

LICENCE OF A MARITIME USAGE IN THE MARITIME AREA

Reference No. LIC230007

Licence holder: Dublin City Council

DRAFT

LICENCE OF A MARITIME USAGE IN THE MARITIME AREA	1
PARTICULARS SCHEDULE	3
RECITALS	4
1. DEFINITIONS	5
2. INTERPRETATION	7
3. GRANT OF LICENCE	7
4. COMMENCEMENT OF THE PERMITTED MARITIME USAGE	8
5. COMPLIANCE WITH THIS LICENCE AND THE ACT	8
6. SPECIFIC CONDITIONS	9
7. CHANGE IN CIRCUMSTANCES	9
8. INDEMNITY	9
9. INSURANCE	10
10. RIGHTS AND OBLIGATIONS OF THE LICENCE HOLDER ON TERMINATION OR EXPIRY OF THE LICENCE	12
11. FORCE MAJEURE	12
12. INSPECTIONS	13
13. EXERCISE OF RIGHTS	14
14. NOTICES	15
15. AMENDMENTS TO THIS LICENCE	15
16. SURRENDER	15
17. AUTOMATIC TERMINATION	16
18. TERMINATION FOR BREACH	16
19. GOVERNING LAW AND JURISDICTION	16
APPENDIX 1	17
APPENDIX 2	18
APPENDIX 3	22

PARTICULARS SCHEDULE

Licence No.	LIC230007
Grantor:	Maritime Area Regulatory Authority
Grantor address:	2 nd Floor, Menapia House, Drinagh Business Park, Drinagh, Wexford. Y35 RF29
Grantor email:	licence@mara.gov.ie
Holder:	Dublin City Council
Holder registered address:	Civic Offices, Wood Quay, Dublin 8.
Holder email:	
Commencement Date:	INSERT
Term:	Two years from commencement date.
Permitted Maritime Usage under Schedule 7 of the Maritime Area Planning Act 2021:	7 (3) Marine environmental surveys for the purposes of site investigation or in support of an application under Part XXI of the Act of 2000.
Appendix describing the Licensed Area	Appendix 1
Appendix containing specific conditions	Appendix 2
Appendix containing notice of intention to commence Permitted Maritime Usage	Appendix 3

RECITALS

- A. Part 5 of the Maritime Area Planning Act 2021 (“the Act”) provides for Licences authorising certain maritime usages in the maritime area to be granted by the Grantor.
- B. The Holder has applied for this Licence pursuant to section 117 of the Act;
- C. The Grantor has had regard to Schedules 5 and 7 to the Planning and Development Regulations 2001 and has decided that it is not necessary to carry out screening for environmental impact assessment in respect of the Permitted Maritime Usage.
- D. The Grantor, under Section 112 of the Act, is the competent authority for the purposes of Part 5 of the Act for the purposes of Part 5 of the European Communities (Birds and Natural Habitats) Regulations, 2011. The Grantor has carried out screening for appropriate assessment in respect of the Permitted Maritime Usage and has determined that appropriate assessment was required as it cannot be excluded on the basis of objective scientific information that the proposed activities, individually or in combination with other plans or projects, will have a significant effect on European sites.
- E. The Grantor has completed an Appropriate Assessment in respect of the Permitted Maritime Usage and has determined, that the activities (either individually or in combination with any other plans or projects) will not adversely affect the integrity of any European Sites, in view of the sites’ conservation objectives, subject to the implementation of the mitigation measures adopted and outlined in the Appropriate Assessment.
- F. The Grantor has had regard to the matters specified in Section 121(2) of the Act;

1. DEFINITIONS

1.1 In this Licence, the terms are as defined in Part 1 section 2(1), Part 5 and Part 6 of the Act are applicable unless otherwise stated here.

- (a) **“Act”** means the Maritime Area Planning Act 2021
- (b) **“Commencement Date”** means the date identified as the Commencement Date on the Particulars Schedule
- (c) **“Condition”** means
 - (i) a provision of this Licence as set out in the Particulars Schedule and/or the numbered clauses which contains a condition which may be attached to this Licence by virtue of Section 120 of the Act; and
 - (ii) each of the Specific Conditions
- (d) **“Dumping”** as defined within the meaning of the Dumping at Sea Act, 1996
- (e) **“Force Majeure”** means an event or circumstance or a combination of events and/or circumstances not within the reasonable control of the Holder which has the effect of delaying or preventing the Holder from complying with its obligations under this Licence or the Act provided that Force Majeure shall not include lack of funds and/or the inability of the Holder to pay, the mechanical or electrical breakdown or failure of machinery, plant or other facilities owned or utilised by the Grantor in carrying out the Permitted Maritime Usage or any strike or industrial action save for a strike or industrial action of a national or industry wide character
- (f) **“the Grantor”** means the Maritime Area Regulatory Authority
- (g) **“the Holder”** means the person who has been granted this Licence as set out in the Particulars Schedule
- (h) **“Law”** means any Act of the Oireachtas, regulation, statutory instrument, bye law, European Community obligation, direction of a regulatory or other

