

NON-DISCLOSURE AGREEMENT



IMAGINE GLOBAL SOLUTIONS LIMITED

Prepared by:

January 20, 2021

imagine clobal solutions ltd

29a adebisis ogunniyi crescent

Lekki Phase 1

&

CYDENE ENERGY SERVICES LIMITED

**THE NON-DISCLOSURE AGREEMENT** is entered into this day of …………..2020

**BETWEEN**

**IMAGINE GLOBAL SOLUTIONS LIMITED,** a limited liability company duly incorporated under the Laws of the Federal Republic of Nigeria, with its principal place of business situate at Plot 29a, Block 112 Adebisi Ogunniyi Street, Lekki Phase 1, Lagos(hereinafter referred to as the **"Disclosing Party''** or **“the Company"**, which expression shall where the context so admits include its successors-in-title and assigns) of the one part;

**AND**

**CYDENE ENERGY SERVICES LIMITED Lagos**(hereinafter referred to as the “Receiving Party"), which expression shall where the context so admits include its successors-in-title and assigns) of the other part;

Individually, each party hereto shall be referred to as a **“Party”** and collectively, as the **“Parties”**.

**WHEREAS:**

1. The Parties desire to enter into discussions with respect to providing access to funds (the “Purpose).
2. In view of the Purpose and to enable discussions to take place, the Disclosing party shall disclose to the Receiving Party certain information, knowhow, products and ideas which are proprietary in nature and comprise commercial and industrial assets of considerable value.
3. The Receiving Party on behalf of itself and representatives agrees with and undertakes to keep confidential the information provided by the Disclosing Party in accordance with the terms of this Agreement.

**IT IS NOW AGREED THAT:**

1. **DEFINITION AND** **INTERPRETATION**

In this Agreement:

* 1. **"Agreement"** means this Non-Disclosure Agreement;
  2. **"Confidential Information"** means any and all information, of whatever nature, in whatever form, whether or not marked as confidential, which is disclosed or made available, either directly or indirectly, by the Disclosing Party, its agents, advisers and/or Representatives to the Receiving Party and/or its Representatives in connection with the Purpose, including, information relating to the Disclosing Party (or its Affiliates') business, samples, personal information of its staff and officers, formulations, ingredients, materials, specifications, designs, logos, photographs, drawings, processes, uses, technical data, business ideas, know-how, experience, business strategies, trade secrets, formulae, marketing and finances and all copies, notes, reports, analyses and reviews of the aforementioned prepared by the Disclosing Party or on its behalf in connection to the Purpose;
  3. **“Disclosing Party”** means the party to this Agreement which discloses the Confidential Information pursuant to this Agreement.
  4. **“Receiving Party”** means the party to this Agreement to whom the Confidential Information is disclosed.
  5. **"Representatives"** means the directors, officers, employees, and Affiliates of the Respective parties to this Agreement.
  6. An **"Affiliate"** shall include any person who controls, is controlled by, or is under common control with the respective party.
  7. The term **'person'** as used in this Agreement shall be broadly interpreted to include without limitation any corporation, company, partnership or individual.

