenance, repair, replacement, renewal, during any periods of maintenance, repair, replacement, renewal, upgrade and removal of the cables, cable ducts and jointing works;
- (r) when the cables are temporarily unusable, to lay down install use

maintain and inspect on the surface of the land electric lines telecommunications and ancillary equipment associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and

- (s) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised project.

2. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to –

- (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (b) retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all hardstandings for the purposes of access to adjoining land and highway;
- (c) erect temporary supporting or protective structures (including the bridging over of or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;
- (d) alter, lop, uproot and replant trees, shrubs and hedges for the purposes of enabling the right to pass and repass to adjoining land;
- (e) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (f) effect access to the highway;
- (g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;
- (h) remove fences, hedges or other barriers during any period during which construction, upgrading, improvement, renewal or removal are being carried out and/or for the exercise of the power

to access the cables, cable ducts and jointing works (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and

- (i) retain and maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

“adjoining land” for the purposes of this paragraph 2 means such other parts of the land within the Order limits required for the authorised project.

3. A restrictive covenant over the land for the benefit of the remainder of the Order land to

- (a) prevent anything to be done in or upon the Order land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);
- (b) prevent anything to be done by way of hard surfacing of the Order land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the Undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised project nor make it materially more difficult or expensive to maintain the authorised project);
- (c) prevent anything to be done by way of excavation of any kind in the Order land nor any activities which increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the Undertaker save as are reasonably required for agricultural activities or are required to be carried out by National Grid in order to exercise their rights in relation to their apparatus within the Order land; and
- (d) prevent the planting or growing within the Order land of any trees, shrubs or underwood without the consent in

writing of the Undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised project nor make it materially more difficult or expensive to access the relevant part of the authorised project).

## MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

### *Compensation enactments*

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(**bb**) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there is substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there is substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there is substituted the words “a right over or restrictive covenant affecting land consisting”;
- (b) for the word “severance” there is substituted the words “right or restrictive covenant over or affecting the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there is substituted the words “right or restrictive covenant proposed”; and
- (d) for the words “part is” there is substituted the words “right or restrictive covenant is”.

### *Application of the 1965 Act*

3.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there is substituted the following section—

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(**bb**) 1973 c.26.



“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there is substituted the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs, the East Anglia THREE Offshore Wind Farm Order 201[ ](a) (“the Order”) shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

is so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power,

exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act is modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

## SCHEDULE ~~7~~7

Article 23

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1) Area</i>	<i>(2) Number of land shown on land plan</i>	<i>(3) Purpose for which temporary possession may be taken</i>
County of Suffolk District of Suffolk Coastal	1 – 9	Construction and carrying out of the authorised project; worksites for construction and the carrying out of the authorised project; access for carrying out the authorised project.
	17 – 20	
	18A	
	22	
	24	
	26 – 38	
	39 – 43	
	52 – 69	
	76 – 80	
	81 – 82	
	83 – 91	
	92 – 93	
	96 – 98	
	103 – 106	
	110 – 116	
	118 – 132	
	134 - 150	
	154 – 156	
	157 - 161	
	163 – 175	
176 – 181		
182 – 184		
187 – 204		
206 – 209		
211		
213		

	215 – 220	
	216A	
	218A	
	220A	
	222 – 223	
	227 – 230	
	233 – 234	
	238 – 241	
	243 - 256	
	260 – 267	
	269	
	270 – 281	
	283 - 300	
	302 – 304	
	305 – 311	
	312 – 315	
	316 – 340	
	343 – 344	
	347	
County of Suffolk District of Suffolk Coastal	8	Construction compound; access for carrying out the authorised project.
	17	
	57 – 59	
	94 – 95	
	151 – 153	
	151A	
	221	
	224	
	226	
	229	
	231 – 232	
	240	
	301	
	336	
County of Suffolk District of Suffolk Coastal	9 – 11	
	10A	
	13	
	15	
	20A - 20F	
	38A	
	44 – 51	
	80A	
	82A	
	91A	
	99 – 102	
	100A - 100C	
	107	
	110	
	117	
	117A - 117B	

	133	
	156A	
	175A	
	181A - 181B	
	185	
	201-204	
	205A	
	231 – 232	
	235-237	
	237A	
	247	
	257 – 258	
	269A	
	304A	
	311A	
	315A	
County of Suffolk	345, 346	Construction and carrying out of the authorised project; worksites for construction and the carrying out of the authorised project; access for carrying out the authorised project.
District of Mid- Suffolk	348 – 360	
	362 – 377	
	378A, 378, 379	
	382 – 384	
	387	
	389, 390	
	392 – 397	
	399, 400	
	402 – 415	
	415A, 415B	
	416 – 418	
	422, 423	
	424 – 429	
	430 – 435	
	438, 440, 443, 442	
	444, 445, 445A	
	446, 449, 464	
	466 – 471	
	471A, 471B	
County of Suffolk	391	Laying of hardstandings and improvements to tracks; access for carrying out the authorised project.
District of Mid- Suffolk	398,401	
	401A, 401B	
	423A, 423B	
	423C, 423D	
	423E, 423F	
	423G, 429A	
	436, 437	
	439, 441	
	447, 448,	
	465	
County of Suffolk	385, 386, 388	Construction compound; access for carrying out the
District of Mid- Suffolk	443, 454A	



## PROTECTIVE PROVISIONS

## PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE  
UNDERTAKERS

1. For the protection of the affected undertakers referred to in this part of this Schedule the following provisions must, unless otherwise agreed in writing between the undertaker and the affected undertaking concerned, have effect.

2. In this part of this Schedule—

“affected undertaker” means

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989(cc);
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(dd);
- (c) a water undertaker within the meaning of the Water Industry Act 1991(ee); and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development but, for the avoidance of doubt, does not include the undertakers specified in Part 4, Part 5 and Part 6 of this Schedule, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

“alternative apparatus” means alternative apparatus adequate to enable the affected undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (e) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989), belonging to or maintained by that affected undertaker;
- (f) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (g) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that affected undertaker for the purposes of water supply; and
- (h) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the affected undertaker under the Water Industry Act 1991; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

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(cc) 1989 c. 29. Section 64 sub-paragraph (1) was amended by section 108 and paragraphs 24, 38(1), (3) of Part II of Schedule 6 of the Utilities Act 2000.

(dd) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c.27).

(ee) 1991 c. 56.

“functions” includes powers and duties; and

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land.

**3.** This part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the affected undertaker are regulated by the provisions of Part 3 of the 1991 Act.

**4.** Regardless of any provision in this Order or anything shown on the land plan, the undertaker must not acquire any apparatus otherwise than by agreement.

**5.—(1)** If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this part of this Schedule and any right of an affected undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the affected undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the affected undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an affected undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the affected undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the affected undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use all reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the affected undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with **article 33** (arbitration).

(5) The affected undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with **article 33** (arbitration), and after the grant to the affected undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the affected undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the affected undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the affected undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

**6.—(1)** Where, in accordance with the provisions of this part of this Schedule, the undertaker affords to an affected undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker

and the affected undertaker in question or in default of agreement settled by arbitration in accordance with **article 33** (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the affected undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that affected undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

**7.—**(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5(2), the undertaker must submit to the affected undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the affected undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the affected undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by an affected undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If an affected undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the affected undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

**8.—**(1) Subject to the following provisions of this paragraph, the undertaker must repay to an affected undertaker the reasonable expenses incurred by that affected undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus (including costs or compensation payable in connection with the acquisition of land for that purpose) which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of



agreement, is not determined by arbitration in accordance with **article 33** (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the affected undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an affected undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the affected undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

**9.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of an affected undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any affected undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that affected undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that affected undertaker for any other expenses, loss, damages, penalty or costs incurred by the affected undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an affected undertaker, its officers, servants, contractors or agents.

(3) An affected undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

**10.** Nothing in this part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an affected undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 2

### PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

**11.**—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system is construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act<sup>(ff)</sup>;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

**12.** The exercise of the powers of **article 25** (statutory undertakers) are subject to paragraph 23 of Schedule 2 to the Telecommunications Act 1984<sup>(gg)</sup>.

**13.**—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator); or
- (b) there is any interruption in the supply of the service provided by an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—
  - (i) make reasonable compensation to an operator for loss sustained by it; and
  - (ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand may be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under **article 33** (arbitration).

**14.** This part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

**15.** Nothing in this part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

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<sup>(ff)</sup> See section 106.  
<sup>(gg)</sup> 1984 c.12.

## PART 3

### PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED

**16.** The following provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 30, any other person on whom rights or obligations are conferred by that paragraph.

**17.** In this part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as amended from time to time, granted to Network Rail by the Secretary of State in exercise of powers under section 8 of the Railways Act 1993(**hh**);

“Network Rail” means Network Rail Infrastructure Limited (Company registration number 02904587) whose registered office is at Kings Place, 90 York Way, London, N1 9AG and any associated company of Network Rail which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006(**ii**)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

**18.—**(1) Where under this part of this Schedule Network Rail is required to give its consent, agreement or approval in respect of any matter, that consent, agreement or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development under this Order.

**19.—**(1) The undertaker must not exercise the powers conferred by **article 14** (authority to survey and investigate the land onshore) or the powers conferred by section 11(3) of the 1965 Act (powers

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**(hh)** 1993 c.43.  
**(ii)** 2006 c.46.

of entry) in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers and electronic code communications operators: preliminary notices), or **article 25** (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers conferred by this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent or agreement pursuant to this paragraph, such consent or agreement must not be unreasonably withheld but may be given subject to reasonable conditions.

**20.**—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work may not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under **article 33** (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes are to be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case with all reasonable dispatch and the undertaker may not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

**21.**—(1) Any specified work and any protective works to be constructed by virtue of paragraph 20(4) must, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 20;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of, a specified work, the undertaker must, regardless of any approval described in paragraph 21(1)(a), make good such damage and pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**22.** The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

**23.** Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**24.—**(1) If any permanent or temporary alterations or additions to railway property, or to any protective works under paragraph 20(4), are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail or the services of operators using the same, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 20(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 25(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**25.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 20(3) or in constructing any protective works under the provisions of paragraph 20(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**26.—(1)** In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail’s apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 20(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 20(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their

execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 20(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of commercial operation of the authorised development and regardless of any measures adopted under sub-paragraph (3), the testing or commissioning of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 21.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 25(a) any modifications to Network Rail's apparatus under this paragraph is deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in **article 33** (arbitration) to an arbitrator to be agreed is to be read as a reference to an arbitrator being a member of the Institution of Electrical Engineers.

**27.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**28.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**29.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, are to be repaid by the undertaker to Network Rail.

**30.**—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work,

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker, such consent not to be unreasonably withheld.

(3) The sums payable by the undertaker under sub-paragraph (1) include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**31.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Schedule (including the amount of the relevant costs mentioned in paragraph 30) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Schedule (including any claim relating to those relevant costs).

**32.** In the assessment of any sums payable to Network Rail under this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Schedule or increasing the sums so payable.

**33.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.



**34.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

**35.** The undertaker must give written notice to Network Rail where any application is proposed to be made by the undertaker for the Secretary of State's consent under **article 5** (benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**36.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with **article 32** (certification of plans etc.), provide a set of those plans to Network Rail in the form of a computer disc with read only memory.

## PART 4

### FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

**37.** For the protection of Anglian Water, the following provisions of this Schedule, unless otherwise agreed in writing between the undertaker and Anglian Water, have effect.

**38.** In this part of this schedule—

“Anglian Water” means Anglian Water Services Limited;

“Apparatus” means any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage; and

- (a) any drain or works vested in Anglian Water under The Water Industry Act 1991,
- (b) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102 (4) of The Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any sewer, drain, or works (within the meaning of section 219 of that Act) and any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus.

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in not less efficient a manner than previously;

“functions” includes powers and duties

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“plan” includes sections, drawings, specifications and method statements.

**39.** The undertaker must not interfere with, build over or near to any Apparatus within the Order land or execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within the standard protection strips which are the strips of land falling, the following distances to either side of the medial line of any Apparatus—

2.25 metres where the diameter of the pipe is less than 150 millimetres

3 metres where the diameter of the pipe is between 150 and 450 millimetres

4.5 metres where the diameter of the pipe is between 450 and 750 millimetres

6 metres where the diameter of the pipe exceeds 750 millimetres;

unless otherwise agreed in writing with Anglian Water, such agreement not to be unreasonably withheld or delayed, and such provision being brought to the attention of any agent or contractor responsible for carrying out any work on behalf of the undertaker.

**40.** The alteration, extension, removal or re-location of any Apparatus may not be implemented until

- (a) any requirement for any permits under the Environmental Permitting (England and Wales) Regulations 2010 or other legislations and any other associated consents are obtained, and any approval or agreement required from Anglian Water on alternative outfall locations as a result of such re-location are approved, such approvals or agreement from Anglian Water not to be unreasonably withheld or delayed; and
- (b) the undertaker has made the appropriate application required under the Water Industry Act 1991 together with a plan and description of the works proposed and Anglian Water has agreed all of the contractual documentation required under the Water Industry Act 1991, such agreement not to be unreasonably withheld or delayed; and such works to be executed only in accordance with the plan and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water without delay for the alteration or otherwise for the protection of the Apparatus, or for securing access to it.

**41.** In the situation, where in exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which Apparatus is placed and such Apparatus is to be relocated, extended, removed or altered in any way, no alteration or extension may take place until Anglian Water has established to its reasonable satisfaction, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the Apparatus. Anglian Water must use reasonable endeavours to establish contingency arrangements in a timely manner.

**42.** Regardless of any provision in this Order or anything shown on any plan, the undertaker must not acquire any Apparatus otherwise than by agreement, and before extinguishing any existing rights for Anglian Water to use, keep, inspect, renew and maintain its Apparatus in the Order land, the undertaker must, with the agreement of Anglian Water, create a new right to use, keep, inspect, renew and maintain the Apparatus that is reasonably convenient for Anglian Water such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under **article 33** (arbitration).

**43.** If in consequence of the exercise of the powers conferred by the Order the access to any Apparatus is materially obstructed the undertaker must provide such alternative means of access to such Apparatus as enables Anglian Water to maintain or use the apparatus no less effectively than was possible before such obstruction.

**44.** If in consequence of the exercise of the powers conferred by the Order, previously unmapped sewers, lateral drains or other Apparatus are identified by the undertaker, notification of the location of such assets will immediately be given to Anglian Water and afforded the same protection as other Anglian Water assets.

**45.** If for any reason or in consequence of the construction of any of the works referred to in paragraphs 4 to 6 and 8 above any damage is caused to any Apparatus (other than Apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must,

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good any damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs properly and reasonably incurred by Anglian Water

by reason or in consequence of any such damage or interruption.

46. Nothing in paragraph (9) above imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officer, servants, contractors or agents

47. Any difference or dispute arising between the undertaker and Anglian Water under this Schedule must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with **article 33** (arbitration).

## PART 5

### FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY AND GAS UNDERTAKER AND NATIONAL GRID GAS DISTRIBUTION LIMITED AS GAS UNDERTAKER

#### Application

48. For the protection of the statutory undertaker referred to in this Part of this Schedule the following provisions must, unless otherwise agreed in writing between the undertaker and the statutory undertaker, have effect.

#### Interpretation

49. –(1) In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of the statutory undertaker to enable the statutory undertaker to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

(a) in the case of an electricity undertaker, electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by that undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;

together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of the statutory undertaker for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or must be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2 of this Order and commencement must be construed to have the same meaning;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreement, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the statutory undertaker (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for the statutory undertaker’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of the statutory undertaker including construct, use, repair, alter, inspect, renew or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the undertaker acceptable to and which must have been approved by the statutory undertaker acting reasonably;

“undertaker” means the undertaker as defined in article 2 of this Order;

“statutory undertaker” means, as appropriate—

- (a) an electricity undertaker being a licence holder within the meaning of Part 1 of the Electricity Act 1989; and
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986.

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which :

- (a) will or may be situated over or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 52 (2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 52 (2) or otherwise; and/or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (the statutory undertaker’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW/22”);

(2) Except for paragraphs 50 (apparatus of statutory undertakers in stopped up streets), 54 (Retained apparatus protection: Gas Undertakers), 55 (Retained apparatus protection: Electricity Undertakers), 56 (expenses) and 57 (Indemnity) of this Schedule which must apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of the undertaker, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of statutory undertakers in stopped up streets**

**50.—**(1) Without prejudice to the generality of any other protection afforded to the statutory undertaker elsewhere in the Order, where any street is stopped up under article 10 (*temporary stopping up of streets*), if the statutory undertaker has any apparatus in the street or accessed via that street the statutory undertaker must be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the statutory undertaker, or must procure the granting to the statutory undertaker of, legal easements reasonably satisfactory to the specified statutory undertaker in respect of such apparatus and access to it prior to the stopping up of any such street or highway.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 10 (*temporary stopping up of streets and rights of way*), a statutory undertaker will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

### **Acquisition of land**

**51.**—(1) Regardless of any provision in this Order or anything shown on the land plan or contained in the book of reference to the Order, the undertaker must not acquire any land interest or apparatus or override any easement and/or other interest of the statutory undertaker otherwise than by agreement.

(2) As a condition of agreement between the parties in paragraph 51(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between the statutory undertaker and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of the statutory undertaker and/or affects the provisions of any enactment or agreement regulating the relations between the statutory undertaker and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as the statutory undertaker reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between the statutory undertaker and the undertaker acting reasonably and which must be no less favourable on the whole to the statutory undertaker unless otherwise agreed by the statutory undertaker, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and the statutory undertaker agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the statutory undertaker and/or other enactments relied upon by the statutory undertaker as of right or other use in relation to the apparatus, then the provisions in this Schedule must prevail.

(4) Any agreement or consent granted by the statutory undertaker under paragraphs 54 and 55 or any other paragraph of this Part of this Schedule, must not be taken to constitute agreement under sub-paragraph 51(1).

### **Removal of apparatus**

**52.**—(1) If, in the exercise of the agreement reached in accordance with paragraphs 54 and 55 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of a statutory undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the statutory undertaker in question in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order the statutory undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the statutory undertaker to its satisfaction (taking into account paragraph 53(1) below) the necessary facilities and rights

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the statutory undertaker must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for the statutory undertaker to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the statutory undertaker and the undertaker.

(5) The statutory undertaker must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

### **Facilities and rights for alternative apparatus**

**53.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for the statutory undertaker facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the statutory undertaker and must be no less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by the statutory undertaker.

(2) If the facilities and rights to be afforded by the undertaker and agreed with the statutory undertaker under paragraph 53(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject in the matter must be referred to arbitration in accordance with paragraph 61 (*Arbitration*) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to the statutory undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus protection: Gas Undertakers**

**54.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to the statutory undertaker a plan and, if reasonably required by the statutory undertaker, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to the statutory undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until the statutory undertaker has given written approval of the plan so submitted.

(4) Any approval of the statutory undertaker required under sub-paragraph (2)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) and (7); and

(b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, the statutory undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (4), as approved or as amended from time to time by agreement between the undertaker and the statutory undertaker and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker must be entitled to watch and inspect the execution of those works.

(7) Where the statutory undertaker requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertakers' satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and the statutory undertaker must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If the statutory undertaker in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 48 to 50 and 51 to 53 apply as if the removal of the apparatus had been required by the undertaker under paragraph 52(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker must not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works and must—

(a) comply with sub-paragraph (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and

(b) comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with the statutory undertaker's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable under any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that the statutory undertaker retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 56.

### **Retained apparatus protection: Electricity Undertakers**

**55.**—(1) Not less than 56 days before the commencement of any authorised works that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 52(2) or otherwise, the undertaker must submit to the statutory undertaker a plan of

the works to be executed and seek from the statutory undertaker details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to the statutory undertaker under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing; -

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations must not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by the statutory undertaker's engineers.
- (h) evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until the statutory undertaker has given written approval of the plan so submitted.

(5) Any approval of the statutory undertaker required under sub-paragraphs (2) or (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, the statutory undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and the statutory undertaker and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by the statutory undertaker for the alteration or otherwise for the protection of the



apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.

