

TXX/XXX

AQUACULTURE LICENCE

**AQUACULTURE LAND-BASED SHELLFISH
(FRESHWATER/SEAWATER) AND OTHER
INVERTEBRATES (SEAWATER)**

Licensee Name and Address

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AQUACULTURE LICENCE NO. XXXX

GRANTED UNDER THE FISHERIES (AMENDMENT) ACT, 1997 (NO. 23 of 1997)

The Minister for Agriculture, Food and the Marine (hereinafter referred to as the “Minister”), in exercise of the powers conferred on him by the Fisheries (Amendment) Act, 1997 (No. 23 of 1997) (hereinafter referred to as the “Act”), grants an Aquaculture Licence to:

XXXXXXXXXXXXXX

XXXXXXXXXXXXXX

XXXXXXXXXXXXXX

XXXXXXXXXXXXXX

(hereinafter referred to as the “Licensee”) for the cultivation of XXXXXXXXXX on a site at XXXXXXXXXX, Co. XXXXXXXXX as specified in Schedule 1 attached, subject to the Act and Regulations made under the Act and to the terms and conditions set out in the attached pages.

This Aquaculture Licence shall remain in force for a maximum period of XXXX (XX) years commencing on XX XXXXX XXXX, provided for so long as the facility complies with the planning permission granted by XXXXXXXXXX XXXXXX Council on XX XXXXXXXXXX XXXX (ref XXXX/XXXXX) as specified in Schedule 1 attached, and the Local Government (Water Pollution) Acts licence to discharge effluent granted by XXXXXXXXXX XXXXXX Council on XX XXXXXXXXXX XXXX (ref XXX-XX) (or a further such licence granted by the said Council or by the Environmental Protection Agency).

A person authorised under Section 15(1)
of the Ministers and Secretaries Act 1924 to
authenticate the Seal of the Minister for
Agriculture, Food and the Marine.

TERMS AND CONDITIONS APPLYING TO THIS AQUACULTURE LICENCE

1. Licensed Area

1.1. The area specified in Schedule 1 attached.

2. Species, Cultivation and Method Licensed

2.1. Species to be farmed: XXXXXXXXXXXX

2.2. Method: XXXXXXXXXXXX subject to the stocking limits as specified in Schedule 2 attached and in accordance with all other consents issued.

2.3. The introduction of shellfish and other invertebrates to the site shall comply with the legislation relating to fish health.

3. Infrastructure and Site Management

Indemnity

3.1. The Licensee shall indemnify and keep indemnified the State, the Minister, his officers, servants or agents against all actions, loss, damage, costs, expenses and any demands or claims howsoever arising in connection with the construction, maintenance or use of any structures, apparatus, equipment or any other thing used in connection with the licensed operation in the licensed area or in the exercise of the rights granted under the licence and the Licensee shall take such steps as the Minister may specify in order to ensure compliance with this condition.

Design, Arrangement and Maintenance of Structures

3.2. The Licensee shall at all times for the duration of the licence keep all equipment used for the purposes of the licensed operations in a good and proper state of repair and condition to the satisfaction of the Minister or other competent State authority.

Operational Conduct

3.3. The Licensee shall conduct its operations in a safe manner and with regard for other persons in the area and the environment and shall ensure that the operations are not injurious to adjacent lands or the public interest (including the environment) and do not interfere with any other lawful activity in the vicinity of the licensed area, and shall comply with any lawful directions issued by the Minister and any other competent State authority in that regard.

3.4. The Licensee shall ensure that any aquaculture or other activity conducted under this licence does not adversely affect the integrity of the Natura 2000 network (if applicable) through the deterioration of natural habitats and the habitats of species and/or through disturbance of the species for which the areas have been designated in so far as such a disturbance may be significant in relation to the stated conservation objectives of the site concerned.

- 3.5. The Licensee shall ensure that the abstraction of water by the facility shall be so regulated that sufficient water will be maintained at all times in the natural water courses adjoining the facility to ensure the free passage of migratory fish past the facility.
- 3.6. Such precautions shall be taken by the Licensee as the Minister may specify from time to time, in relation to the adaptation of methods of operation or type of installation at the facility.

Waste Management

- 3.7. The Licensee shall ensure that the licensed and adjoining areas shall be kept clear of all redundant structures (including apparatus, equipment and/or uncontained stock), waste products and operational litter or debris and shall make provision for the prompt removal and proper disposal of such material.

