[JOGMEC Form 1] Confidentiality Pledge

Date: [Day] [Month], 2025

**Confidentiality Pledge**

(Offshore [Area Name])

To: Japan Organization for Metals and Energy Security (“**JOGMEC**”)

Company Name: [Company Name]

Address: [Address]

Name of Signer: [Name]

To whom it may concern:

**Whereas** we, [Company Name] (“**Recipient**”), desire to receive **Confidential Information** (defined hereafter in Article 1, Paragraph 1), having received authorization from the Ministry of Economy, Trade and Industry of Japan and the Ministry of Land, Infrastructure, Transport and Tourism of Japan to receive such Confidential Information for the **Purpose** (defined hereafter, whereby such Purpose depends on the nature of the Recipient’s nature of participation) in the **Public Bidding**, (which means the public bidding for offshore [Area Name] (“**Promotion Area**”) under the *Act on Promoting the Utilization of Sea Areas for the Development of Marine Renewable Energy Power Generation Facilities*, Act No. 89 of 2018 (“**Act**”)).

**Whereas** the Recipient pledges to maintain confidentiality of such Confidential Information in accordance with the terms and obligations of this pledge (“**Pledge**”). **By submitting this Pledge in English, the Recipient agrees to abide all the terms and conditions stipulated in the Japanese version of this Pledge (attached hereto) that is substantially the same as this Pledge, and further, the Recipient agree that the Japanese version shall prevail if anything is inconsistent between the two languages.**

**Whereas** thePurpose of this Pledge means the following, depending on the nature of the Recipient:

For **Applicant** (defined in Article 1, Paragraph 4), **Representative Company** (defined in Article 1, Paragraph 5), or **Consortium Member** (defined in Article 1, Paragraph 6): to participate in the Public Bidding;

For **Affiliate** (defined in Article 1, Paragraph 7): to provide assistance and cooperation in the participation for the Public Bidding;

For **Application Advisor** (defined in Article 1, Paragraph 8): to review the proposal of the exclusive occupancy and use plan for the Public Bidding; and

For **Cooperating Company** (defined in Article 1, Paragraph 9: to assist and cooperate in reviewing the proposal of the exclusive occupancy and use plan for the Public Bidding.

**Whereas** if the Recipient has been notified by the Ministry of Economy, Trade and Industry of Japan and the Minister of Land, Infrastructure, Transport and Tourism of Japan that it was selected as the Appointed Business Operator for the exclusive occupancy of the Promotion Area in the Public Bidding under the provisions of Article 15, Paragraph 6 of the Act, JOGMEC and such Recipient shall execute a further agreement with respect to the Confidential Materials (defined in Article 1, Paragraph 3), in accordance with the “Pledge for Use of the Results of the Offshore [Area Name] Renewable Energy Facilities Development Promotion Area Survey” (“**Pledge for Use**”). Further, if the Recipient is designated as the **Secondary Recipient** (defined hereafter in Article 2, Paragraph 3) by the Appointed Business Operator, in accordance with the Pledge for Use, JOGMEC and the Recipient shall execute a further agreement with respect to the Confidential Information.

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# **Article 1 (Definitions)**