(8) Where the statutory undertaker requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertakers' satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and the statutory undertaker must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If the statutory undertaker in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 48 to 50 and 51 to 53 apply as if the removal of the apparatus had been required by the under paragraph 52(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph must apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with the statutory undertaker's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

## **Expenses**

**56.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to the statutory undertaker on demand all charges, costs and expenses reasonably anticipated or incurred by the statutory undertaker in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by the statutory undertaker in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by the statutory undertaker as a consequence of the undertaker;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 52(3); and/or
  - (ii) exercising any compulsory acquisition powers in the Order transferred to or benefitting the statutory undertaker
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or in default of agreement, is not determined by arbitration in accordance with article 33 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory undertaker by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs must be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

## **Indemnity**

57. (1) Subject to sub-paragraphs (2), (3) and (4), if by reason or in consequence of the construction of any such works authorised by this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Schedule or any subsidence resulting from any of these works), any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any statutory undertaker, or the statutory undertaker becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand the cost reasonably incurred by that statutory undertaker in making good such damage or restoring the supply; and
- (b) indemnify that statutory undertaker for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or the statutory undertaker becoming liable to any third party in accordance with the provisions of this part.

(2) The fact that any act or thing may have been done by a statutory undertaker on behalf of the undertaker or in accordance with a plan approved by a statutory undertaker or in accordance with any requirement of a statutory undertaker or under its supervision does not (subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of this sub-paragraph (1)).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the neglect or default of a statutory undertaker, its officers, servants, contractors or agents.

(4) A statutory undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without first consulting the undertaker and considering their representations (such representations not to be unreasonably withheld or delayed).

### **Enactments and agreements**

**58.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between the statutory undertaker and the undertaker, nothing in this Part of this Schedule must affect the provisions of any enactment or agreement regulating the relations between the undertaker and the statutory undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**59.—**(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or a statutory undertaker requires the removal of apparatus under paragraph 52(2) or a statutory undertaker makes requirements for the protection or alteration of apparatus under paragraphs 54 and 55, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the statutory undertaker's undertaking and each statutory undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever the statutory undertaker's consent, agreement or approval to is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

### **Access**

**60.** If in consequence of the agreement reached in accordance with paragraph 51(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable the statutory undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**61.** Save for differences or disputes arising under paragraph 52(2), 52(4), 53(1), 54, 55 and 57(5) any difference or dispute arising between the undertaker and the statutory undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the statutory undertaker, be determined by arbitration in accordance with **article 33** (*arbitration*).

## PART 6

### FOR THE PROTECTION OF EAST ANGLIA ONE LIMITED

#### **Application**

**62.** For the protection of the statutory undertaker the following provisions, unless otherwise agreed in writing between the undertaker and the statutory undertaker concerned, have effect.

#### **Interpretation**

**63.** In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of the statutory undertaker to enable the statutory undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means, electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by that undertaker;

“authorised development” means the development authorised by this Order;

“commence” has the same meaning as article 2 of this Order;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of the statutory undertaker including construct, use, repair, alter, inspect, renew or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“undertaker” means the undertaker who owns and/or operates the transmission assets under this Order

“statutory undertaker” means, for the area of the authorised development, and in relation to any apparatus, the statutory undertaker who owns and/or operates the transmission assets under the East Anglia ONE Offshore Wind Farm Order 2014 (as amended).

#### **Apparatus of undertakers in stopped up streets**

**64.** Notwithstanding the temporary stopping up or diversion of any highway under the powers of **article 10** (temporary stopping up of streets), a statutory undertaker may be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway subject always to the undertaking of works by the undertaker authorised by the Order.

#### **Acquisition of land**

**65.** Regardless of any provision in the Order or anything shown on the land plan or contained in the book of reference to the Order, the undertaker must not acquire any interest in land or any apparatus or override any easement or other interest of the statutory undertaker otherwise than by agreement, such agreement not to be unreasonably withheld or delayed.

## **Removal of apparatus**

**66.**—(1) If, in the exercise of the agreement reached in accordance with paragraph 65 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed and any right of a statutory undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the statutory undertaker in question in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under the Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker 56 days' advance written notice of that requirement (or such lesser period of notice agreed by the statutory undertaker, acting reasonably), together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by the Order a statutory undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the statutory undertaker to their reasonable satisfaction (taking into account 67(1) below) the necessary facilities and rights —

- (a) For the construction of alternative apparatus in other land of the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the statutory undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed except that this obligation does not extend to the requirement for the statutory undertaker to use its compulsory purchase powers to this end unless it elects to do so

(4) Any alternative apparatus to be constructed in land of the undertaker must be constructed in such manner and in such line or situation as may be reasonably agreed between the statutory undertaker and the undertaker.

(5) The statutory undertaker must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions hereof.

## **Facilities and rights for alternative apparatus**

**67.**—(1) Where, in accordance with the provisions hereof, the undertaker affords to a statutory undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be reasonably agreed between the undertaker and the statutory undertaker and must be no less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by the statutory undertaker (acting reasonably).

(2) If the facilities and rights to be afforded by the undertaker and agreed with the statutory undertaker under 67(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the statutory undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that statutory undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

## **Retained apparatus: protection: electricity undertakers**

**68.**—(1) Not less than 56 days (or such lesser period agreed by the statutory undertaker, acting reasonably) before commencing the execution of any works authorised by the Order that are near to, or will or may affect any apparatus the removal of which has not been required by the undertaker under paragraph 66(2) or otherwise, the undertaker must submit to the statutory undertaker a plan.

(2) In relation to works which will or may be situated on, over, under or within five metres measured in any direction of any apparatus, or involve embankment works within 5 metres of any apparatus, the plan to be submitted to the statutory undertaker under sub-paragraph (1) must be detailed including a material statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation and positioning of plant;
- (d) the position of all apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus.

(3) The undertaker must not commence the construction or renewal of any works to which sub-paragraph (1) or (2) applies until the statutory undertaker has given written approval of the plan so submitted.

(4) Any approval of the statutory undertaker required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (7);
- (b) must not be unreasonably withheld or delayed.

(5) In relation to a work to which sub-paragraph (1) or (2) applies, the statutory undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus provided that such modifications are made within a period of 56 days beginning with the date on which the plan under sub-paragraph (1) is submitted to it (or such lesser period agreed by the statutory undertaker, acting reasonably). For the avoidance of doubt, provided that any further iterations of the plan submitted to the statutory undertaker for approval as a result of modifications required under this paragraph are not materially different to the modifications previously made by the statutory undertaker, any further required modifications will be made by the statutory undertaker as soon as reasonably practicable thereafter and in any event within 21 days of receipt of any further plans.

(6) Works executed under the Order must be executed only in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (2), as amended from time to time by agreement between the undertaker and the statutory undertaker and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (5) or (7) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.

(7) Where statutory undertakers require any protective works to be carried out either themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to the statutory undertaker's satisfaction prior to the carrying out of any works authorised by the Order or any relevant part thereof (unless otherwise agreed by the statutory undertaker, acting reasonably) and the statutory undertaker must give notice of such works as soon as reasonably practicable and in any event within 56 days from the date of submission of a plan in line with sub-paragraph (1) or (2) (except in an emergency).

(8) If a statutory undertaker in accordance with sub-paragraph (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 62 to 64 and 67 to 68 apply as if the removal of the apparatus had been required by the undertaker under paragraph 66(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any works (unless otherwise agreed by the statutory undertaker, acting reasonably), a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(10) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraph (5), (6) and (7) insofar as is reasonably practicable in the circumstances.

## **Expenses**

**69.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to the statutory undertaker on demand all charges, costs and expenses reasonably and properly incurred by that statutory undertaker in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to herein including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that the statutory undertaker elects to use powers of compulsory acquisition to acquire any necessary rights under 66(3) all costs incurred as a result of such action;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to herein.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions hereof and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions hereof —

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or in default of agreement settled by arbitration in accordance with **article 33** (arbitration) of the Order to be necessary, then, if such placing involves cost in the construction of works under the provisions hereof exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs must be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)-

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to the statutory undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

### **Compensation**

**70.**—(1) Subject to sub-paragraphs (2), (3) and (4), if by reason or in consequence of the construction of any such works authorised herein or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under the provisions herein or any subsidence resulting from any of these works), any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the statutory undertaker, or the statutory undertaker becomes liable to pay any amount to any third party, the undertaker must

- (a) bear and pay on demand the cost reasonably incurred by the statutory undertaker in making good such damage or restoring the supply; and
- (b) compensate the statutory undertaker for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or the statutory undertaker becoming liable to any third party in accordance with the provisions of this part.

(2) The fact that any act or thing may have been done by the statutory undertaker on behalf of the undertaker or in accordance with a plan approved by the statutory undertaker or in accordance with any requirement of the statutory undertaker or under its supervision does not (subject to sub-paragraph (3)), excuse the undertaker from liability under the provisions of this paragraph.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the neglect or default of the statutory undertaker, its officers, servants, contractors or agents.

(4) The statutory undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without first consulting the undertaker and considering their representations (such representations not to be unreasonably withheld or delayed).

### **Enactments and agreements**

**71.** Nothing herein affects the provisions of any enactment or agreement regulating the relations between the undertaker and the statutory undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which the Order is made.

### **Co-operation**

**72.** Where in consequence of the proposed construction of any of the authorised development, the undertaker or the statutory undertaker requires the removal of apparatus under paragraph 66(2) or a statutory undertaker makes requirements for the protection or alteration of apparatus under paragraph 68 the undertaker must use its best endeavours to co-ordinate the execution of the works



in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the statutory undertaker's undertaking and the statutory undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

### **Access**

73. If in consequence of the agreement reached in accordance with paragraph 65 or the powers granted under the Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as enables the statutory undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

74. Save for differences or disputes arising under paragraph 66(2), 66(4), 67(1) and 68, any difference or dispute arising between the undertaker and the statutory undertaker must, unless otherwise agreed in writing between the undertaker and the statutory undertaker, be determined by arbitration in accordance with **article 33** (arbitration) of the Order.

## **PART 7**

### **FOR THE PROTECTION OF OIL AND GAS LICENSEES**

### **Application**

75. For the Protection of the Licensees from time to time of United Kingdom Petroleum Production Licence P1965, unless otherwise agreed in writing between the Undertaker and the Licensees the provisions of this part of this Schedule shall have effect.

### **Interpretation**

76. In this Part of this Schedule—

“Applicable Laws” means applicable laws, rules, orders, guidelines and regulations, including without limitation, those relating to health, safety and the environment and logistics activities such as helicopter and vessel operations;

“Good Offshore Wind Farm Construction Practice” means the application of those methods and practices customarily used in construction of wind farms in the United Kingdom Continental Shelf with that degree of diligence and prudence reasonably and ordinarily exercised by experienced operators and contractors engaged in the United Kingdom Continental Shelf in a similar activity under similar circumstances and conditions;

“Good Oilfield Practice” means the application of those methods and practices customarily used in good and prudent oil and gas field practice in the United Kingdom Continental Shelf with that degree of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in the United Kingdom Continental Shelf in a similar activity under similar circumstances and conditions;

“Guidance” means the ‘Oil and gas clause in Crown Estate leases, Guidance on procedures for independent valuation where necessary’ published by the then Department of Energy and Climate Change in June 2014, or any similar supplementary or replacement policy;

“Licence” means United Kingdom Petroleum Production Licence P.1965;

“Licensees” means the licensees from time to time of the Licence;

“Licensees’ Works” means any infrastructure to be installed owned and occupied or maintained by or on behalf of the Licensees or exploration, appraisal, development and decommissioning activities (and associated logistics activities), by the Licensees in connection with the Licence within the Protected area;

“Ministerial Statement” means the written statement given by the then Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

“Plan of the Licensees’ Works” means an exploration and development programme and details and location of Licensees’ Works and minimum requirements known at that time such as exclusive zones in accordance with Good Oilfield Practice and Applicable Laws to enable the Licensees to, as applicable, explore, appraise, develop and/or decommission hydrocarbon resources within the Protected area;

“Plan of the Undertakers’ Works” means a construction programme and details of location of the Undertakers’ Works and minimum requirements known at that time such as safety and exclusion zones in accordance with Good Offshore Wind Farm Construction Practice and Applicable Laws to enable the Undertaker to construct and operate the Undertakers’ Works within the Protected area;

“the Protected area” means the area coloured green on the Protective Provisions Plan (that area coloured green being delineated by a line drawn between the points in the Table of Co-ordinates);

“the Protective Provisions Plan” means the plan entitled Protective Provisions Plan and certified as the Protective Provisions Plan for the purposes of this Part of this Schedule;

“Proximity Agreement” means an agreement between the Undertaker and the Licensees to reconcile and protect the interests of the parties as are known at the time to secure the implementation of the Undertakers’ Works and the Licensees’ Works, taking account of the matters in paragraph 84;

“the Table of Co-ordinates” means the following table—

<i>Area</i>	<i>Label Point</i>	<i>Latitude X (European Datum 1950 UTM Zone 31N)</i>	<i>Longitude Y (European Datum 1950 UTM Zone 31N)</i>
1	A	483,799.57	5,834,052.15
	B	494,193.52	5,830,959.70
	C	490,468.86	5,823,847.11
	D	483,750.96	5,823,832.51
2	E	500,000.00	5,846,795.24
	F	502,637.55	5,847,084.40
	G	500,000.00	5,842,047.75

“Undertakers’ Works” means the works permitted in this Order within the Protected area.

**Proximity Agreement**

77. Save as provided in paragraphs ~~82~~83 and 85 no part of the Undertakers’ Works shall commence until either—

- (i) a Proximity Agreement has been concluded between the Undertaker and the Licensees in respect of that part of the Undertakers’ Works; or
- (ii) the Undertaker and the Licensees shall have agreed in writing that no Proximity Agreement is required in respect of that part of the Undertakers’ Works

78. Preparation of a Proximity Agreement must commence when the Undertaker serves Notice on the Licensees of the Undertaker’s intention to commence any part of the Undertaker’s Works

79. Any such notice must be served within no less than 12 months of the intended commencement date of that part of the Undertakers’ Works and within no less than 12 months of the grant of the Order and shall include a Plan of that part of the Undertakers’ Works and a request to the Licensees to produce a Plan of the Licensees’ Works

**80.** In response to the notice the Licensee shall produce a Plan of the Licensees' Works within 28 days of service of the notice.

**81.** Preparation of a Proximity Agreement must be concluded within 3 months of the date for production of the Plan of the Licensees' Works under paragraph 80 above

**82.** If the Undertaker considers that the Plan of the Licensees' Works produced pursuant to paragraph 80 above provides insufficient detail of—

- (i) the existence of a realistic oil and gas prospect within the Protected area and/or
- (ii) the nature and location of the Licensees' Works in order to enable the Undertaker to define or mitigate the effects of the Undertakers' Works on the Licensees' Works and/or
- (iii) any area of sea required for the Licensees' Works having been minimised in light of (i) above

to enable a Proximity Agreement to be concluded which contains ongoing limitations on the programming siting design construction or operation of the Undertakers' Works or the Order works the Undertaker must notify the Licensees of the additional detail required whereupon the Licensees must provide all such additional detail within 28 days of such notification by the Undertaker.

**83.** Paragraph 77 shall not apply if the plan of the Licensees' Works or additional detail provided pursuant to paragraph 82 above provides insufficient detail for the purposes set out in paragraph 82 above.

**84.** The Proximity Agreement must be based on the Plan of the Licensees' Works and the Plan of the Undertakers' Works and must take account of—

- (i) the nature and location of the Licensees' Works on any Plan of the Licensees' Works as known at that time
- (ii) the location and extent of sea required for the Licensees' Works (including all applicable exclusive zones) on any Plan of the Licensees' Works as known at that time
- (iii) all such evidence as is available at the time to support the existence of an oil and gas prospect within the Protected area
- (iv) the ability of the Licensees to reduce or remove its sea area requirement under (ii) above in light of evidence at (iii) above, whether with immediate effect or at a specified later date
- (v) the date by which the Licensees will seek to commence exploitation, or at which works of exploration, will cease as known at that time
- (vi) the siting and design of the Undertakers' Works on any Plan of the Undertakers' Works as known at that time
- (vii) the minimum feasible exclusive zones, buffer zones or safety zones required for safe construction and operation between the Undertakers' Works and the Licensees' Works
- (viii) protocols protective of navigation communication and use of the sea by third parties
- (ix) possible future transfer of the benefit of the Order or of the Licence
- (x) the desirability of co-existence and the ongoing commercial viability of the authorised development permitted under the Order together with exploration for and commercial exploitation of oil and gas within the Protected area

### **Arbitration**

**85.** If no Proximity Agreement is concluded or the parties shall not have agreed whether paragraph ~~82~~<sup>83</sup> applies within the period specified in paragraph 81 the outstanding matters in dispute must be referred to an arbitrator and the Undertakers' Works must not commence until the determination of the arbitrator has been made and must only be implemented in accordance with the

arbitrator's determination which is final and binding on the parties (save for manifest or legal error)—

- (i) the arbitration shall be decided by a sole arbitrator whose appointment shall be agreed by the parties
- (ii) the arbitrator shall be a person (including one who has retired) with not less than ten years' experience of offshore oil and gas development or offshore wind farm development or as a lawyer or other professional advisor serving those industries
- (iii) where the parties fail to agree to appoint an arbitrator within 28 days of the delivery of a notice of arbitration, then upon application the Secretary of State will appoint an arbitrator within 28 days. At any time prior to the appointment by the Secretary of State the parties may make an appointment
- (iv) the intention of the parties is that, so far as is practical, the arbitrator should make a determination within 3 months of appointment
- (v) the seat of arbitration shall be London

### Provision of information

86. Without prejudice to any other rights or obligations under this Part of the Schedule the Licensees and the Undertaker shall from time to time keep each other informed of relevant activities such that the Licensees and the Undertaker may seek to agree solutions to allow the Undertakers' works and the Licensees' works to successfully co-exist as far as reasonably practicable or if later until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the Licence and taking place within the Protected area

### Compensation

87. Nothing in this Part of the Schedule shall affect any rights or obligations or assessment of compensation in accordance with the Ministerial Statement and the DECC Guidance (as applicable)

## SCHEDULE 99

Article 31

### HEDGEROWS

#### PART 1

#### REMOVAL OF HEDGEROWS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Reference of hedgerow</i>
Suffolk Coastal District	The hedgerow marked 3 on the hedgerows plan
Suffolk Coastal District	The hedgerow marked 7 on the hedgerows plan
Suffolk Coastal District	The hedgerow marked 8 on the hedgerows plan
Suffolk Coastal District	The hedgerow marked 9 on the hedgerows plan
Suffolk Coastal District	The hedgerow marked 10 on the hedgerows plan
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Mid Suffolk District	The hedgerow marked 229 on the hedgerows plan
Mid Suffolk District	The hedgerow marked 230 on the hedgerows plan

## PART 2

### REMOVAL OF IMPORTANT HEDGEROWS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Reference of hedgerow</i>
Suffolk Coastal District	The important hedgerow marked 1 on the hedgerows plan
Suffolk Coastal District	The important hedgerow marked 2 on the hedgerows plan
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Mid Suffolk District	The important hedgerow marked 214 on the hedgerows plan
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	hedgerows plan
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Mid Suffolk District	The important hedgerow marked 228 on the hedgerows plan

## SCHEDULE ~~10~~10

Article 28

### DEEMED LICENCE UNDER THE 2009 ACT – GENERATION ASSETS (LICENCE 1 – PHASE 1)

#### PART 1

##### Licensed Marine Activities

**1.—(1) In this licence—**

“the 2004 Act” means the Energy Act 2004;

“2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 2(3) of this licence;

“authorised scheme” means Work No. 1 described in paragraph 3 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LIDAR buoys, wave buoys and guard buoys;

“cable protection” means measures for cable crossings and where cable burial is not possible due to ground conditions, to protect cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“deemed transmission assets marine licences” means the licences set out in **Schedule 12** (deemed licence under the 2009 Act – transmission assets (licence 1 – phase 1)) and **Schedule 13** (deemed licence under the 2009 Act – transmission assets (licence 2 – phase 2)) and deemed by **article 28** (deemed marine licences under the 2009 Act) to have been granted under Part 4 of the 2009 Act, by virtue of section 149A of the 2008 Act;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“draught height” means the distance between the lowest point of the rotating blade of the wind turbine generator and MHWS;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“European offshore marine site” has the meaning given in regulation 15 of the 2007 Regulations;

“European site” has the meaning given in regulation 24 of the 2007 Regulations;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at two or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment, and “discrete jacket foundation types” includes pre-piled or post-piled jackets, three-legged or four legged jackets, or straight or battered leg jackets;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“LAT” means lowest astronomical tide;

“licence 2 (generation)” means the licence set out in **Schedule 11** (deemed licence under the 2009 Act – generation assets (licence 2 – phase 2));

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, maintain, repair, adjust, and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of **Schedule 1** (ancillary works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of **Schedule 1** (authorised development) (but not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“monopile foundation” means a steel pile, typically cylindrical, driven and/ or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any Alternating Current (AC) or Direct Current (DC) cables offshore and includes fibre optic cables either within the cable or laid alongside;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in paragraph 3 of this licence;

“offshore platform” means any offshore electrical station and any offshore accommodation platform;

“the Order” means the East Anglia THREE Offshore Wind Farm Order 201X;

“outline navigation monitoring strategy” means the document certified as the outline navigation monitoring strategy by the Secretary of State for the purposes of this Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“relevant site” means a European offshore marine site and a European site;

“single offshore phase” means carrying out all offshore works as a single construction operation;

“Southern North Sea possible Special Area of Conservation” means the Southern North Sea possible Special Area of Conservation as set out in the JNCC 2016 Harbour Porpoise Possible Special Area of Conservation Consultation dated January 2016;

“statutory historic body” means Historic England or its successor in function;

“suction caissons” means large diameter steel cylindrical shells which penetrate the seabed assisted by hydrostatic pressure differential for fixity of steel jacket foundations;

“suction caisson foundation” means a tubular steel structure which penetrates the seabed assisted by a hydrostatic pressure differential and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations pursuant to the deemed marine licences set out in schedules 10, 12 and 14 (Licence 1 – Phase 1) of the Order and schedules 11, 13 and 15 (Licence 2 – Phase 2) of the Order respectively;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means East Anglia THREE Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation;

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Offshore Marine Licensing  
Lancaster House  
Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Marine Environment Team  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT;

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton



SO15 1EG  
Tel: 020 3817 2433;

(f) Centre for Environment, Fisheries and Aquaculture Science  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 562 244;

(g) Natural England  
Area 1C, Nobel House  
17 Smith Square  
London  
SW1P 2AL  
Tel: 0300 060 4911;

(h) Historic England  
Eastgate Court  
195-205 High Street  
Guildford  
GU1 3EH  
Tel: 01483 252 059.

