



Celtic Sea Power Ltd
Chi Gallos, Hayle Marine Renewables Business Park
North Quay
Hayle
Cornwall
TR27 4DD

Tel: 01736 800290

10/12/2024

Dear _[Bidders Contact]_____.

1. Celtic Sea Power Ltd (CSP) write with regards to the issue of the Technical Brief for the FLOWmark Digital App to the Recipient for the use of responding to the Invitation to Tender for the development of said app.
(the “**Purpose**”). This agreement sets out the terms and conditions pursuant to which the Parties are prepared to disclose Confidential Information to each other.
2. For the purposes of this agreement:

“**Confidential Information**” means the terms of any discussions between the Parties or the Parties' respective representatives together with any or all technical, commercial, financial and/or other information which a Party designates in writing as being confidential or by its nature would reasonably be considered to be confidential and/or commercially sensitive, including without limitation, information relating to IPR, trade secrets, analyses, compilations, forecasts, studies, inventions, designs, drawings, and other material related to the same, non-public financial information including without limitation accounting information, business and marketing plans, business methods, pricing policies, product ideas, and other business, technical, marketing or operating information, whether disclosed orally or in written hard copy or electronic form or in or on any other media or format.



- “Disclosing Party”** means the Party disclosing Confidential Information to a Recipient.
- “IPR”** means intellectual property rights of all kinds including without limitation copyright, registered designs, design rights, trademarks and service marks (whether registered or not), patents, know-how and database rights together with any overseas equivalents and the right to register, protect and exploit the same anywhere in the world.
- "Onward Disclosure"** shall bear the meaning given to such term in paragraph 5.
- “Party”** means Sea Engineering Solutions and CSP and **"Parties"** shall mean all of them or any subset thereof.
- “Recipient”** means the Party receiving Confidential Information from a Disclosing Party.
- "Secondary Recipient"** shall bear the meaning given to such term in paragraph 5.
- “CSP ”** means Celtic Sea Power Ltd.
- "Working Day"** means any day not being a Saturday, a Sunday, a Bank Holiday or any other public holiday.
3. In this agreement (where the context requires), a reference to a person shall include a reference to any individual, company, partnership, trust, association, government, non-departmental government body or local authority department or other authority or body (whether corporate or unincorporated).
4. This agreement between the Parties shall remain in force for a period of five (5) years following the date of its execution. Subject to paragraph 5, paragraph 6 and paragraph 9 below and in consideration of the mutual disclosure of Confidential Information between the Parties, each Party (as a Recipient) undertakes with each other Party as follows:
- to only use the Confidential Information for the Purpose.
 - to keep the Confidential Information strictly confidential.
 - not, without the prior written consent of the Disclosing Party, to disclose or use directly or indirectly, in any manner whatsoever, the Confidential Information other than in connection with the Purpose.



- to disclose the Confidential Information only to such persons being their respective employees or professional advisors who reasonably need to know the Confidential Information for the Purpose.
 - to ensure that, prior to disclosure, all persons to whom Confidential Information is disclosed as permitted under the terms of this agreement have either expressly agreed and are legally obliged to act in accordance with the terms of this agreement (as if each such person were a party to it and had given an undertaking in like terms) or such persons are subject to a binding obligation to adhere to the terms of this agreement by virtue of them being one of our employees and to strictly and expeditiously enforce all such terms and obligations aforesaid; and
 - to take all steps necessary to prevent the Confidential Information from being disclosed or made public to any third party by either themselves or persons under their respective control.
5. The Parties acknowledge that a Recipient may need to share Confidential Information it has received from a Disclosing Party with the remaining Parties hereunder (each a **"Secondary Recipient"**) for the benefit of the Purpose (such sharing being an **"Onward Disclosure"**). Such Onward Disclosure by the Recipient shall hereby be permitted (and shall not constitute a breach by the Recipient hereunder) subject to the following:
- the Disclosing Party shall be kept fully informed by the Recipient of the occurrence and form (hard or electronic) of each Onward Disclosure; and
 - each Secondary Recipient shall comply fully with the remaining provisions of this agreement with respect to the Confidential Information shared and shall owe a primary obligation to the original Disclosing Party with regard to such compliance such that the Confidential Information shared shall be treated as having been disclosed to the Secondary Recipient by the Disclosing Party.
6. The obligations placed on each Party (as a Recipient) by this agreement shall not apply to Confidential Information:
- which can be conclusively proven was known to the Recipient prior to its communication by or receipt from the Disclosing Party (as evidenced by acceptable records) without the Recipient's knowledge having been gained through breach of any confidentiality restrictions by any person.
 - which is or becomes part of the public domain through no fault of the Recipient or the persons to whom it may have lawfully disclosed.