1. **“Confidential Information”** means one of the following:
2. The deliverables related to the Promotion Area or the Public Bidding that the Recipient receives from JOGMEC, including but not limited to, any information resulting from the site investigation in the Promotion Area, the existence of the deliverables, and the contents of the deliverables, and any copies or reproductions thereof by the Recipient or the Secondary Recipient;
3. Any information newly generated by processing, analyzing, compiling, or integrating the aforementioned deliverables by the Recipient or the Secondary Recipient;
4. Any other information expressly indicated to be confidential to the Recipient upon disclosure thereof; or
5. The existence and the contents if this Pledge.
6. Notwithstanding the foregoing, any information that falls under any of the following items shall not be included in the Confidential Information, provided that the Recipient shall provide the basis for such information in writing:
7. Information that is already in legal possession of the Recipient at the time of receipt from JOGMEC;
8. Information that the Recipient legitimately obtained from a third party without being subject to any obligation of confidentiality after the time of receipt from JOGMEC, and for which the said third party has a legitimate right to disclose or provide such information to the Recipient;
9. Information that is already publicly available at the time of receipt from JOGMEC;
10. Information that has been made available to the public after the time of receipt from JOGMEC, whereby such public availability is not the result of the Recipient’s breach of any of its obligations hereunder, including, but not limited to, the Recipient’s confidentiality or other obligations under this Pledge; or
11. Information created by the Recipient on its own without using the Confidential Materials (defined in Article 1, Paragraph 3) provided by JOGMEC.
12. **“Confidential Materials”** means Confidential Information and the recording media containing Confidential Information including, but not limited to, documents, drawings, photographs, USB memory sticks, CDs, DVDs, hard disk drives, and magnetic tapes, all of which include copies and reproductions (“Recording Media”).
13. **“Applicant”** means any of those who apply to the Public Bidding by itself without forming a consortium.
14. **“Representative Company”** means any of those who apply to the Public Bidding representing a consortium and are responsible for representing said consortium.
15. **“Consortium Member”** means any of those who apply to the Public Bidding as consortium members not responsible for representing said consortium.
16. **“Affiliate”** means an affiliated company of the Applicant, the Representative Company, or the Consortium Member, where the term “affiliated” shall be in accordance with Article 2, Paragraph 3, Item 25 of the *Corporate Calculation Regulations* (2006 Ministry of Justice Ordinance No. 13).
17. **“Application Advisor”** means a lawyer, certified public accountant, tax accountant, consultant, or other professional who has been appointed by the Applicant, the Representative Company, or the Consortium Member to review the application proposals for the Public Bidding.
18. **“Cooperating Company”** means any of those who have been appointed by the Applicant, the Representative Company, or the Consortium Member to serve as fund providers or contractors with respect to the Public Bidding.
19. Any term not defined in this Article shall be interpreted in accordance with the guideline of exclusive occupancy and use for the Public Bidding.

# **Article 2 (Purpose of Use)**

1. JOGMEC provides the Recipient with the Confidential Materials through a centralized survey data provision service (**“Service”**) provided on the data platform system. The Recipient shall agree to the attached “System Terms of Use” when using this Service.
2. The Recipient shall receive the Confidential Materials only for the Purpose and shall not use the Confidential Materials for any purpose other than the Purpose.
3. If the Recipient intends to be an Applicant or a Representative Company, only when the Recipient shall submit [Form 3] (Designation of the Secondary Recipient) “Provision of Information for Offshore [Area Name]”, dated [MM/DD/YYYY] or [Form 3-2] (Change of the Designation of the Secondary Recipient) to the Minister of Economy, Trade and Industry of Japan and the Minister of Land, Infrastructure, Transport and Tourism of Japan, and abiding to the contents of such documents, the Recipient may provide the only part of the Confidential Materials stipulated in Article 1, Paragraph 1, Item 2 to the Consortium Members, the Affiliates, the Applicant Advisors, and the Cooperating Companies that are approved and notified by the Minister of Economy, Trade and Industry of Japan and the Minister of Land, Infrastructure, Transport and Tourism of Japan as the Secondary Recipients (**“Secondary Recipient”**).