1. **CONFIDENTIALITY OBLIGATIONS**
   1. As a condition to, and in consideration of, the Disclosing Party disclosing or making available Confidential Information to the Receiving Party, the Receiving Party undertakes:
      1. to keep the Confidential Information completely and strictly confidential;
      2. that its Representatives must hold all Confidential Information in the strictest of confidence;
      3. not to disclose the whole or any part of the Confidential Information to any person (subject to Clause 3 of this Agreement) unless authorized in writing by the Disclosing party;
      4. not to use the Confidential Information for its own benefit or for the benefit of anyone other than the Disclosing Party;
      5. to use the Confidential Information only for the Purpose and not for any other purpose;
      6. to restrict access to the Confidential Information to its Representatives and affiliates who need to know the same for the purpose of carrying out any task required by the Receiving Party for the furtherance of the Purpose (hereinafter called **"the Permitted Persons"**). The Receiving Party agrees to ensure that its Permitted Persons shall not divulge the Confidential Information to any person and shall deal with the Confidential Information solely in accordance with this Agreement.
      7. to maintain the Confidential Information as the Disclosing party’s property;
      8. to maintain reasonable and effective security measures to safeguard all Confidential Information from unauthorized access, use, copying, disclosure, damage or destruction;
      9. at all times act in good faith towards the Disclosing Party.
      10. to notify the Disclosing party of any breach or suspected breach of this Agreement or any infringement or suspected infringement of confidentiality in connection with the Confidential Information by the Receiving Party or any person to whom the Receiving Party has disclosed the Confidential Information, as soon as it becomes aware of it; and
      11. to comply with any reasonable request from the Disclosing Party in respect of the Confidential Information, including a request to prevent or restrain a breach or suspected breach of this Agreement or any infringement or suspected infringement of the rights of the Disclosing Party by the Receiving Party or any person to whom the Receiving Party has disclosed the Confidential Information, whether through court proceedings or otherwise.
      12. The Receiving Party's obligations under this Agreement shall also extend to information acquired from the Disclosing Party in connection with the Purpose prior to the signing of this Agreement.
      13. Furthermore, the Receiving Party accepts strict liability for any breaches of this Agreement by its Representatives.
2. **NON-APPLICABILITY OF CONFIDENTIAL INFORMATION**
   1. The obligations in this Agreement shall not apply to Confidential Information which:
      1. was already in the public domain at the time of disclosure; or
      2. was lawfully in its or its Affiliates possession prior to such disclosure by the Disclosing party and was not acquired directly or indirectly from the Disclosing Party, its Representatives, its advisers or agents or any company associated with the Disclosing Party or from a third party under an obligation of confidence;
      3. is or becomes public knowledge by act or acts other than those of the Receiving Party or any person related to the Receiving Party;
      4. is information received properly and lawfully by the Receiving Party from a third party provided this can be evidenced by the Receiving Party’s electronic or written records;
      5. is required to be disclosed by any applicable law or by order of any court of competent jurisdiction or any government body, agency or regulatory body, provided that the Receiving Party shall use its reasonable endeavors to give the Disclosing Party as much prior notice of the disclosure as possible so that the Disclosing Party can attempt to object to such disclosure.
3. **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION**
   1. All readable Confidential Information, including, without limitation, all summaries, copies and excerpts of any Confidential Information prepared by the Disclosing Party or on its behalf, or by any of its Representatives, shall be the sole property of the Disclosing Party, and shall upon the Disclosing Party’s written request made during the duration of this Agreement or immediately upon termination thereafter and to the extent permitted by law, either:
      1. destroy or return to the Disclosing party all documents and materials containing, reflecting, incorporating, or based on any Confidential Information;
      2. erase all Confidential Information from the computer and communications systems and devices used by it, including any systems and data storage services provided by third parties (to the extent technically practicable); and
      3. certify in writing to the Disclosing Party that it has complied with the requirements of this clause.
4. **OBLIGATIONS OF NON-CIRCUMVENTION**
   1. It is expressly agreed that the identities of any person(s) or entity and any other third parties (including, without limitation, suppliers, customers/clients, corporations, businesses, registered companies, financial sources, financial institutions, manufacturers and consultants) discussed and made available by the Disclosing Party and any related business opportunity shall constitute Confidential Information and the Receiving Party shall not at any time prior to the expiration of two (2) years from the date of disclosure (without the prior written consent of the Disclosing Party):
      1. Directly or indirectly initiate, solicit, contact, negotiate, contract or enter into any business transactions, Agreements or undertakings with any such person(s) or third party identified or introduced by the Disclosing Party; or
      2. seek to by-pass, compete with, avoid or circumvent the Disclosing Party from any business opportunity by utilizing any Confidential Information or by otherwise exploiting or deriving any benefit from the Confidential Information. For the avoidance of doubt, this provision encompasses all transactions originated during the term of this Agreement and all subsequent transactions that are follow-up, repeat, extended or negotiated transactions relating to transactions originated during the term of this Agreement.
   2. The Receiving Party covenants that in the event of circumvention of this Agreement directly or indirectly, the Disclosing Party shall be entitled to a legal monetary penalty equal to the maximum service it should realize from such a transaction plus any and all expenses, including but not limited to all legal costs and expenses incurred to recover the lost revenue.
5. **NO PARTNERSHIP OR AGENCY**

Each Party confirms that it is acting in this matter as principal and not as agent or broker for any other person or the other Party.

1. **NO OBLIGATION TO CONTINUE DISCUSSIONS**

Disclosing Party is free and entitled to disclose or make available Confidential Information on such terms and conditions as the Disclosing Party in its absolute discretion sees fit. Furthermore, the Disclosing Party may conduct discussions or negotiations in relation to the Purpose at the same time with persons other than the Receiving Party. The Receiving Party agrees that nothing in this Agreement imposes any obligation on the Disclosing Party to supply Confidential Information or enter into or continue any discussions and/or negotiations with the Receiving Party in respect of the Purpose, and the Disclosing Party shall be free at any time and with immediate effect to terminate for any reason all discussions and/or negotiations with the Receiving Party relating to the Purpose.

1. **NO REPRESENTATIONS OR WARRANTIES**

The Receiving Party understands and acknowledges that neither the Disclosing Party nor its officers, directors, employees or agents make any representations or warranties, express or implied, as to the accuracy or completeness of the Confidential Information, nor shall they have any liability to the Receiving Party or any other person resulting from the Receiving Party's use of the Confidential Information.

