

EREA/DEA

# APPENDIX B

TEMPLATE OF CONSTRUCTION PERMIT

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## Appendix B Construction Permit

### Introduction to Permit Template

The present document aims at introducing the key aspects to be considered and included as terms of a construction permit for offshore wind farms in Vietnam.

It should be emphasized that the terms and conditions are subject to amendments based on possible modifications on policies and regulations from the time the permit is issued, as well as conditions unknown to the Regulatory Body by the time the permit is granted.

This permit assumes that it is provided under a tender. In case it is granted outside a tender, e.g., by an unsolicited application through the open-door procedure, the conditions will equally apply.

### B.1 Definitions in the Permit

In this document the following nomenclature is applied:

- > The *Regulatory Body* is the single point of contact for application handling for offshore wind in Vietnam undertaken by *[insert Regulatory Body Details – EREA?]*. *[if a Regulatory Body is not established the entity entering the Permit Agreement should be specified instead.]*
- > The *Concessionaire* is *[insert Concessionaire details]*
- > The Offshore Wind Farm is the *[insert name of the Offshore Wind Farm]* Offshore Wind Farm
- > The *Concession Agreement* is *[insert reference to specific Concession Agreement]* for the Offshore Wind Farm i.e., the agreement regarding the obligation to construct and connect to the grid the Offshore Wind Farm dated *[date]*

### B.2 Decision

The Regulatory Body hereby grants a permit for the construction of the referred Offshore Wind Farm with internal cables in the Vietnamese Exclusive Economic Zone. The permit is granted based on the Concessionaire's tender of *[date]* submitted as part of the Offshore Wind Farm tendering procedure, which resulted in the Concessionaire being awarded the Concession Agreement of *[date]* regarding the obligation to construct and connect the Offshore Wind Farm to the grid.

The basis for the decision includes the Concessionaire's application for a construction permit dated *[date]* and the Concessionaire's environmental impact assessment report for the Offshore Wind Farm dated *[date]*, which describes the expected impacts on the environment from the specific project at sea, considering the results of the completed strategic environmental assessment

(SEA) and the environmental impact assessment of onshore facilities (EIA). The basis for the decision also includes consultation responses from affected public authorities, including neighbouring countries that were consulted as part of the statutory requirement for consultation concerning the potential cross-border impacts of the project.

The permit comprises an EIA approval for the part of the Offshore Wind Farm with internal collection grid that is located offshore.

This permit entitles the Concessionaire to commence construction work, considering the terms and conditions listed in the permit. This permit regulates the part of the Offshore Wind Farm with internal collection grid, which is situated offshore. Regarding the part of the grid connection, which is situated onshore, referral is made to the planning basis and the EIA-permit of *[date]* issued by MONRE.

### B.3 General Terms of Permit

The Concessionaire is to construct an offshore wind farm to supply an output of a certain amount of MW measured at the point of connection (POC). Therefore, no more than what at the connection point corresponds to *[tendered X MW]* (Bid MW) may be connected to the grid at any given time.

The Concessionaire is to establish the offshore wind farm with associated internal collection grid up to the landfall, that is, the cables connecting the turbines offshore, if relevant, the offshore substation(s) and cables forward to the landfall. Furthermore, the Concessionaire shall establish the part of the grid connection which is situated onshore.

The TSO is to ensure the required expansion and reinforcement of the collective electricity supply grid from the grid connection point.

The electricity from the offshore wind farm is to be routed onshore to the Vietnamese collective electricity supply grid.

The total electricity production plant must comply with the technical requirement set by the TSO.

The Regulatory Body reserves the right to require reasonable changes to the plant for safety reasons prior to the commencement of construction.

The Concessionaire must not make substantial changes or extensions to the plant after this permit has been issued, without approval from the Regulatory Body.

The permit does not entail any restrictions on the sovereignty of the Vietnamese State over Vietnamese territorial waters or the exclusive right of the Vietnamese State to the Exclusive Economic Zone. The permit does not therefore, within the area covered by the permit, preclude other operators than the Concessionaire from being granted a permit to conduct other forms of activity than the activities covered by this permit, unless it is obstructing the construction of the wind farm.

The Concessionaire is to keep the Regulatory Body continuously up to date about any significant deviations from the time schedule.

This permit will expire upon issue of the license to generate electricity.