# **Article 3 (Confidentiality) [Note]**

1. If the Recipient intends to be an Applicant or a Representative Company in the Public Bidding, the Recipient shall maintain confidentiality of Confidential Materials and, unless disclosure is permitted under the preceding Article 2, Paragraph 3, shall not disclose or provide the Confidential Materials to a third party (excluding the Ministry of Economy, Trade and Industry of Japan, the Ministry of Land, Infrastructure, Transport and Tourism of Japan, and other cases where disclosure or provision of information is legally required).
2. If the Recipient intends to be an Applicant or a Representative Company, if a third party with an interest in the Promotion Area suffers damage as a result of the handling of such information, the Recipient shall be solely liable for any damage caused to such third party.
3. If the Recipient intends to be an Applicant or a Representative Company, in the case provided for under Article 2, Paragraph 3, the Recipient shall make the Secondary Recipients bear the same or stricter confidentiality obligations as this Pledge. If such Secondary Recipients breach such obligations, the Recipient shall be solely responsible for any breach of confidentiality obligations by such Secondary Recipients.
4. If the Recipient intends to be a Consortium Member, an Affiliate, an Application Advisor, or a Cooperating Company in the Public Bidding, the Recipient shall maintain confidentiality of the Confidentiality Materials and shall not provide the Confidentiality Materials to a third party. However, of the Confidential Materials, the Recipient may disclose only the Confidential Materials under Article 1, Paragraph 1, Item 2 to (i) any Applicant that designated the Recipient as the Secondary Recipient, (ii) any Representative Company that designated the Recipient as the Secondary Recipient, or (ii) any Secondary Recipient designated by the same Applicant or the Representative Company that designated the Recipient as the Secondary Recipient.

[Note] Please attach a separate document (free format) detailing the management method and management system for the Confidential Materials provided.

# **Article 4 (Duty of Care)**

The Recipient shall handle the Confidential Materials with the duty of care. If JOGMEC specifies a manner of handling the Confidential Materials, the Recipient shall handle Confidential Materials in accordance with such method specified by JOGMEC.

# **Article 5 (Handling of Personal Information)**

For the Confidential Materials that constitute personal information, the Recipient shall use and retain such personal information only to the extent permitted by applicable laws and regulations (“**Laws**”), to the extent permitted by the government of Japan, to the extent permitted for use and retention by the Recipient, and with appropriate management of such information that is required by the government of Japan and the Recipient under the Laws.

# **Article 6 (Term)**

Regardless of whether (i) the Recipient does not submit the exclusive occupancy and use plan for the Public Bidding, (ii) the Recipient is not selected as an Appointed Business Operator in the Public Bidding, (iii) the Recipient is selected as an Appointed Business Operator in the Public Bidding, or (iv) the Recipient transfers its rights as an Appointed Business Operator under Article 20 of the Act to a third party, the obligations of the Recipient stipulated under Articles 2, 3, and 4 of this Pledge shall remain in effect until the date when the conditions for the destruction of the Confidential Materials stipulated in Article 9, Paragraphs 2 and 3 are fulfilled, and the obligations of the Recipient stipulated in Article 7 through Article 11, Article 14, and this Article 6 shall remain as long as the subject matter exists.

# **Article 7 (Duty to Report and Correct the Situation)**

1. If the Recipient intends to be an Applicant or a Representative Company in the Public Bidding, the Recipient shall immediately notify JOGMEC in writing to that effect if: (i) the Recipient or a Secondary Recipient is found to have used the Confidential Materials for any purpose other than the Purpose; (ii) the Confidential Materials are divulged by, lost by, stolen from, or fraudulently used after having been stolen from the Recipient or a Secondary Recipient; (iii) a third party obtains the Confidential Materials from the Recipient or a Secondary Recipient through means other than those permitted by this Pledge; or (iv) the Recipient or a Secondary Recipient becomes aware of the possibility of events described in items (i) through (iv).
2. If the Recipient intends to become a Consortium Member, an Affiliate, an Application Advisor, or a Cooperating Company in the Public Bidding, the Recipient shall immediately notify JOGMEC in writing to that effect if: (i) the Recipient has used Confidential Materials for any purpose other than the Purpose; (ii) the Confidential Materials have been divulged by, lost by, stolen from, or fraudulently used after having been stolen from the Recipient; (iii) a third party obtains the Confidential Materials from the Recipient through means other than those permitted by this Pledge; or (iv) the Recipient becomes aware of the possibility of events described in items (i) through (iv).
3. In the event of occurrence of any of the situations set forth in the preceding two Paragraphs, the Recipient shall take necessary measures to correct or prevent such situation in accordance with the instructions from JOGMEC.

