EREA/DEA

# APPENDIX A

TEMPLATE FOR PRELIMINARY SITE INVESTIGATIONS PERMIT

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# Appendix A Template for Preliminary Site Investigations Permit

## Introduction to Permit Template

This template is developed to support Vietnamese Authorities when permitting for a preliminary site investigation. It is inspired by DEA's model licence for Thor Offshore Wind Farm and internal collection grid. However, the same issues and topics should be considered and addressed in case of an unsolicited application through the open-door procedure

The template will need further development to fulfil the purpose of a complete permit based on Vietnamese law and regulations.

The term 'Regulatory Body' is used for the Offshore Wind Development Committee consisting of relevant ministries for offshore wind development in Vietnam recommended to be introduced by the authorities to simplify the processes and increase transparency in the Vietnamese offshore wind market. The committee is chaired by the leading ministry appointed by the Vietnamese government and responsible for running a secretariat acting as a single point of contact to the relevant authorities. Furthermore, the leading ministry must be equipped with a suitable mandate from government setting out that this particular ministry is overall responsible for energy generation at sea and for coordination with other involved ministries and authorities.

The permit assumes the Regulatory Body has performed its own preliminary site investigations to de-risk the projects and thereby reduce the tenderers' bid prices.

In case the Regulatory Body will not perform any preliminary site investigations of its own, this permit template must be adjusted accordingly.

The following pre-conditions and criteria are important to include in the permit.

- > Time frame for the permit validity
- > Planned activities and deliverables
- Area for preliminary site investigations
- > Turbine density in MW/km²
- Wind farm capacity range from [XX] to [XX] MW
- Requirements to handover of data and processed data obtained by the preliminary site investigations to the Regulatory Body
- Consequences of violation of permit conditions

#### A.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?].

- 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]
- > The *preliminary site investigation area* is defined in Figure 1 and Table 2, [XX] km² for the area covered by the preliminary site investigations submitted by the Regulatory Body for the tender.
- > The gross project site is the project site selected by the Concessionaire of maximum [XX]km² within the preliminary site investigation area in which the Concessionaire is free to optimise the project site (the Concessionaire's preliminary site investigation area)
- The *project site* is the area for the construction of the Offshore Wind Farm within the gross project site. The area for the project site is determined based on the fixed turbine density of [XX]MW/km² and the Offshore Wind Farm's capacity, which shall be in the range between [XX] MW to [XX] MW, as defined by the Concessionaire.

#### A.2 Decision

The Regulatory Body grants permit to conduct preliminary site investigations to the Concessionaire based on the tender dated [date] pursuant to the tendering procedure for the Concession Agreement and based on information about the specific project and the preliminary site investigations submitted by the Concessionaire to the Regulatory Body on [date] and responses from key public authorities consulted about the project.

The project under this permit comprises the construction of the Offshore Wind Farm and the part of the internal collection grid located offshore, including [if relevant an offshore substation and cables routing onshore up to the Point of Connection (POC) onshore.

[A more detailed description of the Concessionaire's specific offshore wind project shall be inserted here.]

The POC onshore point is located at [insert POC point/location description]. The Offshore Wind Farm is to be connected to the electricity grid via a substation at [insert location of substation] cf. grid connection interfaces in the Concession Agreement.

The purpose of this permit for preliminary site investigations is to allow the holder of the permit to collect data and perform analyses as a supplement to the preliminary site investigations already carried out on behalf of the Regulatory Body, if any, and for use in the assessment of the Offshore Wind Farm's

potential impact on the environment, nature, air traffic, radar coverage, archaeology, etc. Therefore, among other things, the preliminary site investigations will provide information for use in preparation of an environmental impact assessment report.

It should be noted that the permit for preliminary site investigations itself does not give the holder the right to construct an Offshore Wind Farm. Thus, the award of this permit for preliminary site investigations does not imply that a final decision has been taken as to whether an Offshore Wind Farm may be established on the given site.

[It is recommended to give Concessionaires more clarity and reduce their risks by granting them some kind of exclusivity over the site, where the site investigations are undertaken. This can also provide certainty to the authorities that development activities will be undertaken by defining some progression criteria to uphold the permit.]