### **Details of licensed marine activities**

**2.** Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3) below;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation; and
- (d) the disposal of up to 1,646,317 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works at disposal site reference HU212 within the extent of the Order limits seaward of MHWS, comprising—
  - (i) 47,342 m<sup>3</sup> for cable installation;
  - (ii) 1,505,000 m<sup>3</sup> for the wind turbine generators;
  - (iii) 73,225 m<sup>3</sup> for the accommodation platform (which may alternatively be disposed under licence 2 (generation)); and
  - (iv) 20,750 m<sup>3</sup> for the meteorological masts (10,375 m<sup>3</sup> or all of which may alternatively be disposed under licence 2 (generation)).

**3.** Such activities are authorised in relation to the construction, maintenance and operation of—

(1) Work No. 1 (phase 1)—

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 600 MW comprising up to 86 wind turbine generators each fixed to the seabed by one of

four foundation types (namely, monopile, jacket, suction caisson or gravity base), fitted with rotating blades and situated within the area shown on the works plan and further comprising (b) to (e) below;

- (b) up to one accommodation platform fixed to the seabed within the area shown on the works plan by one of two foundation types (namely jacket or gravity base) (which may alternatively be constructed under licence 2 (generation));
- (c) up to two meteorological masts fixed to the seabed within the area shown on the works plan by one of four foundation types (namely monopile, jacket, suction caisson or gravity base) (one or both of which may alternatively be constructed under licence 2 (generation));
- (d) up to 12 buoys fixed to the seabed within the area shown on the works plan (some or all of which may alternatively be constructed under licence 2 (generation));
- (e) a network of subsea inter-array cables within the area shown on the works plan between the wind turbine generators and between the wind turbine generators and Work No.2 including one or more cable crossings.

(2) In connection with such Work No. 1 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence.

(3) In connection with such Work No. 1, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling or seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 30' 20.026"N	2° 48' 33.266"E	3	52° 45' 10.569"N	2° 45' 33.773" E
2	52° 31' 32.067"N	2° 45' 31.868"E	4	52° 46' 18.078"N	3° 02' 15.841" E

6. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within **article 5** (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial where it has been demonstrated that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## PART 2

### Conditions

#### Design parameters

1.—(1) Subject to paragraph (3), wind turbine generators forming part of the authorised scheme must not—

- (a) exceed a height of 247 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a height of 150.6 metres to the height of the centreline of the generator shaft forming part of the hub when measured from LAT;
- (c) exceed a rotor diameter of 220 metres;
- (d) be less than 675 metres from the nearest wind turbine generator in either direction perpendicular to the approximate prevailing wind direction (crosswind) or be less than 900 metres from the nearest wind turbine generator in either direction which is in line with the approximate prevailing wind direction (downwind);
- (e) have a draught height of less than 22 metres from MHWS.

(2) The number of turbines with a draught height of less than 24m from MHWS comprised in the authorised scheme and the authorised scheme in licence 2 (generation) taken together must not exceed 52 turbines

(3) In condition 1(1) and 1(2) above, references to the location of a wind turbine generator are references to the centre point of that turbine.

2.—(1) The total number of accommodation platforms forming part of the authorised scheme and the authorised scheme in licence 2 (generation) taken together must not exceed one (whether constructed under this licence and/or licence 2 (generation)).

(2) The dimensions of any accommodation platform forming part of the authorised scheme must not exceed 60 metres in height when measured from LAT, 70 metres in length and 70 metres in width.

(3) The total number of meteorological masts forming part of the authorised scheme and the authorised scheme in licence 2 (generation) taken together must not exceed two (whether constructed under this licence and/or licence 2 (generation)).

(4) Each meteorological mast must not exceed a height of 160 metres above LAT.

(5) Each meteorological mast must not have more than one supporting foundation.

(6) The dimensions of any buoy forming part of the authorised scheme must not exceed 6 metres in height (excluding any apparatus or equipment fixed to the buoy), 4 metres in length and 4 metres in width and the anchor footprint must not exceed 4m<sup>2</sup>.

(7) The total number of buoys forming part of the authorised scheme and the authorised scheme in licence 2 (generation) taken together must not exceed twelve (whether constructed under this licence and/or licence 2 (generation)).

(8) Offshore platforms forming part of the authorised scheme must not be erected within the platform exclusion zone, whose co-ordinates are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 30' 20.0268" N	2° 48' 33.264"E	3	52° 32' 10.4568" N	2° 45' 31.9572" E
2	52° 31' 32.0664" N	2° 45' 31.8672" E	4	52° 30' 48.7369" N	2° 48' 57.7512" E

(9) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 3,500kJ.

3.—(1) The total length of the cables and the volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work No. 1(e) (inter-array)	275 kilometres	24,750 m <sup>3</sup>

4.—(1) In relation to a wind turbine generator, each gravity base foundation must not have—

- (a) a diameter at the level of the seabed which is more than 60 metres;
- (b) a base height, where there is a flat base and a cylindrical shaft, which is more than 12 metres above the level of the seabed;
- (c) a base height, where there is a conical base, which is more than 2 metres above the level of the seabed;
- (d) a column diameter, where there is a flat or conical base, which is more than 9 metres at LAT.

(2) In relation to a wind turbine generator, each suction caisson foundation must not have—

- (a) a diameter at the level of the seabed which is more than 30 metres;
- (b) a base height where there is a flat base, which is more than 5 metres above the level of the seabed;
- (c) a column diameter which is more than 9 metres at LAT.

(3) In relation to a wind turbine generator, each jacket foundation must not have:

- (a) a width spacing between its legs at the level of the seabed which is more than 43.5 metres;
- (b) a pile diameter which is more than 4 metres in the case of pin piles or a suction caisson diameter which is more than 10 metres;
- (c) more than one pile per leg or more than one suction caisson per leg;
- (d) more than four legs.

(4) In relation to a wind turbine generator, each monopile foundation forming part of the authorised scheme must not have a diameter which is more than 12 metres.

5.—(1) In relation to a meteorological mast, each gravity base foundation must not have a diameter at the level of the seabed which is more than 20 metres.

(2) In relation to a meteorological mast, each suction caisson foundation must not have a diameter at the level of the seabed which is more than 15 metres.

(3) In relation to a meteorological mast, each jacket foundation must not have a footprint at the seabed which is more than 625 m<sup>2</sup>.

(4) In relation to a meteorological mast, each monopile foundation forming part of the authorised development must not have a diameter which is more than 8 metres.

(5) In relation to an accommodation platform, each gravity base foundation must not have a footprint of more than 15,855 m<sup>2</sup>.

(6) In relation to an accommodation platform, each jacket foundation must not have—

- (a) a footprint at the seabed which is more than 15,855 m<sup>2</sup>;
- (b) more than one pile per leg or more than one suction caisson per leg.

6. The total amount of scour protection for the wind turbine generators, accommodation platform and meteorological masts forming part of the authorised scheme must not exceed 1,297,460m<sup>2</sup> and taken together with the authorised scheme in licence 2 (generation) must not exceed 2,572,460m<sup>2</sup> (whether installed under this licence and/or licence 2 (generation)).

### Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with **condition 15**; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with **condition 15**;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with **condition 15** are permitted to carry out the licensed 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 or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(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 MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least ten days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 1 (wind turbine

generators or other offshore construction activities including array cables) and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under **condition 13(b)**. Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House and the UK Hydrographic Office.

### **Aids to navigation**

**8.**—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS 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 may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (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 five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to **condition 13(k)** using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of **condition 7(11)** are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

**9.**—(1) The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the wind turbine generators are painted light grey (colour code RAL 7035).

### **Aviation safety**

**10.**—(1) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the authorised scheme, in writing of the following information—

- (a) the date of the commencement of construction of the authorised scheme;

- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator, mast and platform to be constructed;
- (e) the latitude and longitude of each wind turbine generator, mast and platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised scheme. Copies of notifications must be provided to the MMO.

### **Chemicals, drilling and debris**

**11.—**(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised scheme, including any chemical agents placed within any monopile void, 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 (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(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 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within site disposal reference HU212 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal at this site.

(6) 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.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 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.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under **condition 13(d)(i)**.

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 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) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

### **Force majeure**

**12.—**(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 within or outside of the Order limits because the safety

of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(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**

**13.**—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows—
  - (i) the proposed location and choice of foundation of all wind turbine generators, accommodation platforms and meteorological masts;
  - (ii) the height to the tip of the vertical blade; height to the centreline of the generator shaft forming part of the hub;
  - (iii) rotor diameter and spacing of all wind turbine generators;
  - (iv) the height of all lattice towers forming part of the meteorological mast;
  - (v) the length and arrangement of all cables comprising Work No. 1(e);
  - (vi) the dimensions of all gravity base foundations;
  - (vii) the dimensions of all jacket foundations;
  - (viii) the dimensions of all suction caisson foundations;
  - (ix) the dimensions of all monopile foundations;
  - (x) the proposed layout of all wind turbine generators (in accordance with the recommendations for layout contained in MGN543), accommodation platforms and meteorological masts including any exclusion zones identified under sub-paragraph 13(1)(h)(iv);
  - (xi) a plan showing the indicative layout of all wind turbine generators, accommodation platforms and meteorological masts including all exclusion zones (insofar as not shown in (x) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph 13(1)(b)(iv); and
  - (xii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 13(1)(i);to ensure conformity with the description of Work No. 1 and compliance with **conditions 1 to 6** above.
- (b) A construction programme and monitoring plan (which accords with the in principle monitoring plan) to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works and whether such works are to be carried out as a single offshore phase or as two offshore phases;
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with sub-paragraph 13(1)(h) and **conditions 17, 18 and 19**; and
  - (iv) an indicative written construction programme for all wind turbine generators accommodation platforms, meteorological masts, buoys and cable comprised in the works at paragraph 3(1) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);



with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—

- (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
- (bb) at least four months prior to construction, detail on construction monitoring;
- (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

unless otherwise agreed in writing with the MMO.

- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
  - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works and having regard to any mitigation scheme pursuant to sub-paragraph 13(1)(i);
  - (ii) soft start procedures with specified duration periods;
  - (iii) cable installation;
  - (iv) contractors;
  - (v) vessels and vessels transit corridors, which minimises disturbance to red throated diver; and
  - (vi) associated and ancillary works.
- (d) A project environmental management plan covering the period of construction and operation 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 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;
  - (iv) the appointment and responsibilities of a fisheries liaison officer;
  - (v) a fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to **condition 7** and to address the interaction of the licensed activities with fishing activities; and
  - (vi) procedures to be adopted within vessels transit corridors to minimise disturbance to red throated diver.
- (e) A scour protection management and cable protection plan providing details of the need, type, sources, quantity and installation methods for scour protection and cable protection, which plan must be updated and resubmitted for approval if changes to it are proposed following cable laying operations.
- (f) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies.
- (g) A cable specification, installation and monitoring plan, to include—
  - (i) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and

- (iii) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables.
- (h) A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean low water, which must be submitted at least 6 months prior to commencement of the licensed activities and must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to 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 (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
  - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (i) A mitigation scheme for any habitats of principal importance identified by the survey referred to in **condition 17(2)(a)** and in accordance with the in principle monitoring plan.
- (j) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (k) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of **condition 8** for the lifetime of the authorised scheme.

(2) In the event that driven or part-driven pile foundations are proposed to be used, the licenced activities, or any phase of those activities must not commence until an East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan which accords with the principles set out in the In Principle East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that the plan, provides such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2007 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.

(3) For the purpose of paragraph (2) –

- (a) the Southern North Sea possible Special Area of Conservation must be treated as a European offshore marine site until:
  - (i) that Area (or any part of it) becomes a European offshore marine site or a European site; or
  - (ii) it is decided that no part of that Area should be a European offshore marine site or a European site; and

(b) harbour porpoise must be treated as a protected feature of the Southern North Sea possible Special Area of Conservation.

(4) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation, and which has been submitted to and approved by the MMO.

**14.**—(1) Any archaeological reports produced in accordance with **condition 13(h)(iii)** are to be agreed with the statutory historic body.

(2) Each programme, statement, plan, protocol or scheme required to be approved under **condition 13** must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under **condition 13**.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under **condition 13**, unless otherwise agreed in writing by the MMO.

(5) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”, and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN543 and its annexes.

### **Reporting of engaged agents, contractors and vessels**

**15.**—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

### **Foundation restrictions**

**16.** No gravity base foundations may be installed in any area of the seabed with mobile sand waves of 5 metres or more, as identified by the swath-bathymetry survey carried out under condition 17(2)(b), unless otherwise agreed in writing by the MMO.

### **Pre-construction monitoring and surveys**

**17.**—(1) The undertaker must, in discharging **condition 13(b)**, submit details (which accord with the in principle monitoring plan) for written approval by the MMO in consultation with the relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and

- (a) the survey proposals must specify each survey’s objectives and explain how it 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; and

- (b) 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.
- (2) The pre-construction surveys referred to in sub-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 and extent of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works;
  - (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works including a 500 metre buffer area around the site of each work, inclusive of seabed anomalies or sites of historic or archaeological interest that lie within that 500 metre buffer;
  - (c) appropriate surveys of existing ornithological activity inside the area(s) within the Order limits in which it is proposed to carry out construction works, and any wider area(s) where appropriate, which is required to test predictions in the environmental statement concerning key ornithological interests of relevance to the authorised scheme; and
  - (d) appropriate surveys of existing marine mammal activity inside the area(s) within the Order limits in which it is proposed to carry out construction works and any wider area(s) where appropriate which is required to test predictions in the environmental statement concerning key marine mammal interests of relevance to the authorised scheme.
- (3) The undertaker must carry out the surveys agreed under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

**18.**—(1) The undertaker must, in discharging **condition 13(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives. In any event, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed.

(2) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph (1) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required.

(4) Construction monitoring must include traffic monitoring in accordance with the outline navigation monitoring strategy, including the provision of reports on the results of that monitoring periodically as requested by the MMO in consultation with the MCA.

### **Post construction**

**19.**—(1) The undertaker must, in discharging **condition 13(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed

format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it 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.

(2) The post-construction surveys referred to in sub-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 of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which construction works were carried out;
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables have been buried or protected;
- (c) appropriate ornithological surveys covering the area(s) within the Order limits in which construction works were carried out, and any wider area(s) where appropriate, as required to test predictions in the environmental statement concerning key ornithological interests of relevance to the authorised scheme;
- (d) appropriate marine mammal surveys covering the area(s) within the Order limits in which construction works were carried out and any wider area(s) where appropriate, as required to test predictions in the environmental statement concerning key marine mammal interests of relevance to the authorised scheme; and
- (e) post-construction traffic monitoring in accordance with the outline navigation monitoring strategy, including the provision of reports on the results of that monitoring periodically as requested by the MMO in consultation with the MCA.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) for up to 3 years post-construction, which could be non-consecutive years, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables, the cable monitoring plan required under condition 13(1)(g)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Reporting of impact pile driving/detonation of explosives**

**20.—**(1) Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements;
- (c) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) “Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

## SCHEDULE ~~11~~11

Article 28

### DEEMED LICENCE UNDER THE 2009 ACT – GENERATION ASSETS (LICENCE 2 – PHASE 2)

#### PART 1

##### Licensed Marine Activities

**1.**—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 2(3) of this licence;

“authorised scheme” means Work No. 1 described in paragraph 3 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes, including LIDAR buoys, wave buoys and guard buoys;

“cable protection” means measures for cable crossings and where cable burial is not possible due to ground conditions, to protect cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“deemed transmission assets marine licences” means the licences set out in **Schedule 12** (deemed licence under the 2009 Act – transmission assets (licence 1 – phase 1)) and **Schedule 13** (deemed licence under the 2009 Act – transmission assets (licence 2 – phase 2)) and deemed by **article 28** (deemed marine licences under the 2009 Act) to have been granted under Part 4 of the 2009 Act, by virtue of section 149A of the 2008 Act;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“draught height” means the distance between the lowest point of the rotating blade of the wind turbine generator and MHWS;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“European offshore marine site” has the meaning given in regulation 15 of the 2007 Regulations;

“European site” has the meaning given in regulation 24 of the 2007 Regulations;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at two or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment, and “discrete jacket foundation types” includes pre-piled or post-piled jackets, three-legged or four legged jackets, or straight or battered leg jackets;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“LAT” means lowest astronomical tide;

“licence 1 (generation)” means the licence set out in **Schedule 10** (deemed licence under the 2009 Act – generation assets (licence 1 – phase 1));

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, maintain, repair, adjust, and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of **Schedule 1** (ancillary works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of **Schedule 1** (authorised development) (but not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“monopile foundation” means a steel pile, typically cylindrical, driven and/ or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any Alternating Current (AC) or Direct Current (DC) cables offshore and includes fibre optic cables either within the cable or laid alongside;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in paragraph 3 of this licence;

“offshore platform” means any offshore electrical station and any offshore accommodation platform;

“the Order” means the East Anglia THREE Offshore Wind Farm Order 201X;

“outline navigation monitoring strategy” means the document certified as the outline navigation monitoring strategy by the Secretary of State for the purposes of this Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“relevant site” means a European offshore marine site and a European site;

“single offshore phase” means carrying out all offshore works as a single construction operation;

“Southern North Sea possible Special Area of Conservation” means the Southern North Sea possible Special Area of Conservation as set out in the JNCC 2016 Harbour Porpoise Possible Special Area of Conservation Consultation dated January 2016;

“statutory historic body” means Historic England or its successor in function;

“suction caissons” means large diameter steel cylindrical shells which penetrate the seabed assisted by hydrostatic pressure differential for fixity of steel jacket foundations;

“suction caisson foundation” means a tubular steel structure which penetrates the seabed assisted by a hydrostatic pressure differential and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations pursuant to the deemed marine licences set out in schedules 10, 12 and 14 (Licence 1 – Phase 1) of the Order and schedules 11, 13 and 15 (Licence 2 –Phase 2) of the Order respectively;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means East Anglia THREE Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation;

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

- (a) Marine Management Organisation



Offshore Marine Licensing  
Lancaster House  
Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Marine Environment Team  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT;

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 38172433;

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 562 244;

(g) Natural England

Area 1C, Nobel House

17 Smith Square  
London  
SW1P 2AL  
Tel: 0300 060 4911;

- (h) Historic England  
Eastgate Court  
195-205 High Street  
Guildford  
GU1 3EH  
Tel: 01483 252 059.

