

BIOFUEL ENERGY CORP.

Audit Committee Charter

I. Purpose

The Audit Committee (the “Committee”) is appointed by the Board of Directors (the “Board”) to oversee:

- 1) The accounting and financial reporting processes of the Company and the audits of the financial statements of the Company;
- 2) The assessment of financial risk and risk management programs;
- 3) The independence, qualifications, engagement and performance of the independent auditors;
- 4) The integrity and adequacy of internal controls and the quality and adequacy of disclosures to stockholders;
- 5) The performance of the Company’s internal audit function (if any); and
- 6) The Company’s compliance with legal and regulatory requirements.

II. Membership and Procedures

- 1) The Committee shall be comprised of not fewer than three members of the Board appointed annually to serve by the Board upon recommendation of the independent members of the Board or the Nominating and Corporate Governance Committee. Members shall meet the test of “independence” within the meaning of the rules established from time to time by the Nasdaq Global Market (“Nasdaq”) (“Nasdaq rules”) and the rules promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), subject to the initial public offering phase-in periods provided thereunder. In addition, each Committee member must not have participated in the preparation of the financial statements of the Company or any current subsidiary of the Company at any time during the past three years.
- 2) In accordance with Nasdaq and Securities and Exchange Commission (“SEC”) rules, members shall be able to read and understand fundamental financial statements and at least one member shall have experience in finance or accounting or related financial management expertise and, if practical, be an “audit committee financial expert” as defined by the SEC.
- 3) A majority of the total number of members of the Committee then in office shall constitute a quorum thereof. The Committee may act only on the affirmative vote of a majority of the members at a meeting