# A.3 EIA and Impact Assessment of the Project

The project (the Offshore Wind Farm and the offshore part of the internal collection grid) must undergo an environmental assessment pursuant to [Vietnamese Environmental Assessment Act part XX] and point [XX] of the Concession Agreement.

Furthermore, the project is covered by [section XX of Executive Order no. XX of Date] on impact assessments concerning international nature conservation sites and protection of certain species in connection with projects on establishment etc. of offshore electric power generating plants and offshore electricity supply grids (in the following referred to as the Executive Order).

[The specific assessment by the Regulatory Body of the project's possible impact on Natura 2000 sites or species will be inserted here. This assessment will be based on the results of the SEA and other preliminary site investigations and on information from the Concessionaire about the specific project, as well as an assessment of whether an impact assessment should be performed, pursuant to the Executive Order mentioned above]

## A.4 Impact Assessment of the Preliminary Investigations

The preliminary site investigations for the project are also covered by the Executive Order mentioned above.

[The assessment by the Regulatory Body of the potential impact of preliminary site investigations on Natura 2000 sites will be inserted here, including a specific explanation for the assessment based on the information provided by the Concessionaire.

The assessment by the Regulatory Body of the impact of preliminary site investigations on selected species pursuant to [Vietnamese and international nature conservation directives], including on marine mammals; and a specific explanation for the assessment based on the information provided by the

Concessionaire about the preliminary site investigations and their expected impact on the selected species.

If the Regulatory Body assesses that the planned investigations on their own or in connection with other projects or plans will have a considerable negative impact on the designation basis for any habitat site e.g., designating an area as a Nature 2000 site, then the Concessionaire will have to perform an impact assessment of the preliminary site investigations before the Regulatory Body can award a permit for preliminary site investigations pursuant of the Executive Order. If an impact assessment is to be performed, such assessment is likely to lead to an update and supplements to the terms and conditions of this permit as appropriate, including regarding mitigation measures, etc. The costs likely to occur from such terms and conditions are of no concern to the Regulatory Body.

Furthermore, a permit for preliminary site investigations cannot be awarded if the preliminary site investigations are likely to intentionally disturb the selected species in their natural range or intentionally harm or destroy the breeding or resting areas of the selected species, including marine mammals, porpoise, birds, etc. pursuant of section [XX] of the Executive Order.]

#### A.5 General Terms of Permit

This permit to perform preliminary site investigations is valid until the Regulatory Body has granted a permit for construction for the project, however for no longer than until [Insert End Date of Permission], with the possibility of an extension following a new application. Furthermore, the time limits stated in the Concession Agreement also apply.

If the area (or parts of the area) covered by this permit is not covered by, or is exempt from, Vietnamese sovereignty under international law (including by international agreement), then the Concessionaire must respect any resulting reduction of the area without the right to make claims against the Regulatory Body or the Vietnamese state in general.

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, i.e., site investigations for offshore wind farms. In this connection, the Regulatory Body will ensure that any such activities are not of major inconvenience to activities covered by this permit.

The Concessionaire must comply with regulations in force at any time, including international regulations. This permit does not exempt the holder of the permit from the obligation to obtain other permits, etc. under other legislation.

The Concessionaire is to pay all costs associated with the preliminary site investigations.

#### A.6 Area Covered by Permit

The Concessionaire is entitled to carry out preliminary site investigations within the area indicated in Figure 1 with the coordinates provided in Table 2 in section A.15 (see last page of permit).

The preliminary site investigation area in Figure 2 comprises the gross project site of no more than [XX] km<sup>2</sup>. This area will be the Concessionaire's preliminary site investigation area.

Within the gross project site of no more than [XX] km², excluding the area for the cable corridors, the Concessionaire will be granted an area in which to construct the wind turbines with a fixed turbine density of [XX] MW/km² (gross project site) and a total wind farm capacity between [XX]MW and [XX] MW, so that a farm of [XX] MW will be granted an area of [XX] km²; a farm of [XX] MW will be granted an area of [XX] km²; and a farm of [XX] MW will be granted an area of [XX] km², etc.

The Concessionaire will be free to choose the specific area within the gross project site on which to establish the Offshore Wind Farm, subject to satisfactory environmental assessments.

[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]

[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

A list with coordinates for the preliminary project site is enclosed in Table 2 in section A.15.

