



Falmouth Harbour  
Commissioners

22<sup>nd</sup> July 2019

Company Ltd  
00 Business Road  
City  
UK

Dear Sirs

**COMPANY LTD: WAVE ENERGY CONVERTER**

**PERMIT: FABTEST 002/001**

In consideration of the grant of the Permit to **(Permit Holder)** by Falmouth Harbour Commissioners **(Falmouth Harbour Commissioners)** the Permit Holder agrees:

**1. DEFINED TERMS**

<b>Authority</b>	a statutory, public, local or other competent authority or a court or tribunal of competent jurisdiction or any agency or body owned or sponsored by the government.
<b>CDM Regulations</b>	the Construction (Design and Management) Regulations 2015 as amended, varied or any replacement of it from time to time
<b>Experimental Devices</b>	prototype, demonstrator or experimental devices within the scope of the General Specification and each with a name plate generating capacity of no more than 3 megawatts designed to generate electricity from the motion of waves or currents or floating wind energy devices and ancillary cables instruments and Sub-Systems.
<b>Health &amp; Safety Certification Date</b>	means 1 <sup>st</sup> September 2019 or such other replacement date as may be agreed by the parties;
<b>Health and Safety Incident</b>	means any incident involving injury to workers, visitors or the general public occurring at the Site

	or in relation to the Experimental Devices which is reportable under this Letter of Agreement at Clause 12.5
<b>Health and Safety Requirements</b>	all applicable health and safety obligations of the Permit Holder deriving from Legal Obligations and this Letter of Agreement
<b>HSI Notification</b>	means the form of notification set out in APPENDIX 2 (HSI Notification) to this Letter of Agreement;
<b>Sub-Systems</b>	prototype, demonstrator or experimental mooring systems or umbilical systems and other system components forming part of a device or system for the generation of electricity from the motion of wind, waves or from marine currents.
<b>Legal Obligation</b>	<p>an obligation, requirement or restriction imposed by or under:-</p> <ul style="list-style-type: none"> <li>(a) any present or future law including present or future statute, statutory instrument, statutory guidance or byelaw or common law;</li> <li>(b) any regulation, law or directive made or issued by or with the authority of the European Commission and/or the Council of Ministers;</li> <li>(c) any present or future judgment, injunction, regulation, order, direction, requirement, notice of code of practice of any Authority; or</li> <li>(d) any condition of a Necessary Consent;</li> </ul> <p>as far as it relates to the Site or the occupation or use of the Site, no matter on whom the obligation is imposed.</p>
<b>Necessary Consent</b>	a consent, licence, permission, order, exemption or approval of any Authority which may be required.
<b>Permit</b>	the form of permit attached at APPENDIX 1.
<b>Permit Holder Representative</b>	a duly authorised representative of the Permit Holder at director level with sufficient knowledge of the project.
<b>RIDDOR Reportable Incident</b>	a Health & Safety Incident giving rise to reporting requirement under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (as amended from time to time)

**Serious Incident**

means any fatal RIDDOR Reportable Incident or Health and Safety Incident which involves serious threat to life, harm or damage to the environment or property including but not limited to: vehicle or vessel collisions, structural collapses, explosions or fires, releases of flammable liquids and gases, hazardous escapes of substances

**Site**

that part of Falmouth Bay as defined in the Permit.

**Decommissioning Programme**

a commissioning programme applicable to the Site approved by the Secretary of State under the Energy Act 2004 including any modifications or conditions which the Secretary of State may from time to time specify.

**General Specification**

the description of Experimental Devices annexed to this letter.

**2.**

- 2.1 To remove all devices and equipment forthwith from the Site as defined in the Permit upon the instruction (whether verbally or in writing) of the Falmouth Harbour Commissioners in the event of the Permit being revoked or terminated or the Falmouth Harbour Commissioners lease of the site from The Crown Estate Commissioners dated 7th March 2017 being forfeit or otherwise brought to an end or the Marine Consent of the MMO is revoked.
- 2.2 In any event prior to the end of the Permit to remove Experimental Devices (and equipment) from the Site and to restore the Site to its former or proper condition in accordance with all Legal Obligations.
- 2.3 To the extent required by any Legal Obligation to comply with the provisions of a Decommissioning Programme and to comply with the obligation referred to in paragraph 2.2 above in accordance with a Decommissioning Programme.
- 2.4 To comply with the provisions of any Decommissioning Programme and all other applicable Legal Obligations which continue to apply after the Permit Holder has complied with the obligations in paragraph 2.2 (including those relating to post decommissioning monitoring maintenance and management of the Site) for and as long as any relevant provisions of the Decommissioning Programme or any Legal Obligations continue to apply.
- 2.5 The permit holder agrees to pay Falmouth Harbour Commissioners the fee stated in the scale of charges as advised from time to time. Payment is to be made Monthly in advance.

**3.**

- 3.1 To maintain the insurance policy dated (**Insurance Policy**) as disclosed to the Falmouth Harbour Commissioners upon the Permit Holder's application, with the insured risks and level of insurance cover referred to in the Insurance Policy for the duration of the occupation of the Site by the Experimental Devices.
- 3.2 To maintain third party and public liability insurance in respect of each Experimental Device at the Site in the sum of £10,000,000.00 for each and every claim and with the Falmouth Harbour Commissioners as an additional insured.
- 3.3 To maintain wreck insurance in such sums as shall be agreed between the parties acting reasonably for the removal or recovery from the Site of any sunken or damaged Experimental

Devices (and equipment) and with the Falmouth Harbour Commissioners as an additional insured.