- which becomes known to the Recipient by the action of another person not, in so far as the Recipient is aware, in breach of any obligation of confidentiality owed to the Disclosing Party; and
 - five (5) years after the date of its disclosure.
7. Without prejudice to the generality of a Party's obligations to keep the Confidential Information strictly confidential, each Party (as a Recipient) agrees to:
- make copies of the Confidential Information only to the extent that such copies are strictly required for the Purpose.
 - not use, reproduce or store any of the Confidential Information in an externally accessible computer or electronic retrieval system unless the relevant computer or electronic system has sufficient security to prevent unauthorised access to the Confidential Information; and
 - comply as expeditiously as possible with any request from the Disclosing Party to return or destroy the Confidential Information and all copies, adaptations or variations thereof without retaining any copies.
8. Each Party acknowledges and agrees that:
- no Party makes any express or implied representation, warranty or undertaking as to the accuracy, efficacy, completeness, fitness for a particular purpose or safety of any materials or Confidential Information provided under this letter.
 - no Party accepts liability that may be based on its reliance on the Confidential Information or any errors in or omissions from it.
 - nothing in this agreement shall exclude or restrict the liability of a Party for fraudulent misrepresentation and/or for death or personal injury resulting from the negligence of a Party or that of any of its officers or employees.
 - any Confidential Information disclosed by or through a Party belongs to the Disclosing Party or to the relevant third party(ies) who the Disclosing Party obtained it from and not to the Recipient.
 - neither the execution or delivery of this agreement nor the disclosure of Confidential Information to a Recipient shall be construed as granting such Party either expressly or by implication any license or rights other than those expressly set out in this agreement.



- this agreement and the rights and obligations contained within it, may not be transferred or assigned by a Party without the prior written consent of each other Party.
 - no failure or delay by a Party in exercising any right, power or privilege contained within this agreement shall operate as a waiver of the same, nor shall any single or partial exercise of the same preclude any or further exercise thereof or the exercise of any other right power or privilege contained within this letter;
 - this agreement shall be governed by and construed in accordance with the laws of England and each Party submits to the exclusive jurisdiction of the English Courts.
 - no variation to this agreement shall be effective unless in writing and signed by a duly authorised representative on behalf of each Party.
 - this agreement contains the entire understanding between the Parties relative to the protection of the Confidential Information and supersedes all prior and collateral communication, reports and understandings between the Parties relating thereto; and
 - nothing in this agreement shall be deemed to oblige a Party to negotiate or enter into any other agreement with any other Party.
9. The Parties acknowledge that CSP is a public authority for the purpose of the Freedom of Information Act 2000 ("**FOIA**") and the Environmental Information Regulations 2004 ("**EIR**") and that, as a government company, CSP cannot contract out of our obligations under FOIA and EIR. However, CSP recognise that disclosure of Confidential Information or other information pursuant to a request under the FOIA or EIR could be commercially damaging to a Party's interests and that such disclosure is an irrevocable act. Upon receipt of such a request, CSP will notify all relevant Parties and provide details of the request. CSP shall make an analysis as to whether the Confidential Information or other information requested is capable of benefiting from an exemption and shall consult with the relevant Parties for that purpose. Prior to any disclosure being made, CSP will notify each relevant Party to enable each such Party to make representations to CSP subject to the Request. CSP will take into consideration any such representations when considering what its obligations are to disclose and the exemptions from disclosure under the FOIA or EIR. If the information is capable of benefitting from an exemption from disclosure, CSP shall not disclose it. Notwithstanding the foregoing, CSP shall have no liability to any Party in respect of any disclosure CSP is required to make pursuant to the FOIA and/or EIR.



10. Should any provision of this agreement differ from a parallel position in a bilateral agreement between any two Parties, the more restrictive provision shall govern as between such Parties.

If you are in agreement with the above, please sign and return the enclosed copy of this letter.

Yours sincerely,

Matthew Hodson
Duly authorised for and on behalf of **Celtic Sea Power Limited**
DATED ...09/12/24.....

.....HEREBY ACKNOWLEDGES receipt of the letter, of which this is
a true and complete copy, and agrees to its terms.

..... DATED
For and on behalf of _____