[Insert a map of the area of the preliminary site investigations selected by the Concessionaire]

Figure 2: Gross Project Area selected by the Concessionaire for his own preliminary site investigations for the Offshore Wind Farm

A list with coordinates for the gross project site is enclosed in Table 2 in section A.16.

# A.7 Procedures and Requirements for Preliminary Investigations

The Concessionaire must carry out an environmental assessment of the project (EIA) and must submit an environmental impact assessment report containing the information required by section [XX] of the Environmental Assessment Act, and to comply with the terms and conditions of this permit and consultation

responses from other authorities and the public enclosed in annex [X] of this permit.

Among other things, these require the Concessionaire to ...[Any specific requirements and topics following from the consultation responses will be inserted here.]

[The following terms and conditions will be inserted here provided the Regulatory Body deems it necessary to carry out an impact assessment:

In connection with the preliminary site investigations, an impact assessment must be performed of the project's impact on Natura 2000 sites, pursuant to section [] of the Executive Order above, just as specific assessments must be made regarding the impact on the selected species, pursuant to section [X] of the Executive Order above.]

The Regulatory Body has prepared

- > a strategic environmental assessment (SEA) of the overall plan for the Offshore Wind Farm covering both onshore and offshore areas of activities.
- an environmental impact assessment report (EIA report) for the onshore installations,
- an assessment of impacts on designated international nature conservation sites,
- an assessment of impacts on selected species.
- > Technical reports for a number of supplementary environmental topics for the offshore area,
- Geotechnical and geophysical surveys, and
- > obtained MetOcean data.

A list of all results and reports covered by the preliminary site investigations is in annex [XX] of the tendering materials (Existing data and results from preliminary site investigations).

[The activities described above as undertaken by the Regulatory Body can be shifted to the Concessionaire fully or partly, whatever fits into the current Vietnamese situation.]

The Concessionaire's environmental impact assessment report is to consider the results of the strategic environmental assessment (SEA), including the environmental report and the executive summary, as well as the results from the environmental impact assessment (EIA) of onshore installations belonging to the Offshore Wind Farm to ensure an overall environmental assessment of both onshore and offshore installations. Furthermore, to the extent possible, the Concessionaire must include the results from the other preliminary site investigations carried out on behalf of the Regulatory Body and the other data obtained, see annex [XX] of the tendering materials (Existing data and results from preliminary site investigations).

This permit does not include a final plan for the number of turbines, their size, foundations, and location. It is therefore a requirement that the Concessionaire determines this as part of its preliminary site investigations.

The geotechnical surveys carried out in connection with the preliminary site investigations must be completed inside the preliminary site investigation gross project site, see Figure 2, and the coordinates referred to above in Table 1. However, if the concessionaire prefers not to use any of the suggested cable corridors, then the concessionaire may carry out preliminary site investigations in a cable corridor of its own choosing, since only the farm area and the POC onshore are fixed.

The Concessionaire must carry out the preliminary site investigations in an appropriate manner and so that activities exercised by rights holders pursuant to the provisions of the [Subsoil Act], fishing activities, navigation and other commercial activities are not unreasonably impeded.

Preliminary investigation activities are likely to cause underwater noise, including in connection with geotechnical surveys and, in particular, blasting of UXO (Unexploded Ordnance) on the seabed, such as mines, gas, or ammunition. If necessary, underwater noise should be reduced to an acceptable level to accommodate Vietnam's obligations to protect certain species and to maintain a favourable conservation status in the designated habitat sites. The [responsible naval section of the Vietnamese Ministry of Defence] shall be contacted, if UXO is identified in the investigation area to ensure it is made safe

contacted, if UXO is identified in the investigation area to ensure it is made safe and removed legally. In these situations, the Regulatory Body is to be notified as well. [This condition may be updated and specified if an impact assessment pursuant to the Executive Order referred to above occasions this.]

The Concessionaire must take out insurance to cover any damage which the Concessionaire - or other persons on behalf of the Concessionaire - may cause in connection with the activities performed under this permit. Proof of this insurance must be submitted to the Regulatory Body for information prior to any investigations taking place under this permit and by no later than [date].

#### A.8 Environmental Requirements

[Based on specific information from the Concessionaire about its preliminary site investigations, relevant environmental requirements are expected to be inserted here.