## B.4 EIA and Impact Assessment of the Project

The Concessionaire is responsible for ensuring that the project stays within the framework of the approved environmental impact assessment report for the Offshore Wind Farm dated *[date]* and the associated consultation memorandum

If there are changes to the project, the relevant rules applicable at any time for environmental assessment of specific projects (EIA) must be followed. Project changes or project expansions in connection with the establishment of the project which cannot be accommodated by the environmental impact assessment report dated *[date]* and this permit, and that may have substantial damaging impacts on the environment, may not be implemented without an approval from the Regulatory Body based on a supplementary environmental impact assessment report (EIA) or on a decision by the authority that the project changes are not likely to cause substantial environmental impacts.

When they are connected to the collective grid, the offshore wind turbines must meet the requirements for technical certification of wind turbines. The project certificate must be in place as soon as possible after commencement of operation and by no later than three months after all wind turbines are in operation.

## B.5 Area Covered by Permit

The project is to be established in the areas indicated in Figure 1, with the coordinates provided in Table 1.

The Concessionaire is entitled to carry out its construction works within the area indicated in Figure 1 with the coordinates provided in Table 1 in section B.17 (see last page of permit).

*[Insert a map of the area of the preliminary site investigations performed by the Regulatory Body]*

*Figure 1: Preliminary site investigation area site conducted on behalf of the Regulatory Body for the Offshore Wind Farm*

*[The final information about the size of the project site, the coordinates and the figure will depend on the specific project for which a permit is granted based on the environmental impact assessment report carried out by the Concessionaire. When available this final information shall be inserted in this section]*

The planned offshore wind farm *[including offshore substation(s)]*, must not cover an area exceeding *[XX]km<sup>2</sup>*. *[The size of the area will be determined as described above.]* The area is defined based on the location of the foundations for the turbines. Calculation of this area excludes the area designated for the cable corridors for routing the internal collection grid onshore calculated from

the point(s) where the cables for routing onshore leave the wind turbine array area, but including the area needed for the transformer substation. This must be confirmed in the application for a permit for construction.

A buffer zone will be determined around the new offshore wind farm. Until and including [XX] years after the beginning of the support period on [date], the buffer zone area will be [XX] km in all directions. After this time, the buffer zone area will be reduced to [XX] km in all directions. Establishment of this buffer zone means that no permit will be granted for the construction of new offshore wind turbines in this area without prior consent from the Concessionaire.

Further requirements are to be added in case of any further regulations are to be considered.

## B.6 Environmental Requirements in Connection with Construction Work

If construction activities cause disturbance and disburse seabed sediment, e.g., in connection with excavation or sluicing, the disturbance etc. must be reduced as much as possible using methods and materials which ensure best environmental practice. Actual sediment dispersion in terms of time, place and method must be agreed with [MONRE]. It is a prerequisite that [MONRE] can approve the actual sediment dispersion.

For underwater noise in connection with the installation of foundations (pile driving), The accumulated sound exposure level (SEL) from each installation sequence must not exceed a threshold value of [190 dB]. Furthermore, this procedure must be complied with both before and during the actual installation of the piles.

At a time of the Concessionaire's choosing, however no later than two months prior to construction work, the following information must be submitted to the Regulatory Body:

- > An updated forecast of the source noise level and the distribution of noise from at least four piles.
- > Calculation of accumulated SEL based on the forecasted source noise level.
- > A statement of the noise abatement measures planned in accordance with the forecast and what measures have been planned as reserves if the forecast underestimates the noise.
- > A programme for control measurements when installing the piles for which forecasts have been made, including how the Concessionaire will ensure compliance with the terms and conditions set out.

Prior to the installation of the individual foundations, marine mammals must be scared away from the vicinity using pingers and seal repellent systems.

The following procedure is to be complied with when installing the piles:

*[list of key procedures to be added]*

Upon completion of the overall installation work, a detailed report on all control measurements is to be submitted as documentation to the Regulatory Body.

To monitor impulse noise from construction activities (pile driving, air guns, etc.), such activities must be reported to the Regulatory Body. Reporting must include information about the date of the noise-causing activity, the position and noise level, as well as an indication of the specific activity causing the impulse noise.