### **Details of licensed marine activities**

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3) below;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation; and
- (d) the disposal of up to 1,646,317 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works at disposal site reference HU212 within the extent of the Order limits seaward of MHWS, comprising—
  - (i) 47,342 m<sup>3</sup> for cable installation;
  - (ii) 1,505,000 m<sup>3</sup> for the wind turbine generators;
  - (iii) 73,225 m<sup>3</sup> for the accommodation platform (which may alternatively be disposed under licence 1); and
  - (iv) 20,750 m<sup>3</sup> for the meteorological masts (10,375 m<sup>3</sup> or all of which may alternatively be disposed under licence 1 (generation)).

3. Such activities are authorised in relation to the construction, maintenance and operation of—

(1) Work No. 1 (phase 2)—

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 600 MW comprising up to 86 wind turbine generators each fixed to the seabed by one of four foundation types (namely, monopile, jacket, suction caisson or gravity base), fitted with rotating blades and situated within the area shown on the works plan and further comprising (b) to (e) below;
- (b) up to one accommodation platform fixed to the seabed within the area shown on the works plan by one of two foundation types (namely jacket or gravity base) (which may alternatively be constructed under licence 1 (generation));
- (c) up to two meteorological masts fixed to the seabed within the area shown on the works plan by one of four foundation types (namely monopile, jacket, suction caisson or gravity base) (one or both of which may alternatively be constructed under licence 1 (generation));
- (d) up to 12 buoys fixed to the seabed within the area shown on the works plan (some or all of which may alternatively be constructed under licence 1 (generation));
- (e) a network of subsea inter-array cables within the area shown on the works plan between the wind turbine generators and between the wind turbine generators and Work No.2 including one or more cable crossings.

(2) In connection with such Work No. 1 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence.

(3) In connection with such Work No. 1, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling or seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

**Table 1**

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 30' 20.026"N	2° 48' 33.266"E	3	52° 45' 10.569" N	2° 45' 33.773" E
2	52° 31' 32.067"N	2° 45' 31.868" E	4	52° 46' 18.078" N	3° 02' 15.841" E

6. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within **article 5** (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial where it has been demonstrated that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## PART 2

### Conditions

#### Design parameters

1.—(1) Subject to paragraph (3), wind turbine generators forming part of the authorised scheme must not—

- (a) exceed a height of 247 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a height of 150.6 metres to the height of the centreline of the generator shaft forming part of the hub when measured from LAT;
- (c) exceed a rotor diameter of 220 metres;
- (d) be less than 675 metres from the nearest wind turbine generator in either direction perpendicular to the approximate prevailing wind direction (crosswind) or be less than 900 metres from the nearest wind turbine generator in either direction which is in line with the approximate prevailing wind direction (downwind);
- (e) have a draught height of less than 22 metres from MHWS.

(2) The number of turbines with a draught height of less than 24m from MHWS comprised in the authorised scheme and the authorised scheme in licence 1 (generation) taken together must not exceed 52 turbines

(3) In condition 1(1) and 1(2) above, references to the location of a wind turbine generator are references to the centre point of that turbine.

2.—(1) The total number of accommodation platforms forming part of the authorised scheme and the authorised scheme in licence 1 (generation) taken together must not exceed one (whether constructed under this licence and/or licence 1 (generation)).

(2) The dimensions of any accommodation platform forming part of the authorised scheme must not exceed 60 metres in height when measured from LAT, 70 metres in length and 70 metres in width.

(3) The total number of meteorological masts forming part of the authorised scheme and the authorised scheme in licence 1 (generation) taken together must not exceed two (whether constructed under this licence and/or licence 1 (generation)).

(4) Each meteorological mast must not exceed a height of 160 metres above LAT.

(5) Each meteorological mast must not have more than one supporting foundation.

(6) The dimensions of any buoy forming part of the authorised scheme must not exceed 6 metres in height (excluding any apparatus or equipment fixed to the buoy), 4 metres in length and 4 metres in width and the anchor footprint must not exceed 4m<sup>2</sup>.

(7) The total number of buoys forming part of the authorised scheme and the authorised scheme in licence 1 (generation) taken together must not exceed twelve (whether constructed under this licence and/or licence 1 (generation)).

(8) Offshore platforms forming part of the authorised scheme must not be erected within the platform exclusion zone, whose co-ordinates are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 30' 20.0268" N	2° 48' 33.264"E	3	52° 32' 10.4568" N	2° 45' 31.9572" E
2	52° 31' 32.0664" N	2° 45' 31.8672" E	4	52° 30' 48.7369" N	2° 48' 57.7512" E

(9) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 3,500kJ.

3.—(1) The total length of the cables and the volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work No. 1(e) (inter-array)	275 kilometres	24,750 m <sup>3</sup>

4.—(1) In relation to a wind turbine generator, each gravity base foundation must not have—

- (a) a diameter at the level of the seabed which is more than 60 metres;
- (b) a base height, where there is a flat base and a cylindrical shaft, which is more than 12 metres above the level of the seabed;
- (c) a base height, where there is a conical base, which is more than 2 metres above the level of the seabed;
- (d) a column diameter, where there is a flat or conical base, which is more than 9 metres at LAT.

(2) In relation to a wind turbine generator, each suction caisson foundation must not have—

- (a) a diameter at the level of the seabed which is more than 30 metres;
- (b) a base height where there is a flat base, which is more than 5 metres above the level of the seabed;
- (c) a column diameter which is more than 9 metres at LAT.

(3) In relation to a wind turbine generator, each jacket foundation must not have—

- (a) a width spacing between its legs at the level of the seabed which is more than 43.5 metres;
- (b) a pile diameter which is more than 4 metres in the case of pin piles or a suction caisson diameter which is more than 10 metres;
- (c) more than one pile per leg or more than one suction caisson per leg;
- (d) more than four legs.

(4) In relation to a wind turbine generator, each monopile foundation forming part of the authorised scheme must not have a diameter which is more than 12 metres.

5.—(1) In relation to a meteorological mast, each gravity base foundation must not have a diameter at the level of the seabed which is more than 20 metres.

(2) In relation to a meteorological mast, each suction caisson foundation must not have a diameter at the level of the seabed which is more than 15 metres.

(3) In relation to a meteorological mast, each jacket foundation must not have a footprint at the seabed which is more than 625 m<sup>2</sup>.

(4) In relation to a meteorological mast, each monopile foundation forming part of the authorised development must not have a diameter which is more than 8 metres.

(5) In relation to an accommodation platform, each gravity base foundation must not have a footprint of more than 15,855 m<sup>2</sup>.

(6) In relation to an accommodation platform, each jacket foundation must not have—

- (a) a footprint at the seabed which is more than 15,855 m<sup>2</sup>;
- (b) more than one pile per leg or more than one suction caisson per leg

6. The total amount of scour protection for the wind turbine generators, accommodation platform and meteorological masts forming part of the authorised scheme must not exceed 1,297,460m<sup>2</sup> and taken together with the authorised scheme in licence 1 (generation) must not exceed 2,572,460m<sup>2</sup> (whether installed under this licence and/or licence 1 (generation)).

### Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
    - (i) all agents and contractors notified to the MMO in accordance with **condition 15**; and
    - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with **condition 15**;
  - (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.
- (2) Only those persons and vessels notified to the MMO in accordance with **condition 15** are permitted to carry out the licensed 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 or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (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 MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.
- (7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—
- (a) at least ten days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
  - (b) on completion of construction of all offshore activities.
- Confirmation of notification must be provided to the MMO within five days.
- (8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 1 (wind turbine generators or other offshore construction activities including array cables) and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO and UKHO within five days.
- (9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under **condition 13(b)**. Copies of all notices must be provided to the MMO and UKHO within five days.
- (10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.
- (11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House and the UK Hydrographic Office.

## **Aids to navigation**

**8.**—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS 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 may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (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 five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to **condition 13(k)** using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of **condition 7(11)** are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

**9.**—(1) The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the wind turbine generators are painted light grey (colour code RAL 7035).

## **Aviation safety**

**10.**—(1) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the authorised scheme, in writing of the following information—

- (a) the date of the commencement of construction of the authorised scheme;
- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator, mast and platform to be constructed;
- (e) the latitude and longitude of each wind turbine generator, mast and platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised scheme. Copies of notifications must be provided to the MMO.

## **Chemicals, drilling and debris**

**11.**—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised scheme, including any chemical agents placed within any monopile void, 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 (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(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 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within site disposal reference HU212 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal at this site.

(6) 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.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 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.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under **condition 13(d)(i)**.

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 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) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

### **Force majeure**

**12.—**(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 within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(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**

**13.—**(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

(a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows—

(i) the proposed location and choice of foundation of all wind turbine generators, accommodation platforms and meteorological masts;



- (ii) the height to the tip of the vertical blade; height to the centreline of the generator shaft forming part of the hub;
- (iii) rotor diameter and spacing of all wind turbine generators;
- (iv) the height of all lattice towers forming part of the meteorological mast;
- (v) the length and arrangement of all cables comprising Work No. 1(e);
- (vi) the dimensions of all gravity base foundations;
- (vii) the dimensions of all jacket foundations;
- (viii) the dimensions of all suction caisson foundations;
- (ix) the dimensions of all monopile foundations;
- (x) the proposed layout of all wind turbine generators (in accordance with the recommendations for layout contained in MGN543), accommodation platforms and meteorological masts including any exclusion zones identified under sub-paragraph 13(1)(h)(iv);
- (xi) a plan showing the indicative layout of all wind turbine generators, accommodation platforms and meteorological masts including all exclusion zones (insofar as not shown in (x) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph 13(1)(b)(iv); and
- (xii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 13(1)(i);

to ensure conformity with the description of Work No. 1 and compliance with **conditions 1 to 6** above.

- (b) A construction programme and monitoring plan (which accords with the in principle monitoring plan) to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works and whether such works are to be carried out as a single offshore phase or as two offshore phases;
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with sub-paragraph 13(1)(h) and **conditions 17, 18 and 19**; and
  - (iv) an indicative written construction programme for all wind turbine generators, accommodation platforms, meteorological masts, buoys and cables comprised in the works at paragraph 3(1) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);

with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—

- (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
- (bb) at least four months prior to construction, detail on construction monitoring;
- (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

unless otherwise agreed in writing with the MMO.

- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
  - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works and having regard to any mitigation scheme pursuant to sub-paragraph 13(1)(i);
  - (ii) soft start procedures with specified duration periods;

- (iii) cable installation;
  - (iv) contractors;
  - (v) vessels and vessels transit corridors, which minimises disturbance to red throated diver; and
  - (vi) associated and ancillary works.
- (d) A project environmental management plan covering the period of construction and operation 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 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;
  - (iv) the appointment and responsibilities of a fisheries liaison officer;
  - (v) a fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to **condition 7** and to address the interaction of the licensed activities with fishing activities; and
  - (vi) procedures to be adopted within vessels transit corridors to minimise disturbance to red throated diver.
- (e) A scour protection management and cable protection plan providing details of the need, type, sources, quantity and installation methods for scour protection and cable protection, which plan must be updated and resubmitted for approval if changes to it are proposed following cable laying operations.
- (f) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies.
- (g) A cable specification, installation and monitoring plan, to include—
- (i) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
  - (iii) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables.
- (h) A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean low water, which must be submitted at least 6 months prior to commencement of the licensed activities and must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;

- (v) monitoring of archaeological exclusion zones during and post construction;
- (vi) a requirement for the undertaker to 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 (Online AccesS to the Index of archaeological investigationS') form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
- (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
- (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (i) A mitigation scheme for any habitats of principal importance identified by the survey referred to in **condition 17(2)(a)** and in accordance with the in principle monitoring plan.
- (j) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (k) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of **condition 8** for the lifetime of the authorised scheme.

(2) In the event that driven or part-driven pile foundations are proposed to be used, the licenced activities, or any phase of those activities must not commence until an East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan which accords with the principles set out in the In Principle East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that the plan, provides such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2007 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.

(3) For the purpose of paragraph (2) –

- (a) the Southern North Sea possible Special Area of Conservation must be treated as a European offshore marine site until:
  - (i) that Area (or any part of it) becomes a European offshore marine site or a European site; or
  - (ii) it is decided that no part of that Area should be a European offshore marine site or a European site; and
- (b) harbour porpoise must be treated as a protected feature of the Southern North Sea possible Special Area of Conservation.

(4) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation, and which has been submitted to and approved by the MMO.

**14.—**(1) Any archaeological reports produced in accordance with **condition 13(1)(h)(iii)** are to be agreed with the statutory historic body.

(2) Each programme, statement, plan, protocol or scheme required to be approved under **condition 13** must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under **condition 13**.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under **condition 13**, unless otherwise agreed in writing by the MMO.

(5) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency, response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”, and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN543 and its annexes.

### **Reporting of engaged agents, contractors and vessels**

**15.—**(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

### **Foundation restrictions**

**16.** No gravity base foundations may be installed in any area of the seabed with mobile sand waves of five metres or more, as identified by the swath-bathymetry survey carried out under condition 17(2)(b), unless otherwise agreed in writing by the MMO.

### **Pre-construction monitoring and surveys**

**17.—**(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for written approval by the MMO in consultation with relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and

- (a) the survey proposals must specify each survey’s objectives and explain how it 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; and
- (b) 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.

(2) The pre-construction surveys referred to in sub-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 and extent of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works;
- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works including a 500 metre buffer area around the site of each work, inclusive of seabed anomalies or sites of historic or archaeological interest that lie within that 500 metre buffer;

- (c) appropriate surveys of existing ornithological activity inside the area(s) within the Order limits in which it is proposed to carry out construction works, and any wider area(s) where appropriate, which is required to test predictions in the environmental statement concerning key ornithological interests of relevance to the authorised scheme; and
- (d) appropriate surveys of existing marine mammal activity inside the area(s) within the Order limits in which it is proposed to carry out construction works and any wider area(s) where appropriate which is required to test predictions in the environmental statement concerning key marine mammal interests of relevance to the authorised scheme.

(3) The undertaker must carry out the surveys agreed under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

**18.**—(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives. In any event, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed.

(2) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph (1) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required.

(4) Construction monitoring must include traffic monitoring in accordance with the outline navigation monitoring strategy, including the provision of reports on the results of that monitoring periodically as requested by the MMO in consultation with the MCA.

### **Post construction**

**19.**—(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it 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.

(2) The post-construction surveys referred to in sub-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 of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which construction works were carried out;
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables have been buried or protected;
- (c) appropriate ornithological surveys covering the area(s) within the Order limits in which construction works were carried out, and any wider area(s) where appropriate, as required

to test predictions in the environmental statement concerning key ornithological interests of relevance to the authorised scheme;

- (d) appropriate marine mammal surveys covering the area(s) within the Order limits in which construction works were carried out and any wider area(s) where appropriate, as required to test predictions in the environmental statement concerning key marine mammal interests of relevance to the authorised scheme; and
- (e) post-construction traffic monitoring in accordance with the outline navigation monitoring strategy, including the provision of reports on the results of that monitoring periodically as requested by the MMO in consultation with the MCA.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) for up to 3 years post-construction, which could be non-consecutive years, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables, the cable monitoring plan required under condition 13(1)(g)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Reporting of impact pile driving/detonation of explosives**

**20.—**(1) Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements;
- (c) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) "Marine Noise Registry" means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) "Forward Look" and "Close Out" requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

DEEMED LICENCE UNDER THE 2009 ACT – TRANSMISSION  
ASSETS (LICENCE 1 – PHASE 1)

## PART 1

## Licensed Marine Activities

## 1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 2(3) of this licence;

“authorised scheme” means Work Nos. 2, 3 and 5A described in paragraph 3 of this licence or any part of that work;

“cable protection” means measures for cable crossings and where cable burial is not possible due to ground conditions, to protect cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“European offshore marine site” has the meaning given in regulation 15 of the 2007 Regulations;

“European site” has the meaning given in regulation 24 of the 2007 Regulations;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at two or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment, and “discrete jacket foundation types” includes pre-piled or post-piled jackets, three-legged or four legged jackets, or straight or battered leg jackets;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, maintain, repair, adjust, and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (ancillary works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of Schedule 1 (authorised development) (but not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any Alternating Current (AC) or Direct Current (DC) cables offshore and includes fibre optic cables either within the cable or laid alongside;

“offshore electrical station” means a platform attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, instrumentation, protection and control systems, neutral earthing resistors, reactive compensation, standby electrical generation equipment, fuelling facilities, auxiliary and uninterruptible power supply systems and transformers, accommodation and/or emergency shelter, craneage, metering stations, meteorological equipment, helicopter landing facilities, messing facilities, potable water storage, black water separation equipment, control hub, drainage facilities, access equipment, J-tubes, marking and lighting and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform and, depending on the type of electrical station, low, medium and/or high voltage switch gear, and/or AC filters and/or AC/DC converter with switching devices and/or DC equipment including DC capacitors and DC filters;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in paragraph 3 of this licence;

“the Order” means the East Anglia THREE Offshore Wind Farm Order 201X;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“platform exclusion zone” means the area shown as such on the offshore works plan;

“relevant site” means a European offshore marine site and a European site;

“restricted area” means the area hatched black on the works plan being 250 metres from site 30;

“sediment sample survey” means a survey to be carried out in the event that works are proposed in the restricted area which:

- (i) samples sediment for arsenic contamination in the area of those works; and
- (ii) must be carried out in accordance with details which have first been approved by the MMO;

“single offshore phase” means carrying out all offshore works as a single construction operation;



“site 30” means site 30 shown on the works plan (offshore) which has the following grid coordinates:

<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
52° 27' 32.889" N	02° 36' 9.019" E

“Southern North Sea possible Special Area of Conservation” means the Southern North Sea possible Special Area of Conservation as set out in the JNCC 2016 Harbour Porpoise Possible Special Area of Conservation Consultation dated January 2016;

“statutory historic body” means Historic England or its successor in function;

“suction caissons” means large diameter steel cylindrical shells which penetrate the seabed assisted by hydrostatic pressure differential for fixity of steel jacket foundations;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations pursuant to the deemed marine licences set out in schedules 10, 12 and 14 (Licence 1 – Phase 1) of the Order and schedules 11, 13 and 15 (Licence 2 – Phase 2) of the Order respectively;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means East Anglia THREE Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation;

“Work No.1” means the offshore generating stations comprising wind turbine generators, accommodation platforms, meteorological masts and subsea cables;

“Work No.5B” means onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from mean low water at Bawdsey Cliffs;

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

- (a) Marine Management Organisation
  - Offshore Marine Licensing
  - Lancaster House
  - Hampshire Court
  - Newcastle Business Park

Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Marine Environment Team  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT;

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2433;

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 562 244;

(g) Natural England

Area 1C, Nobel House  
17 Smith Square  
London  
SW1P 2AL  
Tel: 0300 060 4911;

- (h) Historic England  
Eastgate Court  
195-205 High Street  
Guildford  
GU1 3EH  
Tel: 01483 252 059.

### **Details of licensed marine activities**

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3) below;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation; and
- (d) the disposal of up to 394,828 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works at disposal site reference HU212 within the extent of the Order limits seaward of MHWS, comprising—
  - (i) 12,911 m<sup>3</sup> for cable installation;
  - (ii) 219,675 m<sup>3</sup> for the offshore electrical substations;
  - (iii) 162,242 m<sup>3</sup> for the export cables.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

(1) *Work No. 2 (phase 1)* – up to three offshore electrical stations fixed to the seabed within the area shown on the works plan by one of two foundation types (namely jacket or gravity base).

(2) *Work No. 3 (phase 1)* – a network of subsea cables within the area shown on the works plan between the offshore electrical stations comprising Work No. 2 and for the transmission of electricity and electronic communications including one or more cable crossings.

(3) *Work No. 5A (phase 1)* – up to two export cables between Work No. 2 and Work No. 5B consisting of subsea cables along routes within the Order limits seaward of MHWS including one or more cable crossings.