This includes any requirements for the reduction and management of underwater noise in connection with geophysical and geotechnical surveys, for the protection of marine mammals, e.g., by using a soft start procedure, etc.]

## A.9 Notification Requirements to Authorities

The Concessionaire must, at its own accord, obtain any other authorisation, etc. required under other legislation, for example exemption from the beach protection line, etc. Note, for example, that permits for hydrographic surveys are to be obtained by application to the [Vietnamese Geodata Authority] and an

application to lay buoyage and measuring equipment must be submitted to the [Vietnamese Maritime Authority].

A permit from the Regulatory Body does not exempt the Concessionaire from notifying other relevant authorities, such as the [Vietnamese Maritime Authority] and the [Vietnamese Environmental Protection Agency], about any specific offshore surveys. The authorities are entitled to be present at all investigations/surveys carried out under this permit. All expenses incurred for travel and accommodation for representatives from the authorities must be borne by the Concessionaire, as required.

The concessionaire is moreover obligated to coordinate passage and any need to cordon off waters with other authorities.

The concessionaire must contact the [Vietnamese Maritime Authority] no later than [XX] weeks before commencing physical offshore surveys with a view to agreeing on the content and scope of the more detailed investigations of the significance of the turbines for navigation in the area.

The Executive Order no. [XX] dated [insert date] and the safety of navigation assessment form for work at sea must be complied with and the [Vietnamese Maritime Authority] must be notified as appropriate.

If the Concessionaire makes surveys from a vessel, the Concessionaire must:

- Contact the [Vietnamese Fishermen's Association] for a more detailed discussion of how to organise the investigations to ensure that proper and greatest possible consideration is taken of fisheries; [Insert contact details of Vietnamese Fishermen's Association]
- > Submit information on the planned investigations to ['The Fishermen's Gazette], [Insert contact details of Vietnamese Fishermen's Gazette]

Pursuant to [section XX of the Museum Act] of [insert date] the Concessionaire must contact the [Vietnamese Authority for Culture and Heritage] if protected cultural heritage remains are discovered in connection with the preliminary site investigations.

[Insert contact details Vietnamese Authority for Culture and Heritage]

Cultural heritage interests in territorial waters are protected under the [Museum Act]. Cultural heritage interests in territorial waters are protected under the [Museum Act]. The Regulatory Body has undertaken [or the Concessionaire should undertake] a marine-archaeological preliminary site investigations programme with the [Vietnamese Authority for Culture and Heritage] within the offshore wind turbine area including the following preliminary archaeological investigations:

> Testing for the existence of suspected submerged prehistoric sites through inspection and registration of selected side-scan anomalies.

- > Testing for the existence of traces of [Early Stone Age settlements] based on seismic data and geotechnical drilling.
- > A marine archaeological preliminary survey must be conducted at the expense of the contractor, pursuant to section [XX] of the [Museum Act].

The Concessionaire must contact the [Vietnamese Authority for Culture and Heritage] with a view to clarifying whether the preliminary investigations carried out by the Regulatory Body are to be updated or supplemented.

The Vietnamese Authority for Culture and Heritage] will decide the scope of such investigations on based on a specific investigation and budget proposal ordered by a preselected Contractor decided by the [Vietnamese Authority for Culture and Heritage].

As part of the preliminary site investigations, various degrees of risk have been documented for the occurrence of unexploded ordnance (UXO) in the preliminary investigation areas. If UXO is to be removed, this will be at the expense of the Concessionaire. Blasting is often used in connection with making safe any UXO on the seabed. This procedure is carried out by the [Naval Staff of Joint Defence Command].

Work on the seabed in restriction areas where there may be UXO requires permission through a special procedure, see [Vietnamese Maritime Authority] Executive Order no. [X] of dated [insert date] with later amendments on bans on navigation, anchoring and fishing, etc. in certain parts of Danish waters:

- If deemed necessary in a prior risk assessment, the corridor in the restriction or prohibited area to be used in connection with the preliminary investigations is initially to be investigated and checked for mines and other explosive objects. A plan for this preliminary investigation and work procedure is to be sent to the [Vietnamese Defence Command] for approval, with a copy to the [Vietnamese Maritime Authority]. The co-ordinates of the corridor are to be given in [datum ETSR89] and information about the vessel or craft used for the purpose is to be provided.
- Once the [Vietnamese Defence Command] has approved the preliminary investigation plan in writing, with a copy to the [Vietnamese Maritime Authority], the [Vietnamese Maritime Authority] may grant permission for navigation in the corridor to carry out surveys for UXO. If any objects are found, guidelines from the [Vietnamese Defence Command] must be followed. The preliminary investigation is also to state at what depth beneath the seabed the survey was undertaken.
- The results of the preliminary investigation must be submitted to the [Vietnamese Defence Command] for approval of subsequent navigation with large vessels, more detailed investigations of the area as well as subsequent works in the seabed at the investigated depth. The [Vietnamese Maritime Authority] will then give permission in writing for navigation in the corridor to perform the planned works.

# A.10 Reporting Requirements and Processing of Data

As the investigations are completed, and the results and data become available, they are to be submitted free of charge to the Regulatory Body if it so requests. The Regulatory Body reserves the right to publish the raw data collected during the preliminary site investigations.

All raw data collected during preliminary site investigations relating to aspects of nature and the environment must be made available to the public, if possible free of charge, via the joint public databases handled by the Vietnamese authorities (e.g., The Vietnamese Natural Environment Portal and the specialist data centres of the Ministry of Environment).

The Concessionaire is responsible for raw data being in the right formats and quality-assured so that it can be included in the joint public databases. Issues regarding data reporting and formats must be coordinated with those authorities responsible for the joint public databases.

Raw data from any supplementary geotechnical preliminary site investigations must be submitted free of charge to [Vietnamese Geological Survey Authority]. Questions pertaining to data reporting and formats are to be coordinated with [Vietnamese Geological Survey Authority] pursuant to Executive Order no. [XX] of [insert date] on submission of samples and other information about the Vietnamese subsoil.

All data from hydrographic surveys is to be submitted free of charge to the [Vietnamese Geodata Agency].

To monitor impulse noise from the seismic surveys, these activities must be reported to the [Vietnamese Environmental Protection Agency]. The reporting must include the time of the noisy activity (day), position, sound level and an indication of which activity has caused the impulse noise

#### A.11 Change of Owner

The Concessionaire must obtain consent from the Regulatory Body if – directly or indirectly – it intends to transfer its rights and obligations under this permit to a third party. In this connection, the Regulatory Body will check that the required technical and financial capacity is in place. Moreover, consent will only be given if this is possible in accordance with the [Vietnamese regulations] on public procurement and state aid, the current [Renewable Energy Act], the Concession Agreement and 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.

# A.12 Compliance with Terms of Conditions of Permit

The Regulatory Body is entitled to demand a fee for processing and supervision work in relation to the permit, see Executive Order no. [XX] of [insert date] on payment for authority processing by the Regulatory Body.

The Concessionaire is obligated to provide the Regulatory Body with such information as the Regulatory Body deems necessary for its supervision and inspection work, see section [XX] of the [Renewable Energy Act]. The Regulatory Body must keep commercially sensitive information confidential.

The Concessionaire must comply with current regulations in force at any time, including international regulations, which are immediately applicable.

This permit may be revoked if any of the terms and conditions of the permit are not met.

Fines may be imposed, see section [XX] of the [Renewable Energy Act], in the event of:

- > Breach of the terms and conditions of this permit,
- Failure to comply with orders or prohibitions under the [Renewable Energy Act], including orders to rectify a legal matter
- > Failure to provide the information dealt with in section [XX] of the [Renewable Energy Act],
- > Submission of incorrect or misleading information or failure to submit information upon request.

#### A.13 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 preliminary site investigations.

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.

#### A.14 Disclaimers

#### A.14.1 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 as a result of terms and conditions imposed based on current legislation are of no concern to the Regulatory Body.

#### A.14.2 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.

# A.15 Coordinates of the Preliminary Site Investigation Area

The coordinates in the below table cover the area of approximately [include area] km² where preliminary site investigations were conducted on behalf of the Regulatory Body [or the Concessionaire].

Table 1 The coordinates of the gross project area

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

# A.16 Coordinates for the Gross Project Area

The coordinates in the below table covers the gross project area of approximately [include area] km² selected by the Concessionaire for its own preliminary site investigations.

Table 2 The coordinates of the gross project area

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