The Concessionaire must set out guidelines for transport, including fixed sea and air transport corridors in an out of the wind turbine area, which can contribute to reducing the impact of noise and other disturbances, especially regarding marine mammals and bird populations in the area.

## B.7 Considerations for Other Offshore Activities

Construction work must be coordinated with all relevant authorities to clarify possible conflicting interests.

Siting of the individual turbine must adhere to the requirement for at least *[200m]* between the turbines and the line of sight in existing radio link systems.

Navigation must be permitted between the turbines during the operating phase. During the construction phase, navigation will be prohibited in the work area, and any documented additional costs associated with navigation by the Vietnamese Coastal Authority to areas where raw materials are extracted must be paid by the Concessionaire.

The turbine foundations must have a collision-friendly design to avoid unnecessary damage to vessels in the event of a collision. The Concessionaire is responsible for providing documentation to the *[Vietnamese Maritime Authority]* that the chosen type of foundation is safe.

Permanent navigational marking for the Offshore Wind Farm must be approved by the *[Vietnamese Maritime Authority]* prior to commencement of construction activities.

During the construction phase, prohibition zones should be established to maintain order and prevent danger around the Offshore Wind Farm. Application for this should be submitted to the *[Vietnamese Maritime Authority]* prior to commencement of the construction work.

The work and guard vessels used must comply with the regulations for equipment, crew, etc. laid down by the *[Vietnamese Maritime Authority]*.

The Concessionaire must contact relevant commercial fishermen, including through the Fishing Authority and possibly other local commercial fishermen with a view to organising construction activities such that they do not affect commercial fishing more than necessary. *[Fishing to be compatible with the*

*offshore wind farm conditions avoiding e.g., bottom trawling risking damaging cable connections. This will be more complex within floating wind farms]*

## B.8 Beaconing and Marking for Turbines and Substations

The Concessionaire must follow the terms and conditions set out by the *[Vietnamese Maritime Authority]* concerning beaconing and marking before, during and after construction, correct siting of foundations and cables, reporting of time and date of work, etc.

If navigation between a port and the Offshore Wind Farm in connection with work activities crosses a sea lane, the *[Vietnamese Maritime Authority]* may establish a navigation corridor which work vessels must use.

Offshore wind turbines with a height of *[100m]* or more above terrain must be reported to, and approved by *[MOC, MOD and [MOT]]* prior to commencement. The ministries will then issue a certificate for the project which contains the requirements for beaconing.

Beaconing must be fitted in accordance with the rules set out in Regulations for Civil Aviation. The following standard requirements apply:

- > Wind turbines sited along the perimeter of the offshore wind farm and inside the farm proper must be marked by a permanent low-intensity red light (at least 10 candela).
- > The light must be placed at the top of the nacelle and must be visible from all directions 360-degrees horizontally around the nacelle, which will often require fitting two lights on each nacelle.
- > Wind turbines sited in bends and corners of the offshore wind farm perimeter must be marked by 20,000-candela white lights in the daytime and 2,000-candela red, flashing lights in the night-time.
- > Beaconing and marking for aviation may not be of nuisance to navigation at sea.

The Concessionaire is to pay the costs of buoyage, marking and beaconing for navigation and aviation.

## B.9 Environmental Considerations in Connection with the Establishment of Internal Cabling

When the cables have been established and included in the official nautical charts, a *[200m]* safety zone on both sides of the subsea cables will be established. This safety zone includes a ban against anchoring and against any use of gear etc. towed along the seabed. The Concessionaire must contact the *[Vietnamese Maritime Authority]* to clarify the protection of subsea cables in the Offshore Wind Farm.

The *[Vietnamese Maritime Authority]* must be notified before cable-laying work is expected to commence. The notification must include:

- > A plan/list of coordinates of the cable corridors, a timetable, and a detailed work description, describing the work vessels used, call signs, contact possibilities as well as information regarding the scope of obstacles to navigation.
- > A proposal for possible temporary buoyage and marking during performance of the work including a proposal for possible permanent buoyage, marking, or signposting for the cable corridors.

Based on the information provided, negotiations will be instigated with the *[Vietnamese Maritime Authority]* about how to accommodate traffic during performance of work.