(4) In connection with such Works No. 2, 3 and 5A and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence.

(5) In connection with such Works No. 2, 3 and 5A, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;

- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 46' 18.078" N	3° 2' 15.841" E	109	52° 8' 10.903" N	1° 52' 48.323" E
2	52° 30' 20.027" N	2° 48' 33.266" E	110	52° 8' 10.712" N	1° 52' 47.616" E
3	52° 26' 58.466" N	2° 45' 50.653" E	111	52° 8' 10.496" N	1° 52' 46.925" E
4	52° 45' 10.57" N	2° 45' 33.773" E	112	52° 8' 10.262" N	1° 52' 46.251" E
5	52° 45' 6.908" N	2° 44' 40.427" E	113	52° 8' 10.01" N	1° 52' 45.598" E
6	52° 30' 36.608" N	2° 44' 41.63" E	114	52° 8' 33.338" N	1° 49' 15.275" E
7	52° 31' 32.11" N	2° 44' 38.806" E	115	52° 8' 25.361" N	1° 48' 48.294" E
8	52° 31' 32.077" N	2° 44' 38.805" E	116	52° 7' 42.888" N	1° 46' 40.77" E
9	52° 26' 58.438" N	2° 44' 31.396" E	117	52° 4' 57.709" N	1° 44' 58.279" E
10	52° 27' 48.319" N	2° 44' 29.313" E	118	52° 5' 44.772" N	1° 40' 57.35" E
11	52° 27' 8.503" N	2° 35' 52.305" E	119	52° 2' 57.008" N	1° 36' 33.019" E
12	52° 21' 19.757" N	2° 35' 44.827" E	120	52° 2' 56.839" N	1° 36' 32.348" E
13	52° 20' 53.714" N	2° 35' 44.025" E	121	52° 2' 56.648" N	1° 36' 31.69" E
14	52° 20' 41.665" N	2° 35' 43.654" E	122	52° 2' 56.44" N	1° 36' 31.048" E
15	52° 20' 40.009" N	2° 35' 43.603" E	123	52° 2' 56.209" N	1° 36' 30.422" E
16	52° 20' 39.779" N	2° 35' 43.596" E	124	52° 2' 55.964" N	1° 36' 29.813" E
17	52° 20' 39.235" N	2° 35' 33.246" E	125	52° 2' 55.705" N	1° 36' 29.224" E
18	52° 20' 37.378" N	2° 34' 46.042" E	126	52° 2' 55.424" N	1° 36' 28.655" E
19	52° 27' 57.917" N	2° 34' 5.046" E	127	52° 3' 53.611" N	1° 35' 40.499" E
20	52° 27'	2° 33' 59.829"	128	52° 2' 14.708"	1° 35' 9.305"

	52.452" N	E		N	E
21	52° 20' 35.254" N	2° 33' 47.765" E	129	52° 2' 14.564" N	1° 35' 9.04" E
22	52° 20' 34.372" N	2° 33' 23.612" E	130	52° 0' 43.448" N	1° 33' 4.952" E
23	52° 20' 33.112" N	2° 32' 49.135" E	131	52° 0' 43.078" N	1° 33' 4.472" E
24	52° 20' 31.704" N	2° 32' 10.856" E	132	52° 0' 42.692" N	1° 33' 4.023" E
25	52° 20' 31.542" N	2° 32' 6.378" E	133	52° 0' 42.293" N	1° 33' 3.605" E
26	52° 20' 31.013" N	2° 31' 52.055" E	134	52° 0' 41.882" N	1° 33' 3.218" E
27	52° 20' 30.264" N	2° 31' 31.698" E	135	52° 0' 41.461" N	1° 33' 2.865" E
28	52° 20' 30.599" N	2° 31' 2.961" E	136	52° 0' 41.029" N	1° 33' 2.545" E
29	52° 20' 30.599" N	2° 31' 2.924" E	137	52° 0' 40.59" N	1° 33' 2.26" E
30	52° 20' 30.61" N	2° 31' 2.171" E	138	52° 0' 40.14" N	1° 33' 2.011" E
31	52° 20' 30.613" N	2° 31' 1.825" E	139	52° 0' 39.683" N	1° 33' 1.797" E
32	52° 20' 30.613" N	2° 31' 1.82" E	140	51° 58' 47.51" N	1° 32' 13.971" E
33	52° 20' 30.624" N	2° 31' 0.752" E	141	51° 57' 36.634" N	1° 29' 50.826" E
34	52° 20' 30.624" N	2° 31' 0.746" E	142	52° 0' 41.137" N	1° 27' 15.227" E
35	52° 20' 30.653" N	2° 30' 58.371" E	143	51° 57' 51.574" N	1° 26' 41.476" E
36	52° 20' 30.653" N	2° 30' 58.359" E	144	51° 57' 51.624" N	1° 26' 40.671" E
37	52° 20' 30.678" N	2° 30' 56.069" E	145	51° 57' 51.646" N	1° 26' 39.863" E
38	52° 20' 30.678" N	2° 30' 56.033" E	146	51° 57' 51.646" N	1° 26' 39.054" E
39	52° 20' 30.732" N	2° 30' 51.529" E	147	51° 57' 51.62" N	1° 26' 38.246" E
40	52° 20' 30.757" N	2° 30' 49.345" E	148	51° 57' 51.566" N	1° 26' 37.441" E
41	52° 20' 30.757" N	2° 30' 49.312" E	149	51° 57' 51.487" N	1° 26' 36.642" E
42	52° 20' 30.826" N	2° 30' 43.347" E	150	51° 57' 51.386" N	1° 26' 35.85" E
43	52° 20' 30.826" N	2° 30' 43.304" E	151	51° 57' 51.257" N	1° 26' 35.068" E
44	52° 20' 30.894" N	2° 30' 37.395" E	152	51° 57' 51.181" N	1° 26' 34.683" E

45	52° 20' N 30.898 N	2° 30' E 37.169 E	153	51° 57' N 51.106 N	1° 26' E 34.298 E
46	52° 20' N 30.93 N	2° 30' E 34.529 E	154	51° 57' N 51.08 N	1° 26' E 34.194 E
47	52° 20' N 30.923 N	2° 30' E 33.771 E	155	52° 0' N 2.563 N	1° 25' E 32.077 E
48	52° 20' N 30.912 N	2° 30' E 32.605 E	156	52° 0' N 1.829 N	1° 25' E 30.107 E
49	52° 20' N 30.862 N	2° 30' E 26.199 E	157	52° 0' N 0.832 N	1° 25' E 27.444 E
50	52° 20' N 25.289 N	2° 30' E 20.762 E	158	52° 0' N 0.799 N	1° 25' E 27.357 E
51	52° 19' N 17.209 N	2° 29' E 15.157 E	159	52° 0' N 0.749 N	1° 25' E 27.271 E
52	52° 24' N 0.479 N	2° 29' E 6.65 E	160	52° 0' N 0.655 N	1° 25' E 27.123 E
53	52° 18' N 42.739 N	2° 28' E 41.724 E	161	52° 0' N 0.634 N	1° 25' E 27.079 E
54	52° 18' N 37.606 N	2° 28' E 35.103 E	162	52° 0' N 0.616 N	1° 25' E 27.03 E
55	52° 18' N 29.308 N	2° 28' E 26.972 E	163	52° 0' N 0.544 N	1° 25' E 26.883 E
56	52° 18' N 29.308 N	2° 28' E 26.972 E	164	52° 0' N 0.464 N	1° 25' E 26.741 E
57	52° 17' N 17.336 N	2° 27' E 16.442 E	165	52° 0' N 0.263 N	1° 25' E 26.337 E
58	52° 17' N 12.127 N	2° 27' E 11.34 E	166	51° 59' N 59.939 N	1° 25' E 25.678 E
59	52° 17' N 8.43 N	2° 27' E 7.719 E	167	51° 59' N 59.629 N	1° 25' E 25.04 E
60	52° 17' N 5.629 N	2° 27' E 4.976 E	168	51° 59' N 59.305 N	1° 25' E 24.402 E
61	52° 17' N 5.402 N	2° 27' E 4.756 E	169	51° 59' N 59.032 N	1° 25' E 23.861 E
62	52° 17' N 4.528 N	2° 27' E 3.899 E	170	51° 59' N 59.014 N	1° 25' E 23.828 E
63	52° 16' N 51.182 N	2° 27' E 3.996 E	171	51° 59' N 59.01 N	1° 25' E 23.816 E
64	52° 16' N 45.023 N	2° 27' E 4.04 E	172	51° 59' N 58.927 N	1° 25' E 23.634 E
65	52° 16' N 38.262 N	2° 27' E 4.089 E	173	51° 59' N 58.855 N	1° 25' E 23.473 E
66	52° 16' N 37.834 N	2° 27' E 4.093 E	174	51° 59' N 58.772 N	1° 25' E 23.293 E
67	52° 16' N 36.43 N	2° 27' E 3.924 E	175	51° 59' N 57.689 N	1° 25' E 21.148 E
68	52° 23' N 14.798 N	2° 26' E 39.878 E	176	51° 59' N 57.689 N	1° 25' E 21.146 E
69	52° 14' N	2° 26' E	177	51° 59' N	1° 25' E

	1.882 <sup>'''</sup> N	45.354 <sup>'''</sup> E		57.556 <sup>'''</sup> N	20.881 <sup>'''</sup> E
70	52° 13' <sup>''</sup> 55.528 <sup>'''</sup> N	2° 26' <sup>''</sup> 44.591 <sup>'''</sup> E	178	51° 59' <sup>''</sup> 57.556 <sup>'''</sup> N	1° 25' <sup>''</sup> 20.88 <sup>'''</sup> E
71	52° 9' <sup>''</sup> 28.062 <sup>'''</sup> N	2° 25' <sup>''</sup> 36.366 <sup>'''</sup> E	179	51° 59' <sup>''</sup> 57.516 <sup>'''</sup> N	1° 25' <sup>''</sup> 20.807 <sup>'''</sup> E
72	52° 9' <sup>''</sup> 31.781 <sup>'''</sup> N	2° 25' <sup>''</sup> 35.028 <sup>'''</sup> E	180	51° 59' <sup>''</sup> 57.516 <sup>'''</sup> N	1° 25' <sup>''</sup> 20.807 <sup>'''</sup> E
73	52° 20' <sup>''</sup> 54.388 <sup>'''</sup> N	2° 21' <sup>''</sup> 15.039 <sup>'''</sup> E	181	51° 59' <sup>''</sup> 57.516 <sup>'''</sup> N	1° 25' <sup>''</sup> 20.806 <sup>'''</sup> E
74	52° 20' <sup>''</sup> 47.386 <sup>'''</sup> N	2° 21' <sup>''</sup> 9.27 <sup>'''</sup> E	0	52° 21' <sup>''</sup> 53.636 <sup>'''</sup> N	2° 34' <sup>''</sup> 13.872 <sup>'''</sup> E
75	52° 13' <sup>''</sup> 39.648 <sup>'''</sup> N	2° 17' <sup>''</sup> 18.125 <sup>'''</sup> E	1	52° 21' <sup>''</sup> 25.052 <sup>'''</sup> N	2° 34' <sup>''</sup> 13.842 <sup>'''</sup> E
76	52° 13' <sup>''</sup> 35.674 <sup>'''</sup> N	2° 15' <sup>''</sup> 59.368 <sup>'''</sup> E	2	52° 25' <sup>''</sup> 56.467 <sup>'''</sup> N	2° 34' <sup>''</sup> 8.342 <sup>'''</sup> E
77	52° 13' <sup>''</sup> 33.794 <sup>'''</sup> N	2° 15' <sup>''</sup> 22.225 <sup>'''</sup> E	3	52° 21' <sup>''</sup> 19.548 <sup>'''</sup> N	2° 31' <sup>''</sup> 49.797 <sup>'''</sup> E
78	52° 11' <sup>''</sup> 17.488 <sup>'''</sup> N	2° 11' <sup>''</sup> 34.133 <sup>'''</sup> E	4	52° 21' <sup>''</sup> 19.145 <sup>'''</sup> N	2° 31' <sup>''</sup> 2.229 <sup>'''</sup> E
79	52° 11' <sup>''</sup> 17.574 <sup>'''</sup> N	2° 11' <sup>''</sup> 33.361 <sup>'''</sup> E	5	52° 21' <sup>''</sup> 19.717 <sup>'''</sup> N	2° 30' <sup>''</sup> 12.848 <sup>'''</sup> E
80	52° 11' <sup>''</sup> 17.639 <sup>'''</sup> N	2° 11' <sup>''</sup> 32.583 <sup>'''</sup> E	6	52° 23' <sup>''</sup> 26.293 <sup>'''</sup> N	2° 30' <sup>''</sup> 2.994 <sup>'''</sup> E
81	52° 11' <sup>''</sup> 17.678 <sup>'''</sup> N	2° 11' <sup>''</sup> 31.8 <sup>'''</sup> E	7	52° 23' <sup>''</sup> 25.516 <sup>'''</sup> N	2° 30' <sup>''</sup> 1.705 <sup>'''</sup> E
82	52° 11' <sup>''</sup> 17.693 <sup>'''</sup> N	2° 11' <sup>''</sup> 31.015 <sup>'''</sup> E	8	52° 23' <sup>''</sup> 24.756 <sup>'''</sup> N	2° 30' <sup>''</sup> 0.388 <sup>'''</sup> E
83	52° 11' <sup>''</sup> 17.686 <sup>'''</sup> N	2° 11' <sup>''</sup> 30.23 <sup>'''</sup> E	9	52° 23' <sup>''</sup> 24.014 <sup>'''</sup> N	2° 29' <sup>''</sup> 59.042 <sup>'''</sup> E
84	52° 11' <sup>''</sup> 17.653 <sup>'''</sup> N	2° 11' <sup>''</sup> 29.447 <sup>'''</sup> E	10	52° 23' <sup>''</sup> 23.294 <sup>'''</sup> N	2° 29' <sup>''</sup> 57.67 <sup>'''</sup> E
85	52° 11' <sup>''</sup> 17.599 <sup>'''</sup> N	2° 11' <sup>''</sup> 28.667 <sup>'''</sup> E	11	52° 23' <sup>''</sup> 22.592 <sup>'''</sup> N	2° 29' <sup>''</sup> 56.27 <sup>'''</sup> E
86	52° 11' <sup>''</sup> 17.52 <sup>'''</sup> N	2° 11' <sup>''</sup> 27.893 <sup>'''</sup> E	12	52° 21' <sup>''</sup> 19.235 <sup>'''</sup> N	2° 29' <sup>''</sup> 57.051 <sup>'''</sup> E
87	52° 11' <sup>''</sup> 17.416 <sup>'''</sup> N	2° 11' <sup>''</sup> 27.126 <sup>'''</sup> E	13	52° 23' <sup>''</sup> 21.912 <sup>'''</sup> N	2° 29' <sup>''</sup> 54.846 <sup>'''</sup> E
88	52° 12' <sup>''</sup> 22.846 <sup>'''</sup> N	2° 11' <sup>''</sup> 9.965 <sup>'''</sup> E	14	52° 23' <sup>''</sup> 21.25 <sup>'''</sup> N	2° 29' <sup>''</sup> 53.395 <sup>'''</sup> E
89	52° 12' <sup>''</sup> 27.655 <sup>'''</sup> N	2° 10' <sup>''</sup> 3.953 <sup>'''</sup> E	15	52° 23' <sup>''</sup> 20.605 <sup>'''</sup> N	2° 29' <sup>''</sup> 51.921 <sup>'''</sup> E
90	52° 10' <sup>''</sup> 22.645 <sup>'''</sup> N	2° 5' <sup>''</sup> 24.993 <sup>'''</sup> E	16	52° 23' <sup>''</sup> 19.986 <sup>'''</sup> N	2° 29' <sup>''</sup> 50.423 <sup>'''</sup> E
91	52° 10' <sup>''</sup> 22.512 <sup>'''</sup> N	2° 5' <sup>''</sup> 24.211 <sup>'''</sup> E	17	52° 23' <sup>''</sup> 19.385 <sup>'''</sup> N	2° 29' <sup>''</sup> 48.903 <sup>'''</sup> E
92	52° 10' <sup>''</sup> 22.357 <sup>'''</sup> N	2° 5' <sup>''</sup> 23.442 <sup>'''</sup> E	18	52° 23' <sup>''</sup> 18.805 <sup>'''</sup> N	2° 29' <sup>''</sup> 47.36 <sup>'''</sup> E
93	52° 10' <sup>''</sup> 22.177 <sup>'''</sup> N	2° 5' <sup>''</sup> 22.686 <sup>'''</sup> E	19	52° 23' <sup>''</sup> 18.251 <sup>'''</sup> N	2° 29' <sup>''</sup> 45.797 <sup>'''</sup> E

94	52° 11' 6.526" N	2° 2' 15.69" E	20	52° 23' 17.714" N	2° 29' 44.213" E
95	52° 9' 32.962" N	2° 2' 11.44" E	21	52° 23' 17.203" N	2° 29' 42.609" E
96	52° 8' 46.529" N	1° 57' 45.569" E	22	52° 21' 17.284" N	2° 29' 40.473" E
97	52° 8' 46.518" N	1° 57' 45.508" E	23	52° 21' 17.057" N	2° 29' 38.731" E
98	52° 9' 40.842" N	1° 57' 7.198" E	24	52° 19' 10.175" N	2° 27' 36.407" E
99	52° 8' 11.62" N	1° 54' 29.428" E	25	52° 22' 33.114" N	2° 27' 20.941" E
100	52° 9' 37.649" N	1° 53' 5.293" E	26	52° 18' 50.89" N	2° 26' 0.71" E
101	52° 8' 11.641" N	1° 52' 54.353" E	27	52° 13' 59.088" N	2° 25' 25.766" E
102	52° 8' 11.63" N	1° 52' 53.58" E	28	52° 13' 58.494" N	2° 23' 27.683" E
103	52° 8' 11.594" N	1° 52' 52.809" E	29	52° 13' 56.852" N	2° 23' 2.476" E
104	52° 8' 11.537" N	1° 52' 52.041" E	30	52° 20' 22.816" N	2° 22' 19.439" E
105	52° 8' 11.454" N	1° 52' 51.279" E	31	52° 18' 12.42" N	2° 21' 12.115" E
106	52° 8' 11.35" N	1° 52' 50.524" E	32	52° 18' 15.739" N	2° 21' 10.581" E
107	52° 8' 11.224" N	1° 52' 49.779" E	33	52° 13' 46.402" N	2° 19' 32.631" E
108	52° 8' 11.076" N	1° 52' 49.044" E			

6. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within **article 5** (benefit of the Order).

8.

9. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

10. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial where it has been demonstrated that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.



## PART 2

### Conditions

#### Design parameters

1. Licensed activities must not take place within the restricted area until the MMO has confirmed in writing that it is satisfied with the results of a sediment sample survey or that sufficient mitigation has been secured in the approved method statement required to be submitted under condition 13(1)(g), to prevent impacts from contaminated sediment.

2. Offshore platforms forming part of the authorised scheme must not be erected within the platform exclusion zone, whose co-ordinates are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 30' 20.0268" N	2° 48' 33.264" E	3	52° 32' 10.4568" N	2° 45' 31.9572" E
2	52° 31' 32.0664" N	2° 45' 31.8672" E	4	52° 30' 48.7369" N	2° 48' 57.7512" E

3. In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 3,500kJ.

4.—(1) The total number of offshore electrical stations forming part of the authorised scheme must not exceed three.

(2) The dimensions of any offshore electrical station forming part of the authorised scheme (excluding towers, helipads, masts and cranes) must not exceed 70 metres in height when measured from LAT, 80 metres in length and 120 metres in width.

(3) In relation to an offshore electrical station, each gravity base foundation must not have a footprint at the seabed which is more than 8,011 m<sup>2</sup>.

(4) In relation to an offshore electrical station, each jacket foundation must not have—

- (a) a footprint at the seabed which is more than 15,855 m<sup>2</sup>;
- (b) more than one pile per leg or more than one suction caisson per leg.

5.—(1) The total length of the cables and the volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
<i>Work No. 3 (platform link)</i>	<i>75 kilometres</i>	<i>8,900 m<sup>3</sup></i>
<i>Work No. 5A (export cable)</i>	<i>332 kilometres</i>	<i>40,630 m<sup>3</sup></i>

6. The total amount of scour protection for the offshore electrical stations forming part of the authorised scheme must not exceed 50,400 m<sup>2</sup>.

#### Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with **condition 15**; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with **condition 15**;

- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with **condition 15** are permitted to carry out the licensed 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 or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(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 MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least ten days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 2 and the expected vessel routes from the construction ports to the relevant location. A second notice to mariners must be issued advising of the start date of Work Nos. 3 and 5A and the route of the sub-sea cables. Copies of all notices must be provided to the MMO and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under **condition 13(b)**. Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House and the UK Hydrographic Office.

### **Aids to navigation**

**8.—(1)** The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds,

signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (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 five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to **condition 13(k)** using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of **condition 7(11)** are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

**9.** The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

#### **Aviation safety**

**10.**—(1) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the authorised scheme, in writing of the following information—

- (a) the date of the commencement of construction of the authorised scheme;
- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator, mast and platform to be constructed;
- (e) the latitude and longitude of each wind turbine generator, mast and platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised scheme. Copies of notifications must be provided to the MMO.

#### **Chemicals, drilling and debris**

**11.**—(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 (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(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 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the

months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within site disposal reference HU212 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal at this site.

(6) 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.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 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.

(8) The undertaker must undertake the survey agreed under **condition 13(h)(iii)** following the swath-bathymetry survey referred to in **condition 19(2)(b)**. Should any such obstructions resulting from burial of Work No. 5A (export cables) be identified which, in the reasonable opinion of the MMO, may be considered to interfere with fishing, the undertaker must take such steps to remove them as the MMO in its reasonable opinion may require.

(9) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(10) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under **condition 13(d)(i)**.

(11) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 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) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

### **Force majeure**

**12.—**(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 within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(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**

**13.—**(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows—
  - (i) the proposed location and choice of foundation of all offshore electrical stations;
  - (ii) the height, length and width of all offshore electrical stations;
  - (iii) the length and arrangement of all cables comprising Work Nos. 3 and 5A;
  - (iv) the dimensions of all gravity base foundations;
  - (v) the dimensions of all jacket foundations;

- (vi) the proposed layout of all offshore electrical stations including any exclusion zones identified under sub-paragraph 13(1)(h)(iv);
  - (vii) a plan showing the indicative layout of all offshore electrical stations including all exclusion zones (insofar as not shown in (vi) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph 13(1)(b)(iv); and
  - (viii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 13(1)(j);
- to ensure conformity with the description of Works No. 2, 3 and 5A and compliance with **conditions 1 to 6** above.
- (b) A construction programme and monitoring plan (which accords with the in principle monitoring plan) to include details of—
    - (i) the proposed construction start date;
    - (ii) proposed timings for mobilisation of plant delivery of materials and installation works and whether such works are to be carried out as a single offshore phase or as two offshore phases;
    - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with sub-paragraph 13(1)(h) and **conditions 17, 18 and 19**; and
    - (iv) an indicative written construction programme for all offshore electrical stations and cables comprised in the works at paragraph 3(1) to (3) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);

with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—

    - (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
    - (bb) at least four months prior to construction, detail on construction monitoring;
    - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

unless otherwise agreed in writing with the MMO.
  - (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
    - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works and having regard to any mitigation scheme pursuant to sub-paragraph 13(1)(i);
    - (ii) soft start procedures with specified duration periods;
    - (iii) offshore electrical station location and installation, including scour protection;
    - (iv) cable installation, including cable landfall and cable protection;
    - (v) contractors;
    - (vi) vessels and vessels transit corridors, which minimises disturbance to red throated diver; and
    - (vii) associated and ancillary works.
  - (d) A project environmental management plan covering the period of construction and operation 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 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;
  - (iv) the appointment and responsibilities of a fisheries liaison officer;
  - (v) a fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to **condition 7** and to address the interaction of the licensed activities with fishing activities; and
  - (vi) procedures to be adopted within vessels transit corridors to minimise disturbance to red throated diver.
- (e) A scour protection management and cable protection plan providing details of the need, type, sources, quantity and installation methods for scour protection and cable protection, which plan must be updated and resubmitted for approval if changes to it are proposed following cable laying operations.
- (f) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies.
- (g) A cable specification, installation and monitoring plan, to include—
- (i) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;
  - (iii) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables; and
  - (iv) appropriate methods such as a trawl or drift net to be deployed along Work No. 5 (export cables), following the survey referred to in **condition 19(2)(b)** to assess any seabed obstructions resulting from burial of the export cables.
- (h) A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean low water, which must be submitted at least 6 months prior to commencement of the licensed activities and must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body (and, if relevant, Suffolk Coastal District Council) to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to 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 (Online AccesS to the Index of archaeological investigations’) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO (and Suffolk Coastal District Council where the report relates to the intertidal area) that the OASIS form has

been submitted to the National Record of the Historic Environment within two weeks of submission;

- (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
- (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (i) A mitigation scheme for any habitats of principal importance identified by the survey referred to in **condition 17(2)(a)** and in accordance with the in principle monitoring plan.
- (j) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (k) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of **condition 8** for the lifetime of the authorised scheme.

(2) In the event that driven or part-driven pile foundations are proposed to be used, the licenced activities, or any phase of those activities must not commence until an East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan which accords with the principles set out in the In Principle East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that the plan, provides such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2007 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.

(3) For the purpose of paragraph (2) –

- (a) the Southern North Sea possible Special Area of Conservation must be treated as a European offshore marine site until:
  - (i) that Area (or any part of it) becomes a European offshore marine site or a European site; or
  - (ii) it is decided that no part of that Area should be a European offshore marine site or a European site; and
- (b) harbour porpoise must be treated as a protected feature of the Southern North Sea possible Special Area of Conservation.

(4) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation, and which has been submitted to and approved by the MMO.

**14.—**(1) Any archaeological reports produced in accordance with **condition 13(1)(h)(iii)** are to be agreed with the statutory historic body (and, if relevant, Suffolk Coastal District Council).

(2) Each programme, statement, plan, protocol or scheme required to be approved under **condition 13** must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under **condition 13**.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under **condition 13**, unless otherwise agreed in writing by the MMO.

(5) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which

includes full details of the plan for emergency, response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”, and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN543 and its annexes.

#### **Reporting of engaged agents, contractors and vessels**

**15.**—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

#### **Foundation restrictions**

**16.** No gravity base foundations may be installed in any area of the seabed with mobile sand waves of five metres or more, as identified by the swath-bathymetry survey carried out under condition 17(2)(b), unless otherwise agreed in writing by the MMO.

#### **Pre-construction monitoring and surveys**

**17.**—(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for written approval by the MMO in consultation with relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and

- (a) the survey proposals must specify each survey’s objectives and explain how it 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; and
- (b) 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.

(2) The pre-construction surveys referred to in sub-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 and extent of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works; and
- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works including a 500 metre buffer area around the site of each work, inclusive of seabed anomalies or sites of historic or archaeological interest that lie within that 500 metre buffer.

(3) The undertaker must carry out the surveys agreed under sub-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 in consultation with the relevant statutory nature conservation bodies.



### **Construction monitoring**

**18.**—(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives.

(2) The undertaker must carry out the surveys approved under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Post construction**

**19.**—(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it 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.

(2) The post-construction surveys referred to in sub-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 of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which construction works were carried out;
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables have been buried or protected.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) for up to 3 years post-construction, which could be non-consecutive years, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables, the cable monitoring plan required under condition 13(1)(g)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Reporting of impact pile driving/detonation of explosives**

**20.**—(1) (1) Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements;
- (c) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) “Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

## SCHEDULE ~~13~~13

Article 28

### DEEMED LICENCE UNDER THE 2009 ACT – TRANSMISSION ASSETS (LICENCE 2 – PHASE 2)

#### PART 1

##### Licensed Marine Activities

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulation 2007;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 2(3) of this licence;

“authorised scheme” means Work Nos. 2, 3 and 5A described in paragraph 3 of this licence or any part of that work;

“cable protection” means measures for cable crossings and where cable burial is not possible due to ground conditions, to protect cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions; “enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“European offshore marine site” has the meaning given in regulation 15 of the 2007 Regulations;

“European site” has the meaning given in regulation 24 of the 2007 Regulations;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at two or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment, and “discrete jacket foundation types” includes pre-piled or post-piled jackets, three-legged or four legged jackets, or straight or battered leg jackets;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, maintain, repair, adjust, and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of **Schedule 1** (ancillary works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of **Schedule 1** (authorised development) (but not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any Alternating Current (AC) or Direct Current (DC) cables offshore and includes fibre optic cables either within the cable or laid alongside;

“offshore electrical station” means a platform attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, instrumentation, protection and control systems, neutral earthing resistors, reactive compensation, standby electrical generation equipment, fuelling facilities, auxiliary and uninterruptible power supply systems and transformers, accommodation and/or emergency shelter, craneage, metering stations, meteorological equipment, helicopter landing facilities, messing facilities, potable water storage, black water separation equipment, control hub, drainage facilities, access equipment, J-tubes, marking and lighting and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform and, depending on the type of electrical station, low, medium and/or high voltage switch gear, and/or AC filters and/or AC/DC converter with switching devices and/or DC equipment including DC capacitors and DC filters;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in paragraph 3 of this licence;

“the Order” means the East Anglia THREE Offshore Wind Farm Order 201X;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“platform exclusion zone” means the area shown as such on the offshore works plan;

“relevant site” means a European offshore marine site and a European site;

“restricted area” means the area hatched black on the works plan being 250 metres from site 30;

“sediment sample survey” means a survey to be carried out in the event that works are proposed in the restricted area which:

- (i) samples sediment for arsenic contamination in the area of those works; and
- (ii) must be carried out in accordance with details which have first been approved by the MMO;

“single offshore phase” means carrying out all offshore works as a single construction operation;

“site 30” means site 30 shown on the works plan (offshore) which has the following grid coordinates:

<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
52° 27' 32.889" N	02° 36' 9.019" E

“Southern North Sea possible Special Area of Conservation” means the Southern North Sea possible Special Area of Conservation as set out in the JNCC 2016 Harbour Porpoise Special Area of Conservation Consultation dated January 2016;

“statutory historic body” means Historic England or its successor in function;

“suction caissons” means large diameter steel cylindrical shells which penetrate the seabed assisted by hydrostatic pressure differential for fixity of steel jacket foundations;

“two offshore phases” means carrying out the offshore works as two separate construction operations pursuant to the deemed marine licences set out in schedules 10, 12 and 14 (Licence 1 – Phase 1) of the Order and schedules 11, 13 and 15 (Licence 2 – Phase 2) of the Order respectively;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means East Anglia THREE Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation;

“Work No. 1” means the offshore generating stations comprising wind turbine generators, accommodation platforms, meteorological masts and subsea cables;

“Work No. 5B” means onshore connection works consisting of up to four circuits pulled through existing ducts laid underground from mean low water at Bawdsey Cliffs;

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

(a) all times are taken to be Greenwich Mean Time (GMT);

(b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Offshore Marine Licensing

Lancaster House

Hampshire Court

Newcastle Business Park

Newcastle upon Tyne

NE4 7YH

Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Marine Environment Team

Pakefield Road

Lowestoft

Suffolk

NR33 0HT;

(c) Trinity House

Tower Hill

London

EC3N 4DH

Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset

TA1 2DN

Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch

Bay 2/20, Spring Place

105 Commercial Road

Southampton

SO15 1EG

Tel: 020 3817 2433;

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk

NR33 OHT  
Tel: 01502 562 244;

(g) Natural England  
Area 1C, Nobel House  
17 Smith Square  
London  
SW1P 2AL  
Tel: 0300 060 4911;

(h) Historic England  
Eastgate Court  
195-205 High Street  
Guildford  
GU1 3EH  
Tel: 01483 252 059.

### **Details of licensed marine activities**

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3) below;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation; and
- (d) the disposal of up to 410,322 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works at disposal site reference HU212 within the extent of the Order limits seaward of MHWS, comprising—
  - (i) 28,405 m<sup>3</sup> for cable installation;
  - (ii) 219,675 m<sup>3</sup> for the offshore electrical substations;
  - (iii) 162,242 m<sup>3</sup> for the export cables.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

(1) *Work No. 2 (phase 2)* – up to three offshore electrical stations fixed to the seabed within the area shown on the works plan by one of two foundation types (namely jacket or gravity base).

(2) *Work No. 3 (phase 2)* – a network of subsea cables within the area shown on the works plan between the offshore electrical stations comprising Work No. 2 and for the transmission of electricity and electronic communications including one or more cable crossings.

(3) *Work No. 5A (phase 2)* – up to two export cables between Work No. 2 and Work No. 5B consisting of subsea cables along routes within the Order limits seaward of MHWS including one or more cable crossings.

(4) In connection with such Works No. 2, 3 and 5A and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence.

(5) In connection with such Works No. 2, 3 and 5A, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 46' 18.078" N	3° 2' 15.841" E	109	52° 8' 10.903" N	1° 52' 48.323" E
2	52° 30' 20.027" N	2° 48' 33.266" E	110	52° 8' 10.712" N	1° 52' 47.616" E
3	52° 26' 58.466" N	2° 45' 50.653" E	111	52° 8' 10.496" N	1° 52' 46.925" E
4	52° 45' 10.57" N	2° 45' 33.773" E	112	52° 8' 10.262" N	1° 52' 46.251" E
5	52° 45' 6.908" N	2° 44' 40.427" E	113	52° 8' 10.01" N	1° 52' 45.598" E
6	52° 30' 36.608" N	2° 44' 41.63" E	114	52° 8' 33.338" N	1° 49' 15.275" E
7	52° 31' 32.11" N	2° 44' 38.806" E	115	52° 8' 25.361" N	1° 48' 48.294" E
8	52° 31' 32.077" N	2° 44' 38.805" E	116	52° 7' 42.888" N	1° 46' 40.77" E
9	52° 26' 58.438" N	2° 44' 31.396" E	117	52° 4' 57.709" N	1° 44' 58.279" E
10	52° 27' 48.319" N	2° 44' 29.313" E	118	52° 5' 44.772" N	1° 40' 57.35" E
11	52° 27' 8.503" N	2° 35' 52.305" E	119	52° 2' 57.008" N	1° 36' 33.019" E
12	52° 21' 19.757" N	2° 35' 44.827" E	120	52° 2' 56.839" N	1° 36' 32.348" E
13	52° 20' 53.714" N	2° 35' 44.025" E	121	52° 2' 56.648" N	1° 36' 31.69" E
14	52° 20' 41.665" N	2° 35' 43.654" E	122	52° 2' 56.44" N	1° 36' 31.048" E

15	52° 20' 40.009" N	2° 35' 43.603" E	123	52° 2' 56.209" N	1° 36' 30.422" E
16	52° 20' 39.779" N	2° 35' 43.596" E	124	52° 2' 55.964" N	1° 36' 29.813" E
17	52° 20' 39.235" N	2° 35' 33.246" E	125	52° 2' 55.705" N	1° 36' 29.224" E
18	52° 20' 37.378" N	2° 34' 46.042" E	126	52° 2' 55.424" N	1° 36' 28.655" E
19	52° 27' 57.917" N	2° 34' 5.046" E	127	52° 3' 53.611" N	1° 35' 40.499" E
20	52° 27' 52.452" N	2° 33' 59.829" E	128	52° 2' 14.708" N	1° 35' 9.305" E
21	52° 20' 35.254" N	2° 33' 47.765" E	129	52° 2' 14.564" N	1° 35' 9.04" E N
22	52° 20' 34.372" N	2° 33' 23.612" E	130	52° 0' 43.448" N	1° 33' 4.952" E
23	52° 20' 33.112" N	2° 32' 49.135" E	131	52° 0' 43.078" N	1° 33' 4.472" E
24	52° 20' 31.704" N	2° 32' 10.856" E	132	52° 0' 42.692" N	1° 33' 4.023" E
25	52° 20' 31.542" N	2° 32' 6.378" E	133	52° 0' 42.293" N	1° 33' 3.605" E
26	52° 20' 31.013" N	2° 31' 52.055" E	134	52° 0' 41.882" N	1° 33' 3.218" E
27	52° 20' 30.264" N	2° 31' 31.698" E	135	52° 0' 41.461" N	1° 33' 2.865" E
28	52° 20' 30.599" N	2° 31' 2.961" E	136	52° 0' 41.029" N	1° 33' 2.545" E
29	52° 20' 30.599" N	2° 31' 2.924" E	137	52° 0' 40.59" N	1° 33' 2.26" E N
30	52° 20' 30.61" N	2° 31' 2.171" E	138	52° 0' 40.14" N	1° 33' 2.011" E
31	52° 20' 30.613" N	2° 31' 1.825" E	139	52° 0' 39.683" N	1° 33' 1.797" E
32	52° 20' 30.613" N	2° 31' 1.82" E N	140	51° 58' 47.51" N	1° 32' 13.971" E
33	52° 20' 30.624" N	2° 31' 0.752" E	141	51° 57' 36.634" N	1° 29' 50.826" E
34	52° 20' 30.624" N	2° 31' 0.746" E	142	52° 0' 41.137" N	1° 27' 15.227" E
35	52° 20' 30.653" N	2° 30' 58.371" E	143	51° 57' 51.574" N	1° 26' 41.476" E
36	52° 20' 30.653" N	2° 30' 58.359" E	144	51° 57' 51.624" N	1° 26' 40.671" E
37	52° 20' 30.678" N	2° 30' 56.069" E	145	51° 57' 51.646" N	1° 26' 39.863" E
38	52° 20' 30.678" N	2° 30' 56.033" E	146	51° 57' 51.646" N	1° 26' 39.054" E
39	52° 20'	2° 30' 51.529" E	147	51° 57' 51.62" N	1° 26' 38.246" E



	30.732" N	E		N	E
40	52° 20' 30.757" N	2° 30' 49.345" E	148	51° 57' 51.566" N	1° 26' 37.441" E
41	52° 20' 30.757" N	2° 30' 49.312" E	149	51° 57' 51.487" N	1° 26' 36.642" E
42	52° 20' 30.826" N	2° 30' 43.347" E	150	51° 57' 51.386" N	1° 26' 35.85" E
43	52° 20' 30.826" N	2° 30' 43.304" E	151	51° 57' 51.257" N	1° 26' 35.068" E
44	52° 20' 30.894" N	2° 30' 37.395" E	152	51° 57' 51.181" N	1° 26' 34.683" E
45	52° 20' 30.898" N	2° 30' 37.169" E	153	51° 57' 51.106" N	1° 26' 34.298" E
46	52° 20' 30.93" N	2° 30' 34.529" E	154	51° 57' 51.08" N	1° 26' 34.194" E
47	52° 20' 30.923" N	2° 30' 33.771" E	155	52° 0' 2.563" N	1° 25' 32.077" E
48	52° 20' 30.912" N	2° 30' 32.605" E	156	52° 0' 1.829" N	1° 25' 30.107" E
49	52° 20' 30.862" N	2° 30' 26.199" E	157	52° 0' 0.832" N	1° 25' 27.444" E
50	52° 20' 25.289" N	2° 30' 20.762" E	158	52° 0' 0.799" N	1° 25' 27.357" E
51	52° 19' 17.209" N	2° 29' 15.157" E	159	52° 0' 0.749" N	1° 25' 27.271" E
52	52° 24' 0.479" N	2° 29' 6.65" E	160	52° 0' 0.655" N	1° 25' 27.123" E
53	52° 18' 42.739" N	2° 28' 41.724" E	161	52° 0' 0.634" N	1° 25' 27.079" E
54	52° 18' 37.606" N	2° 28' 35.103" E	162	52° 0' 0.616" N	1° 25' 27.03" E
55	52° 18' 29.308" N	2° 28' 26.972" E	163	52° 0' 0.544" N	1° 25' 26.883" E
56	52° 18' 29.308" N	2° 28' 26.972" E	164	52° 0' 0.464" N	1° 25' 26.741" E
57	52° 17' 17.336" N	2° 27' 16.442" E	165	52° 0' 0.263" N	1° 25' 26.337" E
58	52° 17' 12.127" N	2° 27' 11.34" E	166	51° 59' 59.939" N	1° 25' 25.678" E
59	52° 17' 8.43" N	2° 27' 7.719" E	167	51° 59' 59.629" N	1° 25' 25.04" E
60	52° 17' 5.629" N	2° 27' 4.976" E	168	51° 59' 59.305" N	1° 25' 24.402" E
61	52° 17' 5.402" N	2° 27' 4.756" E	169	51° 59' 59.032" N	1° 25' 23.861" E
62	52° 17' 4.528" N	2° 27' 3.899" E	170	51° 59' 59.014" N	1° 25' 23.828" E
63	52° 16' 51.182" N	2° 27' 3.996" E	171	51° 59' 59.01" N	1° 25' 23.816" E

