

## NON-DISCLOSURE AGREEMENT

### Between:

- (1) The **SUSTAINABLE BIOMASS PROGRAM LIMITED** (the “**Company**”), a company registered in England and Wales with company number 08793480 and
  - (2) The registered Stakeholder Advisory Group member (the “**SADG member**”),
- each a “**Party**” and together the “**Parties**”.

### WHEREAS:

The Company has agreed to make available to the SADG member certain information in relation to the Purpose (as defined below) which it regards as confidential. The Company wishes to ensure that the SADG member maintains the confidentiality of its Confidential Information, and in consideration of the benefits to the Parties of the disclosure of Confidential Information, the Parties have agreed and set out in this Agreement the terms on which such Confidential Information may be disclosed, received and used.

### IT IS AGREED:

#### 1. Definitions

##### 1.1. In this Agreement:

“**Affiliate**” means, in relation to either Party, each and any Subsidiary or Holding Company from time to time of that Party and each and any Subsidiary from time to time of a Holding Company of that Party;

“**Business Day**” means a day (other than a Saturday, Sunday or public holiday) on which the clearing banks in London are open for general business;

“**Confidential Information**” means information in any form (however recorded, preserved or disclosed) which is disclosed by the Provider or its Representatives to the Recipient or its Representatives and which relates to the Provider’s (or any of its Affiliate’s) operations, projects, processes, plans, intentions, product information, know-how, designs, intellectual property rights, trade secrets, software, market opportunities, customers or other business affairs, including the fact that discussions and negotiations are taking place concerning the Purpose, the status of those discussions and negotiations, the existence of this Agreement and any of its terms and any other information that would be regarded as confidential by a reasonable business person dealing with either Party;

“**Holding Company**” has the meaning given to the term in section 1159 of the Companies Act 2006;

“**Provider**” means the Company;

“**Purpose**” means the provision by the Recipient to SBP in connection with consulting services;

“**Recipient**” means the SADG member;

“**Representatives**” means employees, officers, directors, agents, representatives, advisers and Affiliates of the Party;

"**Subsidiary**" has the meaning given to the term in section 1159 of the Companies Act 2006.

- 1.2. Clause headings shall not affect the interpretation of this Agreement.
- 1.3. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.4. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment, and includes any subordinate legislation for the time being in force made under it.

## **2. Obligations in respect of Confidential Information**

2.1. The Recipient agrees:

- 2.1.1. to keep the Confidential Information confidential and not to disclose it either in whole or in part to any third party, save as expressly permitted by this Agreement;
- 2.1.2. to keep the Confidential Information safe and in a secure place and properly protected against theft, damage, loss and unauthorised access and to apply the same security measures and degree of care to the Confidential Information as that which the Recipient applies to its own confidential or proprietary information;
- 2.1.3. to use the Confidential Information only for the Purpose and not to use or exploit the Confidential Information in any other way including the furtherance of its own business interests;
- 2.1.4. not to contact third parties referred to in the Confidential Information with the intention of entering into transactions which are either the same or similar to those either entered into, negotiated or discussed with the Recipient and that third party;
- 2.1.5. to keep separate the Confidential Information from all documents and other records of the Recipient;
- 2.1.6. not to copy, reduce to writing or otherwise record the Confidential Information in any form except as strictly necessary for the Purpose (and any such copies, reductions in writing and records shall be the property of the Provider); and
- 2.1.7. to disclose Confidential Information only to such of the Recipient's Representatives as need to know the same for the Purpose. Prior to making any such disclosure, the Recipient shall ensure that any persons to whom Confidential Information is disclosed has entered into a similar confidentiality agreement with the Provider or are subject to confidentiality obligations no less onerous than those contained in this Agreement.

## **3. Confidentiality**

- 3.1. Information shall not be regarded as Confidential Information for the purposes of this Agreement if the Recipient can demonstrate that that information was:
  - 3.1.1. lawfully in the possession of the Recipient before the information was disclosed to it by the Provider (as evidenced by the Recipient's records or other reasonable evidence); or
  - 3.1.2. public knowledge at the time of disclosure or became public knowledge after the time of disclosure (other than as a result of a breach by the Recipient or any of its Representatives of this Agreement); or
  - 3.1.3. disclosed to the Recipient by any third party (unless the Recipient knows or reasonably believes that the third party is prohibited from disclosing the Confidential Information or is in breach of any obligation of confidentiality in respect of the Confidential Information); or

3.1.4. not Confidential Information or was disclosed with the prior written consent of the Provider.

#### **4. Permitted Disclosures**

4.1. The obligations of the Recipient herein shall not apply if the Confidential Information:

- 4.1.1. is required to be disclosed by any applicable law or by the order or ruling of a court or administrative body of competent jurisdiction;
- 4.1.2. is required to be disclosed to any relevant governmental or regulatory authority (including any tax authority) to which the Recipient or any of its Affiliates are subject;
- 4.1.3. is required to be disclosed by the regulations of any stock exchange on which the securities of the Recipient or any of its Affiliates are listed or by any clearing house in connection with any issue of securities;
- 4.1.4. is disclosed to any credit rating agency if the disclosure is made to such rating agency in the course of that Party (or any of its Affiliates) seeking or maintaining a credit rating;
- 4.1.5. is disclosed to any professional advisor, bank or other financial institution or their professional advisers to the extent required in relation to the financing of the Recipient's (or of the Recipient's Affiliate's) business activities and in connection with any form of restructuring by a Party or any of its Affiliates, provided that such recipient is required by the Recipient to treat the Confidential Information as confidential on terms substantially the same as this Agreement; and
- 4.1.6. is disclosed to any bona fide prospective purchaser or transferee (directly or indirectly) of all or substantially all of the assets of the Recipient and the professional advisers of such person, provided that such recipient is required by the Recipient to treat the Confidential Information as confidential on terms substantially the same as this Agreement;

provided, however, that the Recipient shall in the case of 4.1.1 to 4.1.4:

- (i) if possible, provide the Provider with prompt prior written notice of such disclosure or with notice immediately after such disclosure, setting out the Recipient's reasons for disclosing the Confidential Information;
- (ii) disclose only that portion of the Confidential Information which is legally required to be disclosed, and
- (iii) take all measures as may be reasonable and practicable under the circumstances to minimise the scope of the Confidential Information to be disclosed.