# **Article 8 (Penalties)**

In the event of occurrence of any of the situations set forth in Paragraphs 1 or 2 of the preceding Article, the Recipient acknowledge that the Recipient may be disqualified from participating in the Public Bidding or any other public biddings for any other offshore zones under the Act, and further, in such instance, the Recipient may not be involved in the Public Bidding or any other public biddings for any other offshore zones under the Act as an Affiliate, an Application Advisor, a Cooperating Company, or any other positions.

# **Article 9 (Destruction of Confidential Materials including Confidential Information)**

1. The Recipient undertakes to promptly destroy all Confidential Materials in accordance with the conditions for destruction set forth in the items stipulated in the following Paragraph. In any case, if the Recipient has provided the Confidential Materials under Article 1, Paragraph 1, Item 2 to the Secondary Recipient, the Recipient undertakes to have such Secondary Recipient promptly destroy all Confidential Materials provided to them. If the Recipient receives a notice that the Recipient is selected as an Appointed Business Operator under Article 15 of the Act or the Recipient is a Secondary Recipient designated by the Recipient and notified to JOGMEC, the handling of Confidential Materials shall be separately agreed between the Recipient and JOGMEC in accordance with the Pledge of Use.
2. The condition of destruction in the preceding Paragraph refers to cases where the Recipient, the consortium which the Recipient belongs to, or the applicant for which the Recipient serves as an Affiliate, Application Advisor, or a Cooperating Company, falls under any of the following conditions.
3. If not participating in the Public Bidding: within one month from the application deadline of the Public Bidding (which means the deadline of submitting the exclusive occupancy and use plan stipulated under the guideline of exclusive occupancy and use for the Public Bidding).
4. If not selected in the Public Bidding as an Appointed Business Operator: within one month from the publication date of the results of the Public Bidding.
5. If selected in the Public Bidding as an Appointed Business Operator: within one month from the date the selection as an Appointed Business Operator is cancelled or within one month from the date of termination of the exclusive occupation of the Promotion Area.
6. If selected in the Public Bidding as an Appointed Business Operator and assigns its rights to a third party in accordance with Article 20 of the Act: within one month from the date of succession by such third party.
7. If the Public Bidding does not take place: within one month from the date the Ministry of Economy, Trade and Industry of Japan and the Ministry of Land, Infrastructure, Transport and Tourism of Japan demand the destruction of Confidential Materials.
8. In the event that Confidential Information cannot be destroyed pursuant to the provisions of the preceding Paragraph because the Confidential Information is required to be retained by the Laws, judgments of judicial bodies, decisions, orders, or dispositions by an administrative body, the Recipient shall notify JOGMEC, or have its Secondary Recipients notify JOGMEC, as the case may be, of the scheduled date of destruction with the reason therefor, and when the obligation to retain confidentiality is terminated due to the expiration of the period for which the Confidential Materials is required to be retained, the Recipient shall promptly destroy all such Confidential Materials.
9. The Recipient shall report to JOGMEC, or have its Secondary Recipients report to JOGMEC, as the case may be, when the Recipients or its Secondary Recipients, as the case may be, destroys Confidential Materials in accordance with the provisions of the preceding two Paragraphs.

# **Article 10 (Audit)**

1. The Recipient shall permit JOGMEC, when requested with a prior notice of five days from JOGMEC to the Recipient, to audit the Recipient’s management status of Confidential Materials during the Recipient’s business hours.
2. When requested, the Recipient shall report to JOGMEC ~~of~~ its management status of Confidential Materials in a format prescribed by JOGMEC.