64	52° 16' 45.023" N	2° 27' 4.04" E	172	51° 59' 58.927" N	1° 25' 23.634" E
65	52° 16' 38.262" N	2° 27' 4.089" E	173	51° 59' 58.855" N	1° 25' 23.473" E
66	52° 16' 37.834" N	2° 27' 4.093" E	174	51° 59' 58.772" N	1° 25' 23.293" E
67	52° 16' 36.43" N	2° 27' 3.924" E	175	51° 59' 57.689" N	1° 25' 21.148" E
68	52° 23' 14.798" N	2° 26' 39.878" E	176	51° 59' 57.689" N	1° 25' 21.146" E
69	52° 14' 1.882" N	2° 26' 45.354" E	177	51° 59' 57.556" N	1° 25' 20.881" E
70	52° 13' 55.528" N	2° 26' 44.591" E	178	51° 59' 57.556" N	1° 25' 20.88" E
71	52° 9' 28.062" N	2° 25' 36.366" E	179	51° 59' 57.516" N	1° 25' 20.807" E
72	52° 9' 31.781" N	2° 25' 35.028" E	180	51° 59' 57.516" N	1° 25' 20.807" E
73	52° 20' 54.388" N	2° 21' 15.039" E	181	51° 59' 57.516" N	1° 25' 20.806" E
74	52° 20' 47.386" N	2° 21' 9.27" E	0	52° 21' 53.636" N	2° 34' 13.872" E
75	52° 13' 39.648" N	2° 17' 18.125" E	1	52° 21' 25.052" N	2° 34' 13.842" E
76	52° 13' 35.674" N	2° 15' 59.368" E	2	52° 25' 56.467" N	2° 34' 8.342" E
77	52° 13' 33.794" N	2° 15' 22.225" E	3	52° 21' 19.548" N	2° 31' 49.797" E
78	52° 11' 17.488" N	2° 11' 34.133" E	4	52° 21' 19.145" N	2° 31' 2.229" E
79	52° 11' 17.574" N	2° 11' 33.361" E	5	52° 21' 19.717" N	2° 30' 12.848" E
80	52° 11' 17.639" N	2° 11' 32.583" E	6	52° 23' 26.293" N	2° 30' 2.994" E
81	52° 11' 17.678" N	2° 11' 31.8" E	7	52° 23' 25.516" N	2° 30' 1.705" E
82	52° 11' 17.693" N	2° 11' 31.015" E	8	52° 23' 24.756" N	2° 30' 0.388" E
83	52° 11' 17.686" N	2° 11' 30.23" E	9	52° 23' 24.014" N	2° 29' 59.042" E
84	52° 11' 17.653" N	2° 11' 29.447" E	10	52° 23' 23.294" N	2° 29' 57.67" E
85	52° 11' 17.599" N	2° 11' 28.667" E	11	52° 23' 22.592" N	2° 29' 56.27" E
86	52° 11' 17.52" N	2° 11' 27.893" E	12	52° 21' 19.235" N	2° 29' 57.051" E
87	52° 11' 17.416" N	2° 11' 27.126" E	13	52° 23' 21.912" N	2° 29' 54.846" E
88	52° 12'	2° 11' 9.965" E	14	52° 23' 21.25"	2° 29' 53.395"

	22.846" N	E		N	E
89	52° 12' 27.655" N	2° 10' 3.953" E	15	52° 23' 20.605" N	2° 29' 51.921" E
90	52° 10' 22.645" N	2° 5' 24.993" E	16	52° 23' 19.986" N	2° 29' 50.423" E
91	52° 10' 22.512" N	2° 5' 24.211" E	17	52° 23' 19.385" N	2° 29' 48.903" E
92	52° 10' 22.357" N	2° 5' 23.442" E	18	52° 23' 18.805" N	2° 29' 47.36" E
93	52° 10' 22.177" N	2° 5' 22.686" E	19	52° 23' 18.251" N	2° 29' 45.797" E
94	52° 11' 6.526" N	2° 2' 15.69" E	20	52° 23' 17.714" N	2° 29' 44.213" E
95	52° 9' 32.962" N	2° 2' 11.44" E	21	52° 23' 17.203" N	2° 29' 42.609" E
96	52° 8' 46.529" N	1° 57' 45.569" E	22	52° 21' 17.284" N	2° 29' 40.473" E
97	52° 8' 46.518" N	1° 57' 45.508" E	23	52° 21' 17.057" N	2° 29' 38.731" E
98	52° 9' 40.842" N	1° 57' 7.198" E	24	52° 19' 10.175" N	2° 27' 36.407" E
99	52° 8' 11.62" N	1° 54' 29.428" E	25	52° 22' 33.114" N	2° 27' 20.941" E
100	52° 9' 37.649" N	1° 53' 5.293" E	26	52° 18' 50.89" N	2° 26' 0.71" E
101	52° 8' 11.641" N	1° 52' 54.353" E	27	52° 13' 59.088" N	2° 25' 25.766" E
102	52° 8' 11.63" N	1° 52' 53.58" E	28	52° 13' 58.494" N	2° 23' 27.683" E
103	52° 8' 11.594" N	1° 52' 52.809" E	29	52° 13' 56.852" N	2° 23' 2.476" E
104	52° 8' 11.537" N	1° 52' 52.041" E	30	52° 20' 22.816" N	2° 22' 19.439" E
105	52° 8' 11.454" N	1° 52' 51.279" E	31	52° 18' 12.42" N	2° 21' 12.115" E
106	52° 8' 11.35" N	1° 52' 50.524" E	32	52° 18' 15.739" N	2° 21' 10.581" E
107	52° 8' 11.224" N	1° 52' 49.779" E	33	52° 13' 46.402" N	2° 19' 32.631" E
108	52° 8' 11.076" N	1° 52' 49.044" E			

6. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within **article 5** (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial where it has been demonstrated that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## PART 2

### Conditions

#### Design parameters

1. Licensed activities must not take place within the restricted area until the MMO has confirmed in writing that it is satisfied with the results of a sediment sample survey or that sufficient mitigation has been secured in the approved method statement required to be submitted under condition 13(1)(g), to prevent impacts from contaminated sediment.

2. Offshore platforms forming part of the authorised scheme must not be erected within the platform exclusion zone, whose co-ordinates are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 30' 20.0268" N	2° 48' 33.264" E	3	52° 32' 10.4568" N	2° 45' 31.9572" E
2	52° 31' 32.0664" N	2° 45' 31.8672" E	4	52° 30' 48.7369" N	2° 48' 57.7512" E

3. In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 3,500kJ.

4.—(1) The total number of offshore electrical stations forming part of the authorised scheme must not exceed three.

(2) The dimensions of any offshore electrical station forming part of the authorised scheme (excluding towers, helipads, masts and cranes) must not exceed 70 metres in height when measured from LAT, 80 metres in length and 120 metres in width.

(3) In relation to an offshore electrical station, each gravity base foundation must not have a footprint at the seabed which is more than 8,011 m<sup>2</sup>.

(4) In relation to an offshore electrical station, each jacket foundation must not have—

- (a) a footprint at the seabed which is more than 15,855 m<sup>2</sup>;
- (b) more than one pile per leg or more than one suction caisson per leg.

5.—(1) The total length of the cables and the volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
<i>Work No. 3 (platform link)</i>	<i>165 kilometres</i>	<i>19,580 m<sup>3</sup></i>
<i>Work No. 5A (export cable)</i>	<i>332 kilometres</i>	<i>40,630 m<sup>3</sup></i>

6. The total amount of scour protection for the offshore electrical stations forming part of the authorised scheme must not exceed 50,400 m<sup>2</sup>.

### Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with **condition 15**; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with **condition 15**;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with **condition 15** are permitted to carry out the licensed 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 or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(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 MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least ten days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least ten days prior to the commencement of licensed activities or any part of them advising of the start date of Work No. 2 and the expected vessel routes from the construction ports to the relevant location. A second notice to mariners must be issued advising of the start date of Work Nos. 3 and 5A and the route of the sub-sea cables. Copies of all notices must be provided to the MMO and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under **condition 13(1)(b)**. Copies of all notices must be provided to the MMO and the UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in

order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House and the UK Hydrographic Office.

### **Aids to navigation**

**8.**—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (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 five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to **condition 13(k)** using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of **condition 7(11)** are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

**9.** The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

### **Aviation safety**

**10.**—(1) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the authorised scheme, in writing of the following information—

- (a) the date of the commencement of construction of the authorised scheme;
- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator, mast and platform to be constructed;
- (e) the latitude and longitude of each wind turbine generator, mast and platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised scheme. Copies of notifications must be provided to the MMO.

## Chemicals, drilling and debris

**11.**—(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 (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(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 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within site disposal reference HU212 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal at this site.

(6) 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.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 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.

(8) The undertaker must undertake the survey agreed under **condition 13(1)(h)(iii)** following the swath-bathymetry survey referred to in **condition 19(2)(b)**. Should any such obstructions resulting from burial of Work No. 5A (export cables) be identified which, in the reasonable opinion of the MMO, may be considered to interfere with fishing, the undertaker must take such steps to remove them as the MMO in its reasonable opinion may require.

(9) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(10) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under **condition 13(1)(d)(i)**.

(11) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 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) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

## Force majeure

**12.**—(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 within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(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

13.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows—
  - (i) the proposed location and choice of foundation of all offshore electrical stations;
  - (ii) the height, length and width of all offshore electrical stations;
  - (iii) the length and arrangement of all cables comprising Work Nos. 3 and 5A;
  - (iv) the dimensions of all gravity base foundations;
  - (v) the dimensions of all jacket foundations;
  - (vi) the proposed layout of all offshore electrical stations including any exclusion zones identified under sub-paragraph 13(1)(h)(iv);
  - (vii) a plan showing the indicative layout of all offshore electrical stations including all exclusion zones (insofar as not shown in (vi) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph 13(1)(b)(iv); and
  - (viii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 13(1)(j);to ensure conformity with the description of Works No. 2, 3 and 5A and compliance with **conditions 1 to 6** above.

- (b) A construction programme and monitoring plan (which accords with the in principle monitoring plan) to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works and whether such works are to be carried out as a single offshore phase or as two offshore phases;
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with sub-paragraph 13(1)(h) and **conditions 17, 18 and 19**; and
  - (iv) an indicative written construction programme for all offshore electrical stations and cables comprised in the works at paragraph 3(1) to (3) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—
  - (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
  - (bb) at least four months prior to construction, detail on construction monitoring;
  - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

unless otherwise agreed in writing with the MMO.

- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
  - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works and having regard to any mitigation scheme pursuant to sub-paragraph 13(1)(i);
  - (ii) soft start procedures with specified duration periods;
  - (iii) offshore electrical station location and installation, including scour protection;



- (iv) cable installation, including cable landfall and cable protection;
  - (v) contractors;
  - (vi) vessels and vessels transit corridors, which minimises disturbance to red throated diver; and
  - (vii) associated and ancillary works.
- (d) A project environmental management plan covering the period of construction and operation 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 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;
  - (iv) the appointment and responsibilities of a fisheries liaison officer;
  - (v) a fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to **condition 7** and to address the interaction of the licensed activities with fishing activities; and
  - (vi) procedures to be adopted within vessels transit corridors to minimise disturbance to red throated diver.
- (e) A scour protection management and cable protection plan providing details of the need, type, sources, quantity and installation methods for scour protection and cable protection, which plan must be updated and resubmitted for approval if changes to it are proposed following cable laying operations.
- (f) In the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation bodies.
- (g) A cable specification, installation and monitoring plan, to include—
- (i) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;
  - (iii) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables; and
  - (iv) appropriate methods such as a trawl or drift net to be deployed along Work No. 5 (export cables), following the survey referred to in **condition 19(2)(b)** to assess any seabed obstructions resulting from burial of the export cables.
- (h) A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean low water, which must be submitted at least 6 months prior to commencement of the licensed activities and must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body (and, if relevant, Suffolk Coastal District Council) to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;

- (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to 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 (Online AccesS to the Index of archaeological investigationS') form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO (and Suffolk Coastal District Council where the report relates to the intertidal area) that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
  - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (i) A mitigation scheme for any habitats of principal importance identified by the survey referred to in **condition 17(2)(a)** and in accordance with the in principle monitoring plan.
  - (j) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
  - (k) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of **condition 8** for the lifetime of the authorised scheme.

(2) In the event that driven or part-driven pile foundations are proposed to be used, the licenced activities, or any phase of those activities must not commence until an East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan which accords with the principles set out in the In Principle East Anglia THREE Project Southern North Sea pSAC Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that the plan, provides such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2007 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.

(3) For the purpose of paragraph (2) –

- (a) the Southern North Sea possible Special Area of Conservation must be treated as a European offshore marine site until:
  - (i) that Area (or any part of it) becomes a European offshore marine site or a European site; or
  - (ii) it is decided that no part of that Area should be a European offshore marine site or a European site; and
- (b) harbour porpoise must be treated as a protected feature of the Southern North Sea possible Special Area of Conservation.

(4) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation, and which has been submitted to and approved by the MMO.

**14.—(1)** Any archaeological reports produced in accordance with **condition 13(1)(h)(iii)** are to be agreed with the statutory historic body (and, if relevant, Suffolk Coastal District Council).

(2) Each programme, statement, plan, protocol or scheme required to be approved under **condition 13** must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under **condition 13**.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under **condition 13**, unless otherwise agreed in writing by the MMO.

(5) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency, response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”, and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN543 and its annexes.

#### **Reporting of engaged agents, contractors and vessels**

**15.**—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

#### **Foundation restrictions**

**16.** No gravity base foundations may be installed in any area of the seabed with mobile sand waves of five metres or more, as identified by the swath-bathymetry survey carried out under condition 17(2)(b), unless otherwise agreed in writing by the MMO.

#### **Pre-construction monitoring and surveys**

**17.**—(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for written approval by the MMO in consultation with relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and

- (a) the survey proposals must specify each survey’s objectives and explain how it 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; and
- (b) 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.

(2) The pre-construction surveys referred to in sub-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 and extent of any benthic communities/benthos constituting habitats of principal importance in whole or in part

inside the area(s) within the Order limits in which it is proposed to carry out construction works;

- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works including a 500 metre buffer area around the site of each work, inclusive of seabed anomalies or sites of historic or archaeological interest that lie within that 500 metre buffer.

(3) The undertaker must carry out the surveys agreed under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

**18.**—(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives.

(2) The undertaker must carry out the surveys approved under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Post construction**

**19.**—(1) The undertaker must, in discharging **condition 13(1)(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it 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.

(2) The post-construction surveys referred to in sub-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 of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which construction works were carried out;
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables have been buried or protected.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) for up to 3 years post-construction, which could be non-consecutive years, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables, the cable monitoring plan required under condition 13(1)(g)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

## Reporting of impact pile driving/detonation of explosives

20.—(1) Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements;
- (c) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) "Marine Noise Registry" means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) "Forward Look" and "Close Out" requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

## SCHEDULE ~~14~~14

Article 28

### DEEMED LICENCE UNDER THE 2009 ACT – INTERCONNECTION (LICENCE 1 – PHASE 1)

#### PART 1

##### Licensed Marine Activities

1.—(1) (1) In this licence—

"the 2004 Act" means the Energy Act 2004;

"the 2008 Act" means the Planning Act 2008;

"the 2009 Act" means the Marine and Coastal Access Act 2009;

"authorised deposits" means the substances and articles specified in paragraph 2(3) of this licence;

"authorised scheme" means Work No. 4 described in paragraph 3 of this licence or any part of that work;

"cable protection" means measures for cable crossings and where cable burial is not possible due to ground conditions, to protect cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

"Cefas" means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“East Anglia ONE Offshore Wind Farm” means the East Anglia ONE offshore wind farm authorised by the East Anglia ONE Order;

“East Anglia ONE Order” means the East Anglia ONE Offshore Wind Farm Order 2014(jj) as amended by the East Anglia ONE Offshore Wind Farm (Corrections and Amendments) Order 2016(kk);

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, maintain, repair, adjust, and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of **Schedule 1** (ancillary works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of **Schedule 1** (authorised development) (but not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any Alternating Current (AC) or Direct Current (DC) cables offshore and includes fibre optic cables either within the cable or laid alongside;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in paragraph 3 of this licence;

“the Order” means the East Anglia THREE Offshore Wind Farm Order 201X;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

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(jj) No. 1599  
(kk) No. 447

“single offshore phase” means carrying out all offshore works as a single construction operation;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations pursuant to the deemed marine licences set out in schedules 10, 12 and 14 (Licence 1 – Phase 1) of the Order and schedules 11, 13 and 15 (Licence 2 – Phase 2) of the Order respectively;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means East Anglia THREE Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“Work No. 2” means the offshore electrical stations;

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Offshore Marine Licensing  
Lancaster House  
Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Marine Environment Team  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT;

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

- (d) The United Kingdom Hydrographic Office  
Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;
- (e) Maritime and Coastguard Agency  
Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2433;
- (f) Centre for Environment, Fisheries and Aquaculture Science  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 562 244;
- (g) Natural England  
Area 1C, Nobel House  
17 Smith Square  
London  
SW1P 2AL  
Tel: 0300 060 4911;
- (h) Historic England  
Eastgate Court  
195-205 High Street  
Guildford  
GU1 3EH  
Tel: 01483 252 059.

#### **Details of licensed marine activities**

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3) below;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation; and



- (d) the disposal of up to 73,746.5 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works at disposal site reference HU212 within the extent of the Order limits seaward of MHWS.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

(1) *Work No. 4 (phase 1)* – up to two cables to connect Work No. 2 with the East Anglia ONE Offshore Wind Farm.

(2) In connection with such Work No. 4 and to the extent that it does not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence.