During performance of the work, the *[Vietnamese Maritime Authority]* must be kept continuously informed about any changes to dates and times, work methods, etc. Furthermore, on completion of work, the *[Vietnamese Maritime Authority]* is to be notified that the work has been completed. Soon after this date, the same authorities are to be forwarded updated detailed drawings and information about coordinates

Any later repairs to the cables must be notified to the *[Vietnamese Maritime Authority]* pursuant to current regulations. If a repair necessitates a change in the position of a cable or depth of excavation, updated detailed drawings and position descriptions as stated above must be submitted to the *[Vietnamese Maritime Authority]* following completion of the work.

If cables etc. are no longer used for their original purpose, they must be removed completely from the territorial waters, unless otherwise approved by the relevant authorities.

## B.10 Operation and Maintenance Services, Health and Safety, Emergency Response, etc.

The Concessionaire must describe how operation and maintenance services of the offshore wind farm will be performed and submit this description to the Regulatory Body. This is to be done as part of the application to the Regulatory Body for authorisation to produce electricity and for the electricity production licence.

Before commencement of offshore construction work, the Concessionaire must establish a plan for environmental management and quality assurance for the work in question. The Concessionaire must carry out work in accordance with this plan.

An emergency response plan for the construction period and the operating period is to be prepared and submitted to the Regulatory Body prior to commencement of construction work. The emergency response plan must, as a minimum, contain a procedure for contact to, and involvement of *[MOD]* in the



event of collision risk involving one or several wind turbines. Furthermore, the plan must describe the procedure in connection with oil or chemical spills to the marine environment.

The Concessionaire must pay the costs of emergency contingency work and take out insurance to cover any damage.

### B.11 Dismantling, Decommissioning and Guarantee

The Concessionaire is obliged, at its own cost, to restore the area in the territorial waters and the exclusive economic zone to its former condition, including to carry out the necessary remediation and clean up in the area, as well as to decommission and dispose completely of the electricity production plant, including all components offshore, pursuant to a decommissioning plan approved by the Regulatory Body, if

- > The electricity production licence expires
- > The installation is not maintained or is wrecked
- > The installation is no longer used as a wind farm
- > The terms and conditions of the electricity production licence are not fulfilled or complied with

The Regulatory Body may order the Concessionaire to remove all installations, in whole or in part, according to a timetable stipulated by the Regulatory Body.

The Concessionaire must submit a plan for decommissioning the Offshore Wind Farm, i.e., the wind turbines and the associated internal cables (internal collective grid), including cables routing up to onshore point and *[if relevant offshore substation(s)]* in the territorial waters and the exclusive economic zone, to the Regulatory Body for approval.

The decommissioning plan must contain an account of how the installations will be removed and a proposed time schedule for doing so. The Regulatory Body may stipulate further requirements for the contents of the plan. In addition to a plan for physical decommissioning of the wind farm, pursuant to current EIA regulations in force, and together with the decommissioning plan, the Concessionaire must submit a detailed assessment of any environmental impacts entailed by the plan. This environmental assessment is to provide the Regulatory Body with a decision basis for whether an actual EIA report and more detailed assessments are to be prepared. If an EIA report, impact assessment, etc. are not required, the Regulatory Body will make this decision public at the same time as it grants authorisation to the applicant.

The Regulatory Body will submit the decommissioning plan and the environmental assessment for consultation with relevant authorities with a view to determining specific terms and conditions for decommissioning the offshore wind farm. For example, this includes terms and conditions pertaining to the safety of navigation, buoyage and marking, or environmental protection.

If removal of only part of a plant is required, this may be supplemented by a requirement that remaining parts of the foundations are not exposed in

connection with natural, dynamic changes in the sediment. Furthermore, it is likely that there will be requirements to use the best available technology and the best environmental practice when removing the plant.

The Concessionaire must provide sufficient security (guarantee) for dismantling and decommissioning the offshore installation. The guarantee must be approved by the Regulatory Body. The guarantee must be provided by no later than *[time]* after delivering of the first electricity (kWh) from the first turbine connected to the grid. By no later than two years prior to the expiry of the electricity production licence or two years prior to when the plant is to be decommissioned, the Concessionaire must present a plan to the Regulatory Body for approval, with details of how dismantling of the plant will be carried out.