# **Article 11 (Damages and Compensation)**

1. In the event that the Recipient violates the confidentiality obligation or any other obligation under this Pledge (including where the Recipient is deemed to have breached any of its obligations under this Pledge), the Recipient shall immediately take any action deemed necessary by JOGMEC and shall indemnify or compensate JOGMEC for any damages, losses or expenses incurred by JOGMEC as a result of such violation.
2. The Recipient shall not be granted any rights to the Confidential Materials, except as provided in this Pledge, and JOGMEC shall have all right or authority over the Confidential Materials (including but not limited to intellectual property rights, including but not limited to database copyrights, whereby copyrights include the rights under Articles 27 and 28 of the *Copyright Act* (1970 Law No. 48)). (In the event that the Recipient is notified as the Appointed Business Operator as stipulated in Article 15 of the Act, the handling of such rights or authority shall be separately determined between the Recipient and JOGMEC in accordance with the Pledge of Use.) JOGMEC confirms that JOGMEC makes no warranty for the accuracy, completeness, validity, safety, quality, and content of the Confidential Materials for achieving the Purpose, and JOGMEC shall assume no responsibility with respect thereto.
3. The Recipient shall not claim compensation or indemnification from JOGMEC even if the Recipient incurs any damage arising from or related to the use of the Confidential Materials by the Recipient or a Secondary Recipient, and in the event that JOGMEC incurs any damage arising from or related to the use of the Confidential Materials by the Recipient or a Secondary Recipient, the Recipient shall immediately pay compensation or indemnification to JOGMEC for such damage.

# **Article 12 (Assignment)**

The Recipient shall not assign, encumber, or otherwise dispose of its position under this Pledge or any rights or obligations arising under this Pledge to third party, except with the prior consent of JOGMEC.

# **Article 13 (Amendment)**

No amendments or modifications to this Pledge shall be effective unless agreed to in writing by the Recipient and JOGMEC.

# **Article 14 (Dispute Resolution)**

1. In the event of any doubt concerning this Pledge or any matter not set forth herein, the Recipient and JOGMEC shall consult with each other in good faith.
2. This Pledge shall be governed by the laws of Japan.
3. The Tokyo District Court shall have exclusive jurisdiction in the first instance over any litigation that may be necessary in connection with this Pledge.

# **Article 15 (Payment of Site Survey Costs)**

If the Recipient intends to be an Applicant, a Representative Company, or a Consortium Member in the Public Bidding, upon receipt of notification from the Minister of Economy, Trade and Industry of Japan and the Minister of Land, Infrastructure, Transport and Tourism of Japan that the Recipient is chosen as an Appointed Business Operator in accordance with Article 15, Paragraph 6 of the Act, the Recipient shall pay JOGMEC the site survey costs JOGMEC incurred in providing the Confidential Materials. Further details of the payment of the site survey costs shall be provided to the Recipient by JOGMEC, the Ministry of Economy, Trade and Industry of Japan, or the Ministry of Land, Infrastructure, Transport and Tourism of Japan.

# **Article 16 (Electromagnetic Records)**

1. With respect to the forms and other documents to be prepared under this Pledge (referring to paper or other tangible media, on which information such as text and writing, diagrams, or other perceptible data is recorded), unless otherwise specified by JOGMEC, the Recipient may substitute the preparation of such forms and documents by preparing electromagnetic records (referring to records created by electronic, magnetic, or other methods not perceptible to human senses) that contain the required information to be written on such forms and other documents. In such cases, the electromagnetic records shall be deemed equivalent to the forms and documents.
2. The forms and documents prepared pursuant to the preceding Paragraph shall be submitted in the manner specified by JOGMEC. Furthermore, such forms and documents shall be deemed to have been received by JOGMEC at the time they are recorded in the file provided in the computer system used by JOGMEC.
3. This Pledge shall be prepared as an electromagnetic record, affixed with an electronic signature, and submitted to JOGMEC as such electromagnetic record.