Inspection

- 3.8. The licensed area and any equipment, structure, thing, or premises wherever situated used in connection with operations carried out in the licensed area shall be open for inspection at any time by an authorised person (within the meaning of Section 292 of the Fisheries (Consolidation) Act 1959) (No. 14 of 1959) (as amended by Fisheries Act 1980) (No. 1 of 1980), a Sea Fisheries Protection Officer (within the meaning of Sea Fisheries and Maritime Jurisdiction Act 2006) (No. 8 of 2006) or any other person appointed in that regard by the Minister or other competent State authority.
- 3.9. The Licensee shall give all reasonable assistance to an authorised officer or a Sea Fisheries Protection Officer or any person duly appointed by any competent State authority to enable the person or officer enter, inspect, examine, measure and test the licensed area and any equipment, structure, thing or premises used in connection with the operations carried out in the licensed area and to take whatever samples may be deemed appropriate by that person or officer.
- 3.10. The Licensee shall keep and maintain in the State for inspection on demand by the Minister or a competent State authority, at all times, records of all operations including compliance monitoring and any required follow up action. These records shall be produced by the Licensee on demand by the Minister or other competent State authority and in any event not later than 24 hours from the making of that demand.
- 3.11. The Licensee shall furnish to the Minister or other competent State authority in the form and at the intervals determined by the Minister or other competent State authority, such information relating to the licensed area as may be required to determine compliance by the Licensee with the terms of this licence and applicable legislation.

4. **Containment of Stock**

- 4.1. The Licensee shall take all steps necessary to prevent the escape of all life stages of shellfish and other invertebrates from its XXXXXXXXXX and shall notify the Department of Agriculture, Food and the Marine, National Seafood Centre, Clonakilty, Co. Cork, the Department's Regional Engineering Division and the Marine Institute, Oranmore, Co. Galway within twenty four hours of any escapes of shellfish and other invertebrates from the licensed area and shall keep records of the fish escaped, including numbers, types, origin and year classes and shall make these records available to the Department and the Marine Institute.
- 4.2. The Licensee shall provide and maintain such gratings or other devices at the point of water abstraction, and also at a point as near as possible to the discharge of water, as will prevent the admission of wild fish into the facility, and shall make all necessary provisions to prevent the escape of shellfish and other invertebrates from the facility as specified in Schedule 3.
- 4.3. The Licensee shall fit adequate anti-predator netting or a barrier on external facility structures so as to prevent predation and the possible spread of disease by predators.

5. **Environmental Monitoring**

Monitoring

- 5.1. The Licensee shall undertake and/or partake in monitoring, in particular environmental monitoring, as directed by the Minister or other competent State authority.
- 5.2. The Licensee shall carry out regularly water quality monitoring at the facility and provide the results of such monitoring to the Department of Agriculture, Food and the Marine on request.

6. **Fish Health / Mortality Management / Movement of Fish and other Invertebrates**

Fish Health Regulations

- 6.1. Before the site is stocked the Licensee shall ensure that a Fish Health Authorisation under statutory provisions giving effect to Council Directive No. 2006/88/EC, as amended, or any other legislative act that replaces that Directive on animal health requirements for aquaculture animals and their products, and on the prevention and control of certain diseases in aquatic animals, is in place.

Disposal of Mortalities

- 6.2. The Licensee shall dispose of dead shellfish and other invertebrates in accordance with the applicable statutory provisions and requirements.

Movement of Fish

6.3. The Licensee shall comply with any regulations in force governing the movement of fish.

7. Duration, Cessation, Review, Revocation, Amendment, Assignment

Duration, Cessation

7.1. This Licence shall remain in force until XX XXXXXXXXXX, 20XX and only so long as the facility complies with the planning permission granted by XXXXXXXXXX XXXXXX Council on XX XXXXXXXXXX XXXX (ref XXXX/XXXXX) and the Local Government (Water Pollution) Acts licence to discharge effluent granted by XXXXXXXXXX XXXXXX Council on XX XXXXXXXXXX XXXX (ref XXX-XX) (or a further such licence granted by the said Council or by the Environmental Protection Agency).

Review

7.2. The Licensee may apply for a review of the licence at any time after the expiration of three years since the granting of the licence or its last renewal in accordance with section 70 of the Act.

Revocation, Amendment

7.3. Subject to the Act, the Minister may revoke or amend the licence if:-

- (a) he considers that it is in the public interest to do so,
- (b) he is satisfied that there has been a breach of any condition specified in the licence,
- (c) the licensed area to which the licence relates is not being properly maintained,
- (d) water quality results or general performance in the licensed area do not meet the standards set by the Minister or the competent State authority.

Assignment

7.4. This Licence shall not be assigned without the prior written consent of the Minister and may not be assigned during the period of three years, dating from the commencement of the licence, unless the Minister determines that it may be assigned under condition 7(5) or the condition set out in 7(6) applies.

7.5. A Licensee, who considers that there are exceptional reasons for the assignment of the Licence during the first three years, may apply to the Minister, giving those reasons, for a determination that the Licence may be assigned. The Minister may, at his discretion, having considered the reasons given by the Licensee, determine whether or not the Licence may be assigned. The determination of the Minister in this regard is final.

7.6. Where the Licensee is a company (within the meaning of the Companies Acts) and goes into Liquidation (within the meaning of the Companies Acts) in the first three years dating from the commencement of the licence, the Liquidator shall, with the consent of the Minister, be entitled to assign the licence to enable him to discharge any debts of the liquidated company.