competent authority, condition of any licence, authorisation, licence or other permission granted by any regulatory or other competent authority and any decision of a court of competent jurisdiction, but does not include this Licence

- (i) **“This Licence”** means this licence (including for the avoidance of doubt the foregoing Particulars Schedule and Recitals) and its appendices
- (j) **“Licensed Area”** means that part of the maritime area as identified in Appendix 1
- (k) **“Particulars Schedule”** means the schedule of information on page 3 of this Licence
- (l) **“Permitted Maritime Usage”** means the maritime usage identified as the Permitted Maritime Usage in the Particulars Schedule
- (m) **“Pre-commencement Conditions”** means any Condition which requires the Grantor to carry out an obligation under that Condition before commencing the Permitted Maritime Usage
- (n) **“Solid Waste”** means any persistent, manufactured or processed solid material or items discarded, disposed of or abandoned in the marine and coastal environment, as defined in the OSPAR Guidelines for the Management of Dredged Material at Sea
- (o) **“Specific Conditions”** means the conditions as referenced in condition 6 and set out in Appendix 2
- (p) **“State Persons”** means Ireland, any Minister of the Government and where the context so requires, any organ of the State (including the Grantor)
- (q) **“State Territory”** means the Republic of Ireland

- (r) **“Term”** means the period of time identified as the Term in the Particulars Schedule commencing on the Commencement Date

2. INTERPRETATION

- 2.1 Any requirement in this Licence for the Holder not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done and to use best endeavours to prevent such act or thing being done by another person.
- 2.2 To the extent that there is a conflict between this Licence and the applicable provisions of the Act, the interpretation of the Act shall prevail.
- 2.3 Any reference to a statute or a statutory instrument includes any amendments or re-enactments for the time being in force.
- 2.4 Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- 2.5 Headings are inserted for convenience only and do not affect the construction or interpretation of this Licence.

3. GRANT OF LICENCE

- 3.1 This Licence is granted by the Grantor to the Holder pursuant to section 119(1)(a) of the Act.
- 3.2 This Licence permits the Holder to occupy and use the Licensed Area for the Term on a non-exclusive basis for the purpose of carrying out the Permitted Maritime Usage in accordance with the Conditions and the requirements of the Act.
- 3.3 This Licence does not confer on the Holder any estate or proprietary

interest in the Licensed Area or any other part of the maritime area and for the avoidance of doubt the Grantor and/or any other State Persons authorised so to do may at any stage during the Term grant maritime area consents or licences in respect of the Licensed Area.

4. COMMENCEMENT OF THE PERMITTED MARITIME USAGE

4.1 Notwithstanding the Commencement Date, the Holder shall not commence any activities, operations, works or development associated with the Permitted Maritime Usage in the Licenced Area unless and until:

- i) the Holder has complied with all Pre-Commencement Conditions; and
- ii) the Holder has provided the Grantor a minimum of 14 days advance notice in writing of the Holder's intention to commence the Permitted Maritime Usage in the form and manner as set out in Appendix 3, unless otherwise agreed with the Grantor. This notification shall include an up to date Programme of Works for the completion of the Permitted Maritime Usage.

4.2 The Holder shall provide updated information on the commencement of any activities, operations, works or development associated with the Permitted Maritime Usage where requested by the Grantor.

5. COMPLIANCE WITH THIS LICENCE AND THE ACT

5.1 The Holder shall not use the Licensed Area for any purpose other than the Permitted Maritime Usage.

5.2 The Holder shall ensure that its contractors, and their subcontractors, are made aware of all Conditions.

6. SPECIFIC CONDITIONS

6.1. The Holder shall comply with the Specific Conditions.

6.2. If the Holder becomes aware that the Permitted Maritime Usage authorised by this Licence does not comply with the Specific Conditions the Holder shall immediately:

- (i) notify the Grantor in writing with particulars of the non-compliance; and
- (ii) unless the Grantor otherwise agrees in writing, take all reasonable and timely steps to ensure that the Permitted Maritime Usage is undertaken in accordance with the Specific Conditions and that any adverse consequences of not complying with the Specific Conditions are rectified to the satisfaction of the Grantor as soon as reasonably possible.