(3) In connection with such Work No. 4, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 14' 1.882" N	2° 26' 45.354" E	30	52° 21' 19.206" N	2° 46' 2.318" E
2	52° 13' 59.088" N	2° 25' 25.766" E	31	52° 21' 17.723" N	2° 46' 1.395" E
3	52° 18' 50.89" N	2° 26' 0.71" E	32	52° 21' 16.279" N	2° 46' 0.316" E
4	52° 19' 10.175" N	2° 27' 36.407" E	33	52° 21' 14.879" N	2° 45' 59.085" E
5	52° 21' 17.057" N	2° 29' 38.731" E	34	52° 21'13.536" N	2° 45' 57.708" E
6	52° 21' 17.284" N	2° 29' 40.473" E	35	52° 21' 12.247" N	2° 45' 56.189" E
7	52° 21' 19.235" N	2° 29' 57.051" E	36	52° 21' 11.884" N	2° 45' 55.697" E
8	52° 21' 19.717" N	2° 30' 12.848" E	37	52° 20' 39.779" N	2° 35' 43.596" E

9	52° 21' 19.145" N	2° 31' 2.229" E	38	52° 19' 21.004" N	2° 35' 42.287" E
10	52° 21' 19.548" N	2° 31' 49.797" E	39	52° 19' 19.7" N	2° 35' 42.202" E
11	52° 21' 25.052" N	2° 34' 13.842" E	40	52° 19' 18.12" N	2° 35' 41.945" E
12	52° 21' 53.636" N	2° 34' 13.872" E	41	52° 19' 16.554" N	2° 35' 41.519" E
13	52° 25' 31.271" N	2° 34' 8.916" E	42	52° 19' 15.01" N	2° 35' 40.927" E
14	52° 25' 56.467" N	2° 34' 8.342" E	43	52° 19' 13.49" N	2° 35' 40.172" E
15	52° 27' 57.917" N	2° 34' 5.046" E	44	52° 19' 12.004" N	2° 35' 39.255" E
16	52° 27' 48.319" N	2° 44' 29.313" E	45	52° 19' 10.56" N	2° 35' 38.183" E
17	52° 30' 36.608" N	2° 44' 41.63" E	46	52° 19' 9.16" N	2° 35' 36.958" E
18	52° 31' 32.077" N	2° 44' 38.805" E	47	52° 19' 7.813" N	2° 35' 35.587" E
19	52° 31' 32.11" N	2° 44' 38.806" E	48	52° 19' 6.524" N	2° 35' 34.075" E
20	52° 45' 6.908" N	2° 44' 40.427" E	49	52° 19' 5.297" N	2° 35' 32.429" E
21	52° 45' 10.57" N	2° 45' 33.773" E	50	52° 19' 4.141" N	2° 35' 30.655" E
22	52° 46' 18.078" N	3° 2' 15.841" E	51	52° 19' 3.799" N	2° 35' 30.087" E
23	52° 30' 20.027" N	2° 48' 33.266" E	52	52° 18' 18.9" N	2° 34' 13.648" E
24	52° 26' 58.466" N	2° 45' 50.653" E	53	52' 18' 15.833" N	2° 34' 13.645" E
25	52° 21' 27.702" N	2° 46' 4.456" E	54	52° 14' 17.009" N	2° 33' 46.245" E
26	52° 21' 25.412" N	2° 46' 4.374" E	55	52° 14' 16.166" N	2° 33' 38.948" E
27	52° 21' 23.836" N	2° 46' 4.11" E	0	52° 21' 49.262" N	2° 44' 44.274" E
28	52° 21' 22.27" N	2° 46' 3.678" E	1	52° 26' 58.438" N	2° 44' 31.396" E
29	52° 21' 20.725" N	2° 46' 3.08" E	2	52° 27' 8.503" N	2° 35' 52.305" E
			3	52° 21' 19.757" N	2° 35' 44.827" E

6. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within **article 5** (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial where it has been demonstrated that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## PART 2

### Conditions

#### Design parameters

1. The total length of the cables and the volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work No. 4 (interconnection)	190 kilometres	23,980 m <sup>3</sup>

#### Notifications and inspections

2.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with **condition 8**; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with **condition 8**;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with **condition 8** are permitted to carry out the licensed 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 or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(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 MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least ten days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A local notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 4 and the expected vessel routes from the construction ports to the relevant location and the route of the subsea cables. Copies of all notices must be provided to the MMO and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under **condition 6(b)**. Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House and the UK Hydrographic Office.

### **Aids to navigation**

**3.—**(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (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 five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to **condition 6(k)** using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of **condition 2(11)** are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House. Chemicals, drilling and debris

4.—(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 (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(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 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within site disposal reference HU212 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal at this site.

(6) 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.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 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.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under **condition 6(d)(i)**.

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 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) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

### **Force majeure**

5.—(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 within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(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**

6. The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows—

- (i) the length and arrangement of all cables comprising Work No. 4;
  - (ii) a plan showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph 6 (b)(iv); and
  - (iii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 6(h);
- to ensure conformity with the description of Work No. 4 and compliance with **condition 1** above.
- (b) A construction programme and monitoring plan (which accords with the in principle monitoring plan) to include details of—
- (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works and whether such works are to be carried out as a single offshore phase or as two offshore phases;
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with sub-paragraph 6(g) and **conditions 9, 10 and 11**; and
  - (iv) an indicative written construction programme for all cables comprised in the works at paragraph 3(1) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);
- with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—
- (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
  - (bb) at least four months prior to construction, detail on construction monitoring;
  - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;
- unless otherwise agreed in writing with the MMO.
- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
- (i) cable installation, including cable landfall and cable protection;
  - (ii) contractors;
  - (iii) vessels and vessels transit corridors, which minimises disturbance to red throated diver; and
  - (iv) associated and ancillary works.
- (d) A project environmental management plan covering the period of construction and operation 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 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;
  - (iv) the appointment and responsibilities of a fisheries liaison officer;
  - (v) a fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to **condition 2** and to address the interaction of the licensed activities with fishing activities; and
  - (vi) procedures to be adopted within vessels transit corridors to minimise disturbance to red throated diver.

- (e) A scour protection management and cable protection plan providing details of the need, type, sources, quantity and installation methods for scour protection and cable protection, which plan must be updated and resubmitted for approval if changes to it are proposed following cable laying operations.
  - (f) A cable specification, installation and monitoring plan, to include—
    - (i) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
    - (ii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
    - (iii) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables.
  - (g) A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean low water, which must be submitted at least 6 months prior to commencement of the licensed activities and must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
    - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
    - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
    - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
    - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
    - (v) monitoring of archaeological exclusion zones during and post construction;
    - (vi) a requirement for the undertaker to 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 (Online AccesS to the Index of archaeological investigationS’) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
    - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
    - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
  - (h) A mitigation scheme for any habitats of principal importance identified by the survey referred to in **condition 9(2)(a)** and in accordance with the in principle monitoring plan.
  - (i) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
  - (j) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of **condition 3** for the lifetime of the authorised scheme.
- (2) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written

scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation, and which has been submitted to and approved by the MMO.

7.—(1) Any archaeological reports produced in accordance with **condition 6(h)(iii)** are to be agreed with the statutory historic body.

(2) Each programme, statement, plan, protocol or scheme required to be approved under **condition 6** must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under **condition 6**.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under **condition 6**, unless otherwise agreed in writing by the MMO.

(5) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency, response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”, and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN543 and its annexes.

#### **Reporting of engaged agents, contractors and vessels**

8.—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

#### **Pre-construction monitoring and surveys**

9.—(1) The undertaker must, in discharging **condition 13(b)**, submit details (which accord with the in principle monitoring plan) for written approval by the MMO in consultation with relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and

- (a) the survey proposals must specify each survey’s objectives and explain how it 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; and
- (b) 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.

(2) The pre-construction surveys referred to in sub-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 and extent of any benthic communities/benthos constituting habitats of principal importance in whole or in part



inside the area(s) within the Order limits in which it is proposed to carry out construction works; and

- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works including a 500 metre buffer area around the site of each work, inclusive of seabed anomalies or sites of historic or archaeological interest that lie within that 500 metre buffer.

(3) The undertaker must carry out the surveys agreed under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

**10.**—(1) The undertaker must, in discharging **condition 6(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey’s objectives.

(2) The undertaker must carry out the surveys approved under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Post construction**

**11.**—(1) The undertaker must, in discharging **condition 6(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with relevant statutory nature conservation bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey’s objectives and explain how it 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.

(2) The post-construction surveys referred to in sub-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 of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which construction works were carried out;
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables have been buried or protected.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) for up to 3 years post-construction, which could be non-consecutive years, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables, the cable monitoring plan required under condition 6(f)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Coordination with East Anglia ONE**

**12.**—(1) Prior to submission of each of the pre-construction plans and documentation required to be submitted under **condition 6(a) to (j)** above the undertaker must provide a copy of the relevant

plans and documentation to the undertaker of the offshore element of East Anglia ONE to enable that undertaker to provide any comments on the plans and documentation

(2) The undertaker must participate in liaison meetings with the undertaker of the offshore element of East Anglia ONE as requested from time to time by the MMO in writing in advance, which meeting will be chaired by the MMO and may consider such matters as are determined by the MMO relating to the efficient operation of the offshore element of the authorised project and the offshore element of East Anglia ONE.

## SCHEDULE ~~15~~15

Article 28

### DEEMED LICENCE UNDER THE 2009 ACT – INTERCONNECTION (LICENCE 2 – PHASE 2)

#### PART 1

##### Licensed Marine Activities

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 2(3) of this licence;

“authorised scheme” means Work No. 4 described in paragraph 3 of this licence or any part of that work;

“cable protection” means measures for cable crossings and where cable burial is not possible due to ground conditions, to protect cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“East Anglia ONE Offshore Wind Farm” means the East Anglia ONE offshore wind farm authorised by the East Anglia ONE Order;

“East Anglia ONE Order” means the East Anglia ONE Offshore Wind Farm Order 2014<sup>(II)</sup> as amended by the East Anglia ONE Offshore Wind Farm (Corrections and Amendments) Order 2016<sup>(mm)</sup>;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

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<sup>(II)</sup> No. 1599

<sup>(mm)</sup> No. 447

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, maintain, repair, adjust, and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of **Schedule 1** (ancillary works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of **Schedule 1** (authorised development) (but not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any Alternating Current (AC) or Direct Current (DC) cables offshore and includes fibre optic cables either within the cable or laid alongside;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in paragraph 3 of this licence;

“the Order” means the East Anglia THREE Offshore Wind Farm Order 201X;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“single offshore phase” means carrying out all offshore works as a single construction operation;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations pursuant to the deemed marine licences set out in schedules 10, 12 and 14 (Licence 1 – Phase 1) of the Order and schedules 11, 13 and 15 (Licence 2 – Phase 2) of the Order respectively;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means East Anglia THREE Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“Work No. 2” means the offshore electrical stations;

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Offshore Marine Licensing  
Lancaster House  
Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Marine Environment Team  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT;

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2433;

- (f) Centre for Environment, Fisheries and Aquaculture Science  
 Pakefield Road  
 Lowestoft  
 Suffolk  
 NR33 0HT  
 Tel: 01502 562 244;
- (g) Natural England  
 Area 1C, Nobel House  
 17 Smith Square  
 London  
 SW1P 2AL  
 Tel: 0300 060 4911;
- (h) Historic England  
 Eastgate Court  
 195-205 High Street  
 Guildford  
 GU1 3EH  
 Tel: 01483 252 059.

#### **Details of licensed marine activities**

**2.** Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3) below;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation; and
- (d) the disposal of up to 73,746.5 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works at disposal site reference HU212 within the extent of the Order limits seaward of MHWS.

**3.** Such activities are authorised in relation to the construction, maintenance and operation of—

(1) *Work No. 4 (phase 2)* – up to two cables to connect Work No. 2 with the East Anglia ONE Offshore Wind Farm.

(2) In connection with such Work No. 4 and to the extent that it does not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence.

(3) In connection with such Work No. 4, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and

- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 14' 1.882" N	2° 26' 45.354" E	30	52° 21' 19.206" N	2° 46' 2.318" E
2	52° 13' 59.088" N	2° 25' 25.766" E	31	52° 21' 17.723" N	2° 46' 1.395" E
3	52° 18' 50.89" N	2° 26' 0.71" E	32	52° 21' 16.279" N	2° 46' 0.316" E
4	52° 19' 10.175" N	2° 27' 36.407" E	33	52° 21' 14.879" N	2° 45' 59.085" E
5	52° 21' 17.057" N	2° 29' 38.731" E	34	52° 21'13.536" N	2° 45' 57.708" E
6	52° 21' 17.284" N	2° 29' 40.473" E	35	52° 21' 12.247" N	2° 45' 56.189" E
7	52° 21' 19.235" N	2° 29' 57.051" E	36	52° 21' 11.884" N	2° 45' 55.697" E
8	52° 21' 19.717" N	2° 30' 12.848" E	37	52° 20' 39.779" N	2° 35' 43.596" E
9	52° 21' 19.145" N	2° 31' 2.229" E	38	52° 19' 21.004" N	2° 35' 42.287" E
10	52° 21' 19.548" N	2° 31' 49.797" E	39	52° 19' 19.7" N	2° 35' 42.202" E
11	52° 21' 25.052" N	2° 34' 13.842" E	40	52° 19' 18.12" N	2° 35' 41.945" E
12	52° 21' 53.636" N	2° 34' 13.872" E	41	52° 19' 16.554" N	2° 35' 41.519" E
13	52° 25' 31.271" N	2° 34' 8.916" E	42	52° 19' 15.01" N	2° 35' 40.927" E
14	52° 25' 56.467" N	2° 34' 8.342" E	43	52° 19' 13.49" N	2° 35' 40.172" E
15	52° 27' 57.917" N	2° 34' 5.046" E	44	52° 19' 12.004" N	2° 35' 39.255" E
16	52° 27' 48.319" N	2° 44' 29.313" E	45	52° 19' 10.56" N	2° 35' 38.183" E
17	52° 30'	2° 44' 41.63" E	46	52° 19' 9.16" E	2° 35' 36.958" E

	36.608" N	E		N	E
18	52° 31' 32.077" N	2° 44' 38.805" E	47	52° 19' 7.813" N	2° 35' 35.587" E
19	52° 31' 32.11" N	2° 44' 38.806" E	48	52° 19' 6.524" N	2° 35' 34.075" E
20	52° 45' 6.908" N	2° 44' 40.427" E	49	52° 19' 5.297" N	2° 35' 32.429" E
21	52° 45' 10.57" N	2° 45' 33.773" E	50	52° 19' 4.141" N	2° 35' 30.655" E
22	52° 46' 18.078" N	3° 2' 15.841" E	51	52° 19' 3.799" N	2° 35' 30.087" E
23	52° 30' 20.027" N	2° 48' 33.266" E	52	52° 18' 18.9" N	2° 34' 13.648" E
24	52° 26' 58.466" N	2° 45' 50.653" E	53	52° 18' 15.833" N	2° 34' 13.645" E
25	52° 21' 27.702" N	2° 46' 4.456" E	54	52° 14' 17.009" N	2° 33' 46.245" E
26	52° 21' 25.412" N	2° 46' 4.374" E	55	52° 14' 16.166" N	2° 33' 38.948" E
27	52° 21' 23.836" N	2° 46' 4.11" E	0	52° 21' 49.262" N	2° 44' 44.274" E
28	52° 21' 22.27" N	2° 46' 3.678" E	1	52° 26' 58.438" N	2° 44' 31.396" E
29	52° 21' 20.725" N	2° 46' 3.08" E	2	52° 27' 8.503" N	2° 35' 52.305" E
			3	52° 21' 19.757" N	2° 35' 44.827" E

6. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within **article 5** (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial where it has been demonstrated that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## PART 2

### Conditions

#### Design parameters

1. The total length of the cables and the volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
<i>Work No. 4 (interconnection)</i>	<i>190 kilometres</i>	<i>23,980 m<sup>3</sup></i>

#### Notifications and inspections

2.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with **condition 8**; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with **condition 8**;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with **condition 8** are permitted to carry out the licensed 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 or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(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 MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least ten days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A local notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 4, the expected vessel



routes from the construction ports to the relevant location and the route of the subsea cables. Copies of all notices must be provided to the MMO and the UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under **condition 6(b)**. Copies of all notices must be provided to the MMO and the UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.

(11) In case of damage to, or destruction or decay of, the authorised scheme seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House and the UK Hydrographic Office.

### **Aids to navigation**

**3.—**(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (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 five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to **condition 13(k)** using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of **condition 7(11)** are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Chemicals, drilling and debris**

**4.—**(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 (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(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 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the

months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within site disposal reference HU212 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal at this site.

(6) 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.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 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.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under **condition 13(d)(i)**.

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 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) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

### **Force majeure**

5.—(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 within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(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**

6. The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows—
  - (i) the length and arrangement of all cables comprising Work No. 4;
  - (ii) a plan showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph 6(b)(iv); and
  - (iii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph 6(h);to ensure conformity with the description of Work No. 4 and compliance with **condition 1** above.
- (b) A construction programme and monitoring plan (which accords with the in principle monitoring plan) to include details of—
  - (i) the proposed construction start date;

- (ii) proposed timings for mobilisation of plant delivery of materials and installation works and whether such works are to be carried out as a single offshore phase or as two offshore phases;
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with sub-paragraph 6(g) and **conditions 9, 10 and 11**; and
  - (iv) an indicative written construction programme for all cables comprised in the works at paragraph 3(1) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);
- with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—
- (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
  - (bb) at least four months prior to construction, detail on construction monitoring;
  - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;
- unless otherwise agreed in writing with the MMO.
- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
    - (i) cable installation, including cable landfall and cable protection;
    - (ii) contractors;
    - (iii) vessels and vessels transit corridors, which minimises disturbance to red throated diver; and
    - (iv) associated and ancillary works.
  - (d) A project environmental management plan covering the period of construction and operation 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 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;
    - (iv) the appointment and responsibilities of a fisheries liaison officer;
    - (v) a fisheries liaison and coexistence plan to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to **condition 2** and to address the interaction of the licensed activities with fishing activities; and
    - (vi) procedures to be adopted within vessels transit corridors to minimise disturbance to red throated diver.
  - (e) A scour protection management and cable protection plan providing details of the need, type, sources, quantity and installation methods for scour protection and cable protection, which plan must be updated and resubmitted for approval if changes to it are proposed following cable laying operations.
  - (f) A cable specification, installation and monitoring plan, to include—
    - (i) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
    - (ii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and

- (iii) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables.
- (g) A written scheme of archaeological investigation in relation to the offshore Order limits seaward of mean low water, which must be submitted at least 6 months prior to commencement of the licensed activities and must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to 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 (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
  - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (h) A mitigation scheme for any habitats of principal importance identified by the survey referred to in **condition 9(2)(a)** and in accordance with the in principle monitoring plan.
- (i) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (j) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of **condition 3** for the lifetime of the authorised scheme.

(2) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation, and which has been submitted to and approved by the MMO.

7.—(1) Any archaeological reports produced in accordance with **condition 6(g)(iii)** are to be agreed with the statutory historic body.

(2) Each programme, statement, plan, protocol or scheme required to be approved under **condition 6** must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under **condition 6**.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under **condition 6**, unless otherwise agreed in writing by the MMO.

(5) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency, response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”, and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN543 and its annexes.

### **Reporting of engaged agents, contractors and vessels**

**8.**—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

### **Pre-construction monitoring and surveys**

**9.**—(1) The undertaker must, in discharging **condition 6(b)**, submit details (which accord with the in principle monitoring plan) for written approval by the MMO in consultation with relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and

- (a) the survey proposals must specify each survey’s objectives and explain how it 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; and
- (b) 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.

(2) The pre-construction surveys referred to in sub-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 and extent of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works;
- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works including a 500 metre buffer area around the site of each work, inclusive of seabed anomalies or sites of historic or archaeological interest that lie within that 500 metre buffer.

(3) The undertaker must carry out the surveys agreed under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

**10.**—(1) The undertaker must, in discharging **condition 6(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives.

(2) The undertaker must carry out the surveys approved under sub-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 in consultation with the relevant statutory nature conservation bodies.

### **Post construction**

**11.**—(1) The undertaker must, in discharging **condition 6(b)**, submit details (which accord with the in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it 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.

(2) The post-construction surveys referred to in sub-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 of any benthic communities/benthos constituting habitats of principal importance in whole or in part inside the area(s) within the Order limits in which construction works were carried out;
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables have been buried or protected.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) for up to 3 years post-construction, which could be non-consecutive years, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables, the cable monitoring plan required under condition 6(f)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Coordination with East Anglia ONE**

**12.**—(1) Prior to submission of each of the pre-construction plans and documentation required to be submitted under **condition 6(a) to (j)** above the undertaker must provide a copy of the relevant plans and documentation to the undertaker of the offshore element of East Anglia ONE to enable that undertaker to provide any comments on the plans and documentation.

(2) The undertaker must participate in liaison meetings with the undertaker of the offshore element of East Anglia ONE as requested from time to time by the MMO in writing in advance, which meeting will be chaired by the MMO and may consider such matters as are determined by the MMO relating to the efficient operation of the offshore element of the authorised project and the offshore element of East Anglia ONE.

## EXPLANATORY NOTES

*(This note is not part of the Order)*

This Order grants development consent for, and authorises East Anglia THREE Limited to construct, operate and maintain a generating station located in the North Sea approximately 69km from the coast at Lowestoft, together with all necessary and associated development. For the purposes of the development that it authorises East Anglia THREE Limited is authorised by the Order compulsorily or by agreement to purchase land and rights in land to use land, as well as to override easements and other rights. The Order also provides a defence in proceedings in respect of statutory nuisance and to discharge water. The Order imposes requirements in connection with the development for which it grants development consent.

The Order also grants deemed marine licences for the marine licensable activities, being the deposit of substances and articles and the carrying out of works, involved in the construction of the generating station and associated development. The deemed marine licences impose conditions in connection with the deposits and works for which they grant consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with **article 32** (certification of plans, etc) of this Order may be inspected free of charge at the offices of Suffolk Coastal District Council at Melton Hill, Woodbridge, Suffolk, IP12 1AU and Mid Suffolk District Council at 131 High Street, Needham Market, Ipswich, Suffolk, IP6 8DL.

Document comparison by Workshare Compare on 23 December 2016  
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