The guarantee will initially be *[amount]* for the total offshore installations (wind turbines with associated internal collection grid, including cables routing up to onshore point *[and if relevant: offshore substation(s)]*, cables) corresponding to 10% of the construction costs (CAPEX). The Regulatory Body can approve a guarantee for a lower amount against documentation that the costs of decommissioning will be lower. If the actual costs of dismantling and decommissioning the plant exceed the guarantee, the Concessionaire will assume liability for this.

If the Concessionaire can document to the Regulatory Body no later than *[time]* after delivering the first electricity (kWh) from the first turbine that the dismantling and decommissioning costs are expected to be less than *[amount]*, the Regulatory Body may decide to reduce this amount. The Regulatory Body reserves the right to order third-party verification of the assessment of the dismantling and decommissioning costs at the expense of the Concessionaire.

A guarantee of at least *[amount]* must be provided in the form of a guarantee from a financial institution, an insurance company or similar. The financial institution, insurance company or similar that provides the guarantee must meet more detailed requirements for credit rating as laid down by the Regulatory Body well in advance of the deadline for providing the guarantee. The remaining part of the guarantee can be provided in the form of a parent company guarantee. In this case, the guarantee must cover all potential costs associated with the clean-up obligation. For the Regulatory Body to accept a parent-company guarantee for the remainder of the guarantee, the parent company must have the necessary financial capacity, and this will be assessed by the Regulatory Body.

## B.12 Supervision and Inspection

The Regulatory Body will carry out supervision of compliance with the terms and conditions of the permit, as well as of emergency preparedness and IT security. The Regulatory Body will coordinate this supervision work with relevant authorities as required.

For use in the Regulatory Body's supervision work, no later than *[time]* after having obtained this permit, the Concessionaire must submit an updated overall time schedule indicating:

- > How the Concessionaire will organise work so that the entire offshore wind farm is connected to the collective electricity supply grid by not later than *[date]*.
- > Suggested dates for status meetings with the Regulatory Body, for status reporting, etc.
- > Milestones for collaboration with the TSO with respect to the onshore part of the internal collection grid.
- > The date for the supply of the first electricity (kWh) from the first turbine to the collective electricity supply grid.
- > The date for connection of the last turbine to the collective electricity supply grid.
- > When the Concessionaire expects to forward its application for a licence to exploit the wind energy (electricity production licence) and its application for authorisation to produce electricity.

For use in the supervision work, in addition to the time schedule, continuously or by no later than *[time]* prior to the planned commencement of construction work, the Concessionaire must submit documentation that the terms and conditions of this permit have been met or will be met within the relevant deadlines. This documentation is to include the following:

- > An updated noise forecast for underwater noise
- > The results of the geotechnical surveys as information for the Regulatory Body
- > A list of subcontractors for main components, including turbines and foundations, and main tasks in the construction work, including driving of piles and installation of main components
- > Final technical specifications for the selected turbine type, including a certificate according to current regulations on certification of wind turbines where such a certificate is available
- > Documentation that the foundations meet any requirements from the *[Vietnamese Maritime Authority]* regarding collision-friendly design
- > Records of the installation including an illustration of turbine siting, the internal collection grid up to the substation and coordinates for each turbine
- > Documentation that the turbines will be constructed inside the concession area
- > Temporary and permanent buoyage and marking of the work area, the offshore wind farm, cables, and turbines relative to shipping and air traffic as agreed with/approved by *[Vietnamese Maritime Authority]* and *[MOT]*, as

well as guidelines for transport as agreed with the *[Vietnamese Maritime Authority]*.

- > Clarification with the *[MOT]* on the possibility to implement light-reducing measures and approval of such measures.
- > Plan for environmental management and quality assurance of work performed in connection with the project, as well as emergency response plans.
- > A preliminary risk and vulnerability analysis (ROS) including ROS, IT-ROS and related guidelines and the template for the conclusion report, which can be requested from the Regulatory Body, as well as a draft contingency plan.
- > Relevant correspondence with other affected authorities documenting that the concessionaire meets the terms and conditions under this permit, but which do not fall under the Regulatory Body's competence.
- > A signed cooperation agreement between the Concessionaire and the TSO, which confirms the main elements and time schedule in the collaboration between the parties in the construction phase.

Detailed agreements concerning terms and conditions for the installation should be discussed directly with the relevant authority on behalf of which the terms and conditions have been established.