#### **5. Return of Information**

5.1. At the request of the Provider, the Recipient shall:

- 5.1.1. destroy or return to the Provider all documents and materials (and any copies) containing, reflecting, incorporating or based on the Provider's Confidential Information;
- 5.1.2. erase all of the Provider's Confidential Information from its computer systems or which is stored in electronic form (to the extent possible); and
- 5.1.3. certify in writing to the Provider that it has complied with the requirements of this clause, provided that a Recipient may retain documents and materials containing, reflecting, incorporating, or based on the Provider's Confidential Information to the extent required by law or any applicable governmental or regulatory authority and to the extent reasonable to permit the Recipient to keep evidence that it has performed its obligations under this

Agreement. The provisions of this clause 5 shall continue to apply to any such documents and materials retained by the Recipient, subject to clause 7.

- 5.2. If the Recipient develops or uses a product or a process which, in the reasonable opinion of the Provider, might have involved the use of any of the Provider's Confidential Information, the Recipient shall, at the request of the Provider, supply to the Provider information reasonably necessary to establish that the Provider's Confidential Information has not been used or disclosed.

## **6. Unlawful Disclosure**

- 6.1. If the Recipient discloses Confidential Information other than in accordance with this Agreement then, without prejudice to the Provider's rights and remedies under this Agreement or at law, the Recipient shall:

- 6.1.1. immediately inform the Provider of the fact of, and circumstances surrounding, the disclosure; and
- 6.1.2. take all reasonable steps to mitigate the effects of the disclosure.

## **7. Term**

The Recipient's obligations under this Agreement shall continue to apply for a period of two (2) years from the date of this Agreement unless extended by mutual written agreement of the Parties.

## **8. Ownership of Confidential Information**

All Confidential Information and copies thereof shall remain the sole property of the Provider. Subject to the provisions of any contrary agreement(s) relating to the Purpose between the Parties, all rights in each Party's Confidential Information are reserved to that Party. No licence, right to use or other intellectual property rights in the Confidential Information are or shall be deemed to be granted by the Provider under this Agreement to the Recipient or to any third party.

## **9. Warranty**

- 9.1. No warranty or representation is given by the Provider as to the accuracy, completeness or fitness for a particular purpose of the Confidential Information.
- 9.2. The Provider warrants that it has the right to disclose its Confidential Information to the Recipient and to authorise the Recipient to use such Confidential Information for the Purpose.
- 9.3. The Recipient shall indemnify and keep fully indemnified the Provider at all times against all liabilities, costs (including legal costs on an indemnity basis), expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and other costs and expenses suffered or incurred by the Provider) arising from any breach of this Agreement by the Recipient and from the actions or omissions of any Representative of the Recipient.

## **10. No Commitment**

Nothing in this Agreement or in its operation shall constitute an offer by, or representation or warranty on the part of the Provider to enter into a transaction or further agreement or to maintain a business relationship (whether in relation to the Purpose or otherwise) with the Recipient or any third party.

## **11. Delay and Waivers**

- 11.1. Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

11.2. No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.

## **12. Publicity**

12.1. Neither Party may without the prior written consent of the other Party:

12.1.1. make any statement or announcement to any third party about the discussions between the Parties in relation to the Purpose; or

12.1.2. use the names, logos or trademarks of the other Party.

## **13. Rights of Third Parties**

No term of this Agreement may be enforced solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party.

## **14. Notices**

14.1. Any notice or other communication given under this Agreement must be given in writing and delivered electronically to the addresses as set out below:

Company: [info@sbp-cert.org](mailto:info@sbp-cert.org)  
Attention: Chief Executive Officer

## **15. Amendment**

No waiver or amendment of any term or condition of this Agreement shall be effective unless made in writing and signed by both Parties.

## **16. Transfer**

Neither Party may assign, novate or sub-contract its rights or obligations under this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.

## **17. Governing Law and Jurisdiction**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law and each Party irrevocably submits to the exclusive jurisdiction of the English courts.

## **18. Remedies**

18.1. The Parties acknowledge that the Confidential Information is valuable and that damages alone may not be an adequate remedy for any breach of this Agreement. The Parties agree that the Provider shall be entitled without proof of special damage to the remedies of an injunction and other equitable relief for any actual or threatened breach by the Recipient of this Agreement. These remedies are without prejudice to any other rights and remedies that the Provider may have under this Agreement or at law.

18.2. Each Party agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that its only liability in respect of those representations and warranties that are set out in this Agreement (whether made innocently or negligently) shall be for breach of contract.

**19. Severability**

If any provision of this Agreement is held invalid, illegal or unenforceable, it shall be deemed not to form part of this Agreement and shall not affect the enforceability of the remaining provisions of this Agreement.

**20. Counterparts**

This Agreement may be executed in two or more counterparts (including by electronic or facsimile transmission), all of which when taken together shall constitute a single instrument.

**21. Entire Agreement**

This Agreement constitutes the entire agreement between the Parties in respect of the subject matter referred to herein and supersedes and extinguishes all previous contracts, agreements, arrangements and understandings between the Parties in respect thereof.