

CONFIDENTIALITY AGREEMENT

HARMONY ENERGY ADVISORS LIMITED

and

FORESIGHT GROUP LLP

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5/8/2024

THIS AGREEMENT is made on the ____ day of _____

BETWEEN:

- (1) **HARMONY ENERGY ADVISORS LTD** a company incorporated in England (registered number 13538492 whose registered office is at Conyngnam Hall, Bond End, Knaresborough, North Yorkshire HG5 9AY (**HEAL**); and
- (2) **FORESIGHT GROUP LLP**, a company incorporated and registered in England and Wales (registered number OC395955) whose registered office is at The Shard, 32 London Bridge Street, London SE1 9SG (**Foresight**);

together the "**Parties**" and each referred to individually as a "**Party**".

BACKGROUND:

- (A) HEAL acts as Investment Adviser to Harmony Energy Income Trust plc (**HEIT**).
- (B) The Parties are keen to explore mutually beneficial business opportunities in relation to one or more battery storage projects located in Great Britain (each a **Project**) (the **Proposed Transaction**).
- (C) In connection with the Proposed Transaction, the Parties recognise that it may be necessary or desirable for each of them (including their respective subsidiaries, affiliates or representatives) to disclose to the other certain confidential information. This agreement sets out the terms upon which the Parties agree to provide such information to each other.

IT IS AGREED as follows:

1. INTERPRETATION

In this agreement:

Authorised Recipients means, in relation to the Recipient's Group, to the extent that they need access to Information for the purposes of or in connection with evaluating, negotiating or advising upon the Proposed Transaction, other members of the Recipient's Group and each of the Recipient's and the other Group members' respective senior executives, professional advisers, agents and representatives.

Discloser means either HEAL or Foresight as the case may be.

Foresight Affiliate means

- a) Foresight and any subsidiary undertaking or parent undertaking of Foresight, and any subsidiary undertaking of such parent undertaking (as such terms are defined in section 1162 of the Companies Act 2006);
- b) any fund, partnership, company, investment trust, syndicate or other entity whose principal business is to make investments and whose business is managed or advised by an entity referred to in paragraph (a); and
- c) any general partner, limited partner, trustee, nominee, operator or arranger of or investment manager or investment adviser to the entities referred to in paragraph (b) other than an entity referred to in paragraph (a),

in each case from time to time;

Group means:

- (a) in respect of a Party, any holding company or subsidiary of a Party or any subsidiary of such holding company and "holding company" and "subsidiary" shall have the meaning given to them in Section 1159 of the Companies Act 2006;
- (b) in respect of HEAL, includes Harmony Energy Income Trust plc (**HEIT**) (as well as any direct or indirect subsidiary of HEIT); and
- (c) in respect of Foresight, includes Foresight Affiliates.

Information means all information of whatever nature relating wholly or partly to a Project, the Proposed Transaction (including the fact that negotiations are taking place between the Parties) or the affairs of the Discloser (or a member of a Discloser's Group) which:

- (a) is supplied by or on behalf of the Discloser (or a member of the Discloser's Group) to the Recipient or its Authorised Recipients whether orally, in writing or otherwise and whether before or after the date of this agreement;
- (b) is obtained by the Recipient or its Authorised Recipients in writing or orally, through or following discussions with the management, employees, agents or advisers of the Discloser (or a member of the Discloser's Group); or
- (c) consists of any reports, analyses, compilations, studies or other documents prepared by, on behalf of the Discloser or member of a Discloser's Group, and which contain, derive from or otherwise reflect any information described in (a) and (b) above.

Recipient means either HEAL or Foresight as the case may be.

2. CONSIDERATION

This agreement is made in consideration of the disclosure of Information, and the entering into of discussions, between the Parties in relation to the Proposed Transaction. The undertakings given by the Recipient in this agreement are, where relevant, given for the benefit of the Discloser and any member of the Discloser's Group to which such Information relates (whether directly or indirectly).

3. DUTY OF CONFIDENTIALITY

- 3.1 The Recipient (and its Authorised Recipients, as applicable) shall hold the Information in strict confidence and will not disclose, copy, reproduce or distribute any of it for any purpose other than a purpose related to the Proposed Transaction or to any person other than an Authorised Recipient (on condition that they will not disclose, copy, reproduce, or distribute it to any person who is not an Authorised Recipient) or otherwise without the prior written consent of the Discloser (which may be withheld in the Discloser's absolute discretion).
- 3.2 The Recipient shall ensure that each Authorised Recipient to whom Information is disclosed is made aware (in advance of disclosure) of the confidential nature of such Information and shall direct each Authorised Recipient to treat such Information as confidential on terms no less onerous than the terms of this agreement.

3.3 The Recipient shall keep the Information securely and properly protected against theft, damage, loss and unauthorised access (including access by electronic means). The Recipient shall take all necessary measures to prevent unauthorised access to the Information.

4. EXCEPTIONS

4.1 Clause 3 shall not apply to Information which:

- (a) at the time of its supply by (or on behalf of) the Discloser is in the public domain;
- (b) subsequently comes into the public domain, except through breach of any of the undertakings set out in this agreement;
- (c) is already in the lawful possession of the Recipient or an Authorised Recipient (as evidenced by written records) except through breach of any of the undertakings set out in this agreement;
- (d) subsequently comes lawfully into the possession of the Recipient or an Authorised Recipient from a third party who does not owe the Discloser or any member of the Discloser's Group an obligation of confidence in relation to it;
- (e) is disclosed with the prior written consent of the Discloser; or
- (f) is required to be disclosed by law, regulation or any governmental or competent regulatory authority (including without limitation, any securities exchange).