1. **RESERVATION OF RIGHTS AND ACKNOWLEDGEMENT**

Nothing contained herein shall be deemed to constitute, by implication or otherwise, the grant of any license or other right to the Receiving Party by the Disclosing Party in respect of any Confidential Information or in respect of any patent, design, copyright, trademark, logo information, know-how or other intellectual property rights.

1. **DURATION OF CONFIDENTIALITY OBLIGATIONS**

The obligations of confidentiality in this Agreement shall be for a period of two(2) following communication of the privileged information.The Receiving Party shall continue to be bound by the terms of this Agreement in relation to that Confidential Information. This clause survives termination of this Agreement in the event that the purpose was not actualized.

1. **INADEQUACY OF DAMAGES**

The Receiving Party acknowledges that any breach of this Agreement would injure the Disclosing Party irreparably and that money damages alone would not be sufficient remedy for such a breach. Accordingly, the Receiving Party accepts that the Disclosing Party shall be entitled to specific performance and injunctive relief, with or without proof of damage as determined by the Court, from any Court in any jurisdiction in addition to all other remedies available at law or in equity.

1. **WAIVERS**

No delay in exercising or non-exercise by either party of any of its rights, powers or remedies under or in connection with this Agreement shall operate as a waiver or release of that right, power or remedy. Any such waiver or release must be specifically granted in writing signed by the party granting it. The waiver or release shall only operate as the waiver or release of a particular breach specified and not of further breaches of the same or any other type, unless expressly stated otherwise.

1. **SEVERANCE**

If a term or condition in this Agreement is void, voidable, unenforceable or illegal but would not be void, voidable, unenforceable or illegal if part of the wordings were deleted or its extent reduced or modified, or if the period or area or nature of any such term or condition were reduced then such term or condition shall apply with such modification as may be necessary to make the same valid and enforceable.

1. **NO AMENDMENTS EXCEPT IN WRITING**

This Agreement may only be amended in writing and by mutual the agreement of the Parties.

1. **ASSIGNMENT**

Neither party may assign any of its rights or obligations under this Agreement without the consent of the other Party, such consent not to be unreasonably withheld, save for where such assignment is to an Affiliate.

1. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which when executed shall be deemed to be an original and all of the counterparts together shall constitute one and the same agreement.

1. **NOTICES**
   1. Any notices or other communications contemplated or required under this Agreement shall be in writing and shall be either delivered by hand (including by courier) or sent by facsimile or email transmission at the addresses and/or facsimile numbers provided below.
   2. Written notice or other written communication served by fax, email or hand shall be deemed to have been duly given or made as follows:(a) if sent by fax or email at the time of transmission; or (b) in the case of delivery by hand, when delivered, provided that in each case where delivery by fax, email or by hand occurs after 6pm on a day (excluding Saturday) on which banks generally are open in Lagos for the transaction of normal banking business (a "Business Day") or on a day which is not a Business Day, service shall be deemed to occur at 9am on the next following Business Day.
   3. In proving service, it shall be sufficient to prove that the envelope containing such notice was properly addressed and delivered to the address first above written in the introduction or sent to email address provided by the parties that can be proved to be the email address of which they usually communicate.
2. **GOVERNING LAW, DISPUTE RESOLUTION AND JURISDICTION**
   1. This Agreement shall be governed and construed in accordance with the laws of the Federal Republic of Nigeria and any dispute between the Parties arising from, or in connection with this Agreement shall be resolved by reference to arbitration in accordance with the Arbitration and Conciliation Act Cap 18 of the Laws of the Federation of Nigeria, 2004 or as agreed to at the time between the Parties.
   2. The Arbitration proceedings shall be conducted in Lagos and in English Language, before a sole arbitrator appointed jointly by the Parties within three (3) business days of the notice of the dispute by the aggrieved party or failing such agreement, or by a person appointed by the Chairperson of the UK Chartered Institute of Arbitrators (Nigeria Branch) at the written request of either party. The proceedings shall be concluded with the delivery of the arbitrator's award within 60 (sixty) days of the appointment.
   3. Nothing contained in this Clause18 shall prevent either Party from obtaining interim or urgent relief from a Court of competent jurisdiction.

**IN WITNESS WHEREOF**, this Agreement has been duly executed and delivered by the Parties on the day and year first stated above.

**The Common Seal** of the within named **IMAGINE GLOBAL SOLUTIONS LIMITED** was hereunto affixed in the presence of:

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**DIRECTOR** **DIRECTOR/SECRETARY**

**The Common Seal** of the within named CYDENE ENERGY SERVICES LIMITED was hereunto affixed in the presence of:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**DIRECTOR DIRECTOR/SECRETARY**