7. CHANGE IN CIRCUMSTANCES

7.1 The Holder shall provide the Grantor with notice in writing at the earliest possible opportunity of any material change of circumstances within the meaning of section 136 of the Act.

8. INDEMNITY

8.1 The Holder shall keep the Grantor, the State Persons, and their officers, servants, visitors, agents and employees fully indemnified from and against all or any actions, proceedings, claims, demands, losses, costs, fees, expenses, damages, penalties and other liabilities:

- (i) arising directly or indirectly from the undertaking of the Permitted Maritime Usage the subject of this Licence; and

(ii) arising directly or indirectly from a failure by the Holder to comply with:

- a) a Condition;
- b) a condition deemed to be attached to this Licence in accordance with the Act;
- c) any provision of the Act relevant to this Licence;

8.2 Without prejudice to the generality of the foregoing, the Holder shall make good all loss sustained by the Grantor in consequence of any breach by the Holder of any Conditions.

9. INSURANCE

9.1 Without prejudice to the Holder's liability to indemnify the Grantor, the Holder shall:

- (i) effect and keep in force a public liability insurance policy of indemnity in the joint names of the Grantor and the Holder in an insurance office licensed to operate in the State Territory with a limit of € 6,500,000.00 (six million five hundred thousand euro) in respect of any one claim or a series of claims arising out of a single occurrence for any damage, loss or injury which may occur to any property (not being the property of the Grantor or the Holder) or to any person by or arising out of the admission of any person to the Licensed Area, and to extend such policy so that the Grantor is indemnified by the insurers in the same manner as the Holder;
- (ii) effect and keep in force an employer's liability insurance policy of indemnity in the name of the Holder in an insurance office licensed to operate in the State Territory with a limit of €13,000,000.00 (thirteen million euro) for any one claim or a series of claims arising out of a single occurrence and to extend such policy so that the Grantor is

indemnified by the insurers in the same manner as the Holder in respect of all actions, costs, proceedings, losses, damages, or claims for personal injuries by employees of the Holder. This policy should include an indemnity to principles clause with a specific indemnity to the Grantor;

- (iii) whenever required to do so by the Grantor, produce to the Grantor for inspection the said policy or policies together with the latest receipt of the premium paid for renewal of the said policy or policies together with evidence of waiver of subrogation rights against the Grantor by the Holder's insurers, and to comply with all conditions pertaining to any such policy or policies;
- (iv) not do or omit to do anything which might cause any policy of insurance (if required) relating to the Licensed Area or any other part of the maritime area affected by the Permitted Maritime Usage to become void or voidable, wholly or in part, nor (unless the Holder has previously notified the Grantor and the Holder has agreed to pay the increased premium) to do anything whereby any abnormal or loaded premium may become payable;
- (v) immediately notify the Grantor in writing of the making of any claim under any policy of insurance and to provide the Grantor with all information in relation to any such claim;
- (vi) ensure that any contractors, servants, agents, invitees or visitors of the Holder engaged in connection with activities in the Licenced Area or otherwise in connection with this Licence have appropriate insurance and that all copies of such insurance policies shall be provided to the Grantor as soon as is reasonably practicable;

10. RIGHTS AND OBLIGATIONS OF THE LICENCE HOLDER ON TERMINATION OR EXPIRY OF THE LICENCE

10.1. The Holder shall remove all plant, machinery, equipment or any other thing used in connection with the Permitted Maritime Usage from the Licensed Area (or if applicable from any other part of the maritime area) and restore the Licensed Area (and if applicable any other part of the maritime area) to the condition it was prior to the commencement of the Permitted Maritime Usage to the satisfaction of the Grantor.