4.2 Nothing in this agreement shall in any way restrict the use which the Discloser (or any member of its Group) makes of Information to which clause 4.1 applies.

5. NOTIFICATION OF REQUIRED OR UNAUTHORISED DISCLOSURE

Recipient agrees (to the extent permitted by law and regulation) to promptly inform the Discloser:

- (a) of the circumstances of any disclosure of Information made pursuant to clause (f) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this agreement.

6. RETURN/DESTRUCTION OF INFORMATION

6.1 Upon the written request of the Discloser, the Recipient will:

- (a) return to the Discloser (without keeping any copies) all documents containing Information provided (or otherwise made available) to it by or on behalf of the relevant Discloser;
- (b) destroy all copies of any analyses, memoranda or other documents derived from the Information provided (or otherwise made available) to it by or on behalf of the Discloser;
- (c) to the extent reasonably practicable and without prejudice to Clause 6.2 below, expunge all Information provided (or otherwise made available) to it by or on behalf of the Discloser from any computer, word processor or other device containing such information; and

- (d) if so requested by the Discloser, promptly confirm in writing (email being sufficient) to the Discloser that the obligations contained in this paragraph have been complied with.

6.2 Clause 6.1 shall not apply to the extent that the Recipient or any of its Authorised Recipients is required to retain such Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or as required by an internal document retention policy.

7. NO REPRESENTATION OR WARRANTY

7.1 The Recipient acknowledges and agrees, on behalf of itself and its Authorised Recipients, that (except as may otherwise be provided in any future agreement regarding the Proposed Transaction):

- (a) the Information provided to it does not purport to be comprehensive and that no representation or warranty, express or implied, is or will be made by the Discloser of any Information as to the accuracy, reliability or completeness of that Information;
- (b) no Discloser shall:
 - (i) have any liability to the Recipient or to any other person resulting from the use of Information by the Recipient or its Authorised Recipients; or
 - (ii) be under any obligation to provide further Information, update Information or correct any inaccuracies in Information.

7.2 The terms of this disclaimer may not be varied or terminated without the prior written consent of each Party. This paragraph does not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

7.3 Except as expressly set out in this agreement, the Recipient acknowledges and agrees, on behalf of itself and its Authorised Recipients, that neither the Discloser shall have any duty of care to the Recipient or to its Authorised Recipients or to any other person.

8. THIRD PARTIES

Except as expressly set out in this agreement, a person who is not party to this agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

9. GENERAL

9.1 Without affecting any other rights or remedies that the Discloser may have, the Recipient acknowledges that a person with rights under this agreement may be irreparably harmed by any breach of its terms and that damages alone may not necessarily be an adequate remedy. Accordingly, the Recipient hereby acknowledges without proof of actual damages that injunctive relief, specific performance and/or other equitable relief in favour of the Discloser may be an appropriate and necessary remedy for any threatened or actual breach of the terms of this agreement.

9.2 No failure or delay in exercising any right, power or privilege under this agreement will operate as a waiver of it, nor will any single or partial exercise of any right, power or privilege under this agreement preclude any other or further exercise of it or any other right, power or privilege under this agreement or otherwise.

9.3 Nothing contained in this agreement shall be construed as prohibiting the Discloser from pursuing any other remedies available to it.

- 9.4 If any provision of this agreement is held to be illegal, invalid or unenforceable, that provision shall (so far as it is illegal, invalid or unenforceable) be given no effect and shall be deemed not to be included in this agreement, but that shall not affect the legality, validity or enforceability of any other provision of this agreement.
- 9.5 Unless and until a definitive agreement between the Parties regarding the Proposed Transaction has been executed, no Party will be under any obligation whatsoever to negotiate or conclude the Proposed Transaction and any termination of discussions or negotiations by any Party shall be without liability to the other Party.
- 9.6 This agreement may be executed in any number of counterparts each of which shall be deemed to be an original for all purposes. Electronic (.PDF) execution and delivery of this agreement constitutes legal, valid and binding execution and delivery hereof for all purposes.
- 9.7 Each Party shall pay the costs and expenses incurred by it in connection with entering into this agreement.

10. INSIDE INFORMATION

- 10.1 Each Party acknowledges that some or all of the Information disclosed under this agreement is or may be price-sensitive information and that the use of such Information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse. Each Party undertakes not to use any Information so disclosed for any unlawful purpose. The Discloser hereby represents that the disclosure of Information in accordance with this agreement and which is price-sensitive information is not prohibited by applicable law.

11. TERMINATION

The rights and obligations of the parties hereunder shall survive termination of any discussions or negotiations between the parties regarding the Proposed Transaction (whether or not the Proposed Transaction is completed) and will continue in full force and effect for a period expiring on the earlier of (i) two (2) years from the date of this agreement (notwithstanding the return and/or destruction of the Information) or (ii) the parties entering into a definitive written agreement in connection with the Proposed Transaction.

12. GOVERNING LAW AND JURISDICTION

- 12.1 This agreement shall be governed by English law.
- 12.2 Any non-contractual obligations arising out of or in connection with this agreement, including any non-contractual obligations arising out of the negotiation of the Proposed Transaction, shall be governed by English law.
- 12.3 The English courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this agreement (including a dispute relating to any non-contractual obligations arising out of or in connection with this agreement) and each party submits to the exclusive jurisdiction of the English courts.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

Signed by.. [Redacted]
for and on behalf of **Harmony Energy Advisors Limited**

Signed by..... [Redacted] ..
for and on behalf of **Foresight Group LLP**