The *[Vietnamese Maritime Authority]* will carry out supervision of compliance with regulations on health and safety at sea, on floating and mobile platforms (jack-up platforms etc.), and of compliance with regulations on diving operations before, during and after construction of the offshore wind farm.

The *[MONRE]* will carry out environmental supervision and inspection in connection with construction and operation of the offshore wind farm project and will supervise and inspect conditions relating to noise from the wind turbines.

The Concessionaire is otherwise obligated to allow any control measures the police, the customs service, the *[MOD]*, the fisheries inspection or any other public authority may take to ensure compliance with the provisions for the construction and operation of the Offshore Wind Farm.

The Concessionaire must provide seaborne transportation and accommodation as well as internal transportation in the installation area in connection with inspections.

### B.13 Change of Owner

The Concessionaire may not, without the consent of the Regulatory Body, transfer its rights and obligations under this permit to a third party, either directly or indirectly. Indirect transfer includes situations in which the holder of the permit (the Concessionaire) is transferred, or situations in which control or controlling influence of the company changes. In this connection, the Regulatory

Body will ensure that the required economic, financial, and technical capacity is still in place. Consent will only be given if this is possible in accordance with the regulations on public procurement and state aid, the current *[Renewable Energy Act]*, the Concession Agreement as well as all the terms and conditions set out in this permit.

The Regulatory Body is entitled to request from the Concessionaire any additional document deemed relevant by the Regulatory Body for assessment of the desired transfer

## B.14 Compliance with Terms of Conditions of Permit

The Concessionaire is obligated to provide the Regulatory Body with such information as the Regulatory Body deems necessary for its supervision and inspection work. The Regulatory Body must keep commercially sensitive information confidential.

The Regulatory Body may demand a fee for processing, supervision and inspection work associated with this permit with later amendments on payment for authority processing by the Regulatory Body.

The permit granted may be revoked if terms and conditions of the permit are not fulfilled.

Fines may be imposed in the event of:

- > Breach of the terms and conditions of this permit
- > Failure to comply with orders or prohibitions, including orders to rectify an illegal matter
- > Failure to provide the information dealt with
- > Submission of incorrect or misleading information or failure to submit information upon request.

## B.15 Appeals

Pursuant to section *[XX]* of the *[Renewable Energy Act]*, a party entitled to appeal may bring an appeal against this permit before the *[Vietnamese Energy Board of Appeal – insert contact details]*.

The appeal must be in writing and must be submitted within four weeks of the decision to grant a permit for construction.

Appeals will not have suspensory effect, unless the *[Vietnamese Energy Board of Appeal]* decides otherwise. Decisions by the *[Vietnamese Energy Board of Appeal]* cannot be appealed to another administrative authority.

## B.16 Disclaimer

### B.16.1 Terms and Conditions

Note that some of the terms and conditions of this permit refer to laws and regulations issued pursuant to specific legislation falling under other authorities than the *[Ministry of Natural Resources and Environment (MONRE)]*.

The Regulatory Body cannot guarantee that all relevant regulations etc. that the Concessionaire is obligated to follow have been mentioned in this permit.

In this context, it should be noted that amendments to current regulations may take place at any time and that the Concessionaire should therefore be aware that current legislation in force is to be complied with.

Costs incurred because of terms and conditions imposed based on current legislation are of no concern to the Regulatory Body.

### B.16.2 Adjustments of Permit

The Regulatory Body reserves the right to adjust and supplement to this permit template based on the results from the strategic environmental assessment (SEA) and preliminary site investigations conducted by other Authorities once these are available, as well as based on information from the Concessionaire about the specific project and the planned preliminary site investigations.

Requirements may moreover be introduced following a possible impact assessment regarding Natura 2000 sites.

Furthermore, changes may be made to the terms and conditions of the final permit pertaining to other matters currently unknown to the Regulatory Body or other authorities.

## B.17 Coordinates of the Construction Area

The coordinates in the below table covers the area of approximately [include area] km<sup>2</sup> wherein construction of the Offshore Wind Farm shall take place.

*Table 1 The coordinates of the construction area*

<b>Point ID</b> No	<b>Easting</b> meter	<b>Northing</b> Meter	<b>Latitude</b> DD MM.mmm	<b>Longitude</b> DD MM.mmm
1	###.###, #	###.###, #	#°##,###'N	#°##,###'E
2	###.###, #	###.###, #		