11. FORCE MAJEURE

11.1 Except as otherwise provided by this Licence, the Holder is rendered wholly or partially incapable of performing all or any of its obligations under this Licence or the Act, by reason of Force Majeure:

- (i) as soon as is reasonably practicable, the Holder shall notify the Grantor, identifying the nature of the event, its expected duration and the particular obligations affected and shall furnish reports at such intervals reasonably requested by the other party during the period of Force Majeure;
- (ii) this Licence shall remain in effect but the Holder's obligations, except for an obligation to make payment of money shall be suspended, provided that the suspension shall be of no greater scope and no longer duration than is required by the Force Majeure;
- (iii) the Holder shall use all reasonable efforts to remedy its inability to perform all or any of its obligations under this Licence by reason of Force Majeure and shall do all things reasonably practicable to mitigate the consequences of the Force Majeure and shall resume full performance of its obligations under this Licence as soon as is reasonably practicable;

12. INSPECTIONS

12.1 The Holder of a licence shall facilitate and shall not obstruct the Grantor in:

- (i) entering the Licenced Area for the purposes of enabling the Grantor to carry out inspections (including periodic inspections) for the purposes of ascertaining whether or not subparagraph (ii) applies.
- (ii) entering the Licensed Area if the Grantor gives the Holder notice in writing that the Grantor is satisfied that the Holder has materially contravened:
 - (a) a Condition;
 - (b) a condition deemed to be attached to a Licence in accordance with the Act;
 - (c) a provision of this Act relevant to this Licence,

13. DOCUMENTATION

13.1 The Holder shall keep the following documents (if applicable) together and available for inspection by the Grantor:

- (i) a copy of the licence related to the Permitted Maritime Usage;
- (ii) all correspondence with the Grantor;
- (iii) up-to-date drawings, plans, and maps relating to the Permitted Maritime Usage;
- (iv) documents and photographs as requested by the Grantor from time to time;
- (v) the marine positional log; and
- (vi) any elements of the licence application and associated documentation referenced in this licence.

13.2 In addition, the Grantor may, by notice in writing, require the Holder to provide such additional information as the Grantor considers necessary in relation to any matters arising out of or in connection with this Licence. The Holder shall provide the requested information within the period specified in the notice.

14. EXERCISE OF RIGHTS

14.1. Save as may be permitted under this Licence, the Holder shall exercise this Licence in such a manner as to cause no damage or injury to the Licensed Area, any occupants of the Licensed Area and any other part of the maritime area affected by the Permitted Maritime Usage and to forthwith from time to time with due diligence repair and make compensation for any such damage or injury that may be so caused.

15. NOTICES

15.1. Any notice to be given by the Holder under this Licence shall either be sent by registered post or by email.

15.2. Where the notice is sent by registered post, the notice shall be furnished or sent to the address of the Grantor as contained in the Particulars Schedule.

15.3. Where the notice is delivered by email, it shall be issued to the e-mail address of the Grantor as contained in the Particulars Schedule.

15.4. All notices shall be deemed to have been served as follows:

- (i) if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of An Post (and not returned undelivered);
- (ii) if communicated by email, on the next calendar day following transmission.

16. AMENDMENTS TO THIS LICENCE

16.1. Section 125 of the Act shall apply to any application by the Holder to amend this Licence.

17. SURRENDER

17.1. Sections 126 and 127 of the Act shall apply to any application by the Holder to surrender this Licence.

18. AUTOMATIC TERMINATION

18.1. Without prejudice to any other remedies available pursuant to this Licence and at law, this Licence shall terminate immediately upon the occurrence of any of the events provided for in section 144(1) of the Act.

19. TERMINATION FOR BREACH

19.1. Without prejudice to any other remedies available pursuant to this Licence and at law, the Grantor may terminate this Licence for breach in accordance with section 144A of the Act.

20. GOVERNING LAW AND JURISDICTION

20.1. This Licence and all other documents relating to it shall be governed by and construed only in accordance with the laws of the Republic of Ireland.

APPENDIX 1



PUBLIC NOTICE
PROPOSED MARITIME USAGE LICENCE
LIC230007

APPENDIX 2

SPECIFIC CONDITIONS.

21. The Permitted Maritime Usage shall be carried out in accordance with the plans and particulars submitted in support of the application for this Licence.
22. This licence is for the purposes of licensing under the Act and nothing in this licence shall be construed as negating the Holder's statutory obligations or requirements under any other Law.
23. Prior to the commencement of the Permitted Maritime Usage the Holder shall consult and comply with the requirements of the Underwater Archaeology Unit of the Department of Housing Local Government and Heritage. National Monuments Service, G37, Custom House, Custom House Quay, Dublin 1, D01 W6X0.
24. The Holder shall, a minimum 14 days prior to the commencement of the Permitted Maritime Usage, arrange for the publication of a Marine Notice with the Marine Safety Policy Division, Department of Transport. This Marine Notice shall include details of the Licence Holder and the Licence Number as granted by MARA.
25. The Holder shall not damage or interfere with any third party's property, infrastructure or fishing gear while conducting the Permitted Maritime Usage.
26. Prior to the commencement of the Permitted Maritime Usage the Holder shall consult with Dublin Port Company to plan and schedule the Permitted Maritime Usage in order that any potential disruption to port operations is managed.
27. The Holder shall ensure that all vessels engaged in this Permitted Maritime Usage conform to Irish Certification standards for vessels, as required by the Marine Survey Office.