7.7. This licence is issued subject to any order that the High Court may make under section 218 of the Companies Act 1963 or otherwise with regard to the assignment of this licence.

8. **Emergency Plans**

8.1 The Licensee shall regularly maintain and update its Comprehensive Emergency Plan, providing in particular for an appropriate response to, unexplained mortalities significantly above the level of what is considered to be normal for the farm area in question under prevailing conditions, fish escapes, fish disease, chemical spills and other significant matters arising in the course of its aquaculture operations.

9. **Fees**

- 9.1. The Licensee shall pay to the Minister an annual aquaculture licence fee in accordance with the Aquaculture (Licence Application and Licence Fees) Regulations 1998 (S.I. No. 270 of 1998) as amended by the Aquaculture (Licence Fees) Regulations 2000 (S.I. No. 282 of 2000) or an amount payable under Regulations made under section 64 of the Act.
- 9.2. The Minister may revoke the licence where the Licensee fails to pay the aquaculture licence fees on demand.

9. **General Terms and Conditions**

- 9.1. The Licensee shall at all times comply with all laws applicable to aquaculture operations.
- 9.2. Any reference to a statute or an act of an institution of the European Union (whether specifically named or not) includes any amendments or re-enactments in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans made, issued or given effect under such legislation shall remain valid.
- 9.3. If any condition or part of a condition in this licence is held to be illegal or unenforceable in whole or in part, such condition shall be deemed not to form part of this licence but the enforceability of the remainder of this licence is not affected.
- 9.4. The Licensee shall at all times hold all necessary licences, consents, permissions, permits or authorisations associated with any activities of the Licensee in connection with the licensed area.

Notification

- 9.5. Without prejudice to any other remedy under the licence or in law, if the Minister is of the view that the Licensee is in breach of any obligation under this licence, the Minister may, by notice in writing, require that the Licensee rectifies such breach, within such time as is specified by the Minister. The Licensee shall comply with any direction of the Minister within the time specified in the notice.
- 9.6. Any notice to be given by the Minister may be transmitted through the Post Office addressed to the Licensee at the last known address of the Licensee.
- 9.7. The Licensee shall notify the Minister within 7 days of any change in the Licensee's address, telephone, e-mail or facsimile number.

Tax Clearance Certificate

9.8. During the term of this licence the Licensee shall provide to the Minister on demand a current tax clearance certificate.

Companies and Co-operatives

9.9. In the event of the licence being granted to a company (within the meaning of the Companies Acts), control or ownership of the licensee company shall not change in any respect from the control or the ownership of the company as existed on the date that the licence was granted so long as this licence shall remain in force save with the prior written permission of the Minister.

9.10. In the event of a licence being granted to a company that has been incorporated outside this State, the licensee company shall register with the Companies Registration Office within one month of the establishment of a place of business in the State or alternatively, within one month of the establishment of a branch of the said company in the State and the licensee company shall submit proof to the Department within 14 days of the end of that month that it has been so registered.

9.11. Where the licensee is a company within the meaning of the Companies Acts, the licensee company shall ensure that it does not become dissolved within the meaning of the Companies Acts for so long as this licence shall remain in force.

9.12. In the event of the licence being granted to a society (within the meaning of section 2 of the Industrial and Provident Societies (Amendment) Act 1978 (No.23 of 1978) the following conditions shall apply:-

9.12.1. The rules relating to membership of the society shall enable any resident of the State to become a member of it where the resident fulfils all the conditions laid down by the society for membership of it and the rules shall not lay down different conditions for different classes of people;

9.12.2. The rules relating to the society as submitted to the Minister before the grant of this licence shall not be amended subsequently other than with the written permission of the Minister; and

9.12.3. The Minister may, if he considers it necessary in the interests of good management of the licensed area, direct that an amendment may be made to the rules of the society, and the Licensee shall amend the rules in accordance with that direction.

SCHEDULE 1

Schedule 1 contains:

- a copy of planning permission granted for the facility
- site map
- copy of effluent discharge licence

TEMPLATE

SCHEDULE 2 – Stocking Biomass

The annual production of XXXXXXXX shall not exceed.....

The annual production of XXXXXXXX shall not exceed.....

The combined annual production of XXXXX and XXXXX shall not exceed

TEMPLATE

SCHEDULE 3

Schedule 3;

Provisions to prevent the escape of fish from the fish farm

The prevention of escapes is an absolute priority, and all tanks, nets and containers used to hold and transport fish are to be kept and maintained in such a manner so as to prevent the possibility of fish escape.

All tanks are to have screens thoroughly inspected and if necessary, removed and refitted prior to introduction of a new stock of fish.

If escapes are detected in the outlet channels immediate action must be taken to identify the source, prevent further escape and retrieve all escapees.

All relevant authorities must be notified in the event of fish escaping the containment of the farm.