- 3.4 To provide a financial bond or other acceptable financial security on grant of the Permit of not less than £10,000.00 or equal to the amount of the deductible stated in the Insurance Policy if greater such bond to be held by the Falmouth Harbour Commissioners on trust for the Permit Holder for the duration of the Permit and returned to them on expiration of the Permit except where the Permit Holder has breached it's undertaking in 2 or 3 above when it shall become the property of the Falmouth Harbour Commissioners.
4. For the duration of the Permit or until any device or equipment deployed under the terms of the Permit is decommissioned, whichever is the later, the Permit Holder shall report all incidents pertaining to breaches or possible breaches of health and safety legislation to the Falmouth Harbour Commissioners.
5. Any Experimental Device must comply with the General Specification
6. The Permit Holder shall ensure that the mooring (including all ground tackle and equipment) is adequate for the purpose of mooring any Experimental Device for which the Permit is granted and shall at all times during the continuance of the Permit maintain and keep the mooring (including all ground tackle and equipment) in good safe and substantial repair and condition
7. The Permit is personal to the Permit Holder and no disposition of any of the rights therein contained is permitted
8. That the duration of the Permit shall be for a period of twelve months or less.
9. That each Permit gives permission for the installation of only one Experimental Device.
10. That the exclusive possession of the Site is not granted to the Permit Holder.
11. The Permit will not be issued until the Falmouth Harbour Commissioners have received the **two signed copies** of this letter enclosed.
12. In addition the Permit Holder agrees:
  - 12.1 Not to place any equipment or other item on the seabed except as set out in the Permit.
  - 12.2 Not to extract any substance, material or living thing from the seabed.
  - 12.3 To ensure all equipment and devices deployed in the carrying out of any operations conducted under the Permit are fit for purpose, compliant with all statutory safety regulations and properly maintained.
  - 12.4 To comply with the terms of the FabTest Operating Policy that is currently in place at the time of the Permit
  - 12.5 Incident Reporting
    - 12.5.1 The Permit Holder shall notify the Falmouth Harbour Commissioners of any Health and Safety Incident using the HSI Notification as follows:
      - (a) in relation to a non-fatal RIDDOR Reportable Incident within two weeks; and
      - (b) in relation to a Serious Incident as soon as reasonably practicable and, in any event, within 24 hours.
    - 12.5.2 The Permit Holder shall co-operate with the Falmouth Harbour Commissioner's reasonable requests for information relating to any Health & Safety Incident at any time

12.5.3 In the event of a Serious Incident occurring

- (a) the Permit Holder shall, where it is practicable to do so, notify the Falmouth Harbour Commissioners in the event that it proposes to release a press/public statement in connection with the same and shall in advance of release provide a copy to Falmouth Harbour Commissioners for information; and
- (b) the Falmouth Harbour Commissioners shall, where it is practicable to do so, notify the Permit Holder in the event in advance of release that it wishes to release a press/public statement in connection with the same and shall provide a copy for the Permit Holder for information

12.5.4 The Permit Holder shall, acting in good faith, use its reasonable endeavours to engage with and participate in such initiative or initiatives as are from time to time in existence to facilitate the collection and publication of health and safety related statistics for the benefit of the offshore wind, wave/tidal power generation industry.

12.6 Self-certification

12.6.1 The Permit Holder shall on or before the Health & Safety Certification Date in each year for duration of this Letter of Agreement submit to the Falmouth Harbour Commissioners a certificate signed on behalf of the Permit Holder by a duly authorised Permit Holder Representative confirming the Permit Holder's compliance with the Health & Safety Requirements

12.7 CDM Regulations

12.7.1 The Permit Holder warrants that it understands and will carry out the duties imposed on it as a client by the CDM Regulations.

12.7.2 To comply with the provisions of the CDM Regulations and to provide on request to the Falmouth Harbour Commissioners access to all relevant documentation, including but not limited to a copy of the health and safety file and any documents within it.

Please sign and return the two enclosed copies of this letter attached in acceptance of the above terms.

Yours faithfully

**For and on behalf of Falmouth Harbour Commissioners**

Signed For and on behalf of [ ]  
.....

Date  
.....

For and on behalf of to *(insert relevant permit holder's name)* (**Permit Holder**)

Signed For and on behalf of [ ]  
.....

Date  
.....

**APPENDIX 1**

**Permit**

SPECIMEN

**APPENDIX 2**

**HSI Notification**

**Details of business or undertaking notifying the incident**

<b>Legal name of business:</b>		
<b>Name of site:</b>		
<b>Business address:</b>		
<b>Contact phone number:</b>	<b>Work hours:</b>	<b>Mobile:</b>
<b>Business email address:</b>		

**Incident details**

**Incident type**

<b>This is to notify of :</b>	<b>Serious Incident</b>	<b>Non-fatal RIDDOR Reportable Incident</b>
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**Provide a brief explanation of the type of incident (i.e. fall from height, vessel collision):**

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**Incident date, time and location**

<b>Date of incident:</b>	<b>Location of incident:</b>
<b>Time of incident:</b>	

**Description of the incident Please provide as much detail as possible**

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**Do you propose to release a press/public statement in connection with the incident?**

**Yes    No**

**Notifier's details**

<b>Mr   Mrs   Miss   Ms</b>	<b>First Name:</b>	<b>Last Name:</b>	
<b>Position at workplace:</b>		<b>Contact phone number:</b>	
<b>Email:</b>			
<b>Is this the person that should be contacted for further information?</b>			
<b>Yes   No   If no, please provide the name and contact details of the appropriate person should further information be required</b>			
<b>Mr   Mrs   Miss   Ms</b>	<b>First Name:</b>	<b>Last Name:</b>	
<b>Position:</b>		<b>Contact phone number:</b>	