28. The Holder shall demonstrate all reasonable practical measures are taken to ensure that all vessels used in the Permitted Maritime Usage are free of invasive marine species on their hulls and in their ballast water and that all vehicles and equipment used are free of invasive marine species.

29. Marine Mammals

- (i) The Holder shall appoint a marine mammal observer(s) for the purposes of overseeing the Permitted Maritime Usage. The Holder shall ensure the marine mammal observer(s) shall satisfy the requirements of the most up to date national guidance. During the activity the Holder shall comply with the directions of the marine mammal observer(s).
- (ii) The Holder shall implement risk control and mitigation measures for marine mammals in strict accordance with the most up to date national guidance.
- (iii) The Holder shall, within 30 days of completion of the Permitted Maritime Usage, forward a report of the marine mammal observer(s) operations and mitigation undertaken, to offshore@npws.gov.ie and compliance@mara.gov.ie
- (iv) The Holder shall publish the report and recording and data forms on their website within 60 days of completion of the Permitted Maritime Usage unless otherwise agreed with the Grantor

30. In-combination effects

- (i) Prior to the commencement of the Permitted Maritime Usage, the Holder shall coordinate with other authorisation holders carrying out geophysical, seismic and geotechnical activities within a 10 km radius of the Licensed Area.

- (ii) Where a vessel to vessel distance of greater than 10 km cannot be maintained with respect to geophysical, seismic and geotechnical activities, the Holder shall co-ordinate with other authorisation holders to prevent temporal overlap of the activities. Where the Holder can submit evidence that there is a vessel to vessel distance of greater than 10 km, no temporal co-ordination of activities is required.
- (iii) Where the Holder becomes aware of temporal overlap that cannot be resolved within the prescribed distance, the Holder shall notify the Grantor who shall determine the timing of activities.
- (iv) Records of all engagements held and agreements reached, if any, shall be maintained by the Holder and made available to the Grantor if requested.

31. On completion of the activity, the Holder shall provide the United Kingdom Hydrographic Office (UKHO) at <https://ukhodataupload.admiralty.co.uk/> or sdr@UKHO.gov.uk and the INFOMAR program at support@geodata.gov.ie with the final bathymetric data from this Permitted Maritime Usage so that the appropriate charts can be updated.

32. The Holder, upon completion of the Permitted Maritime Activity, shall submit details of all acoustic surveys undertaken in accordance with this licence to the Marine Environment Section, Department of Housing, Local Government and Heritage at marine.env@housing.gov.ie, or to the relevant government department. This data shall be provided in the reporting format of the OSPAR Impulsive Noise registry.

33. Accidental events

The Holder shall ensure that there is an oil pollution emergency plan on-board any survey vessels. This plan should specify:

- (i) Information on the location and detail of spill response resources on-board;
- (ii) Information on crew training in relation to oil pollution response;

(iii) How crew will interface with other site investigation operators, where applicable.

34. The Holder shall time the Permitted Maritime Usage to ensure that geophysical surveys are undertaken in advance of all geotechnical works to ensure potential significant effects on underwater cultural heritage are avoided.

35. The Holder shall take all practicable efforts to ensure that any arisings from boring and drilling activities are collected and are stored and disposed of in accordance with the relevant National and European waste legislation and protocols as may be amended from time to time.

APPENDIX 3

NOTICE OF COMMENCEMENT OF PERMITTED MARITIME USAGE

To: Compliance Unit
Maritime Area Regulatory Authority
2nd Floor
Menapia House
Drinagh Business Park
Drinagh
Wexford
Y35 RF29

By email (compliance@mara.gov.ie) or by registered post [*licence holder to choose one of these methods of service*]

RE: Licence reference number LIC230007
Proposed commencement of the permitted maritime usage

Dear Sirs

In accordance with condition 4.1(ii) of the above licence, Dublin City Council notifies you of its intention to commence the permitted maritime usage pursuant to the licence on the [INSERT DATE].

Yours faithfully

[Representative of the licence holder]

Execution of the Licence

This Licence is executed by [] on behalf of the Grantor who has been authorised to grant this licence pursuant to section 119(1)(a) of the Act:

Signed: _____

[]

Maritime Area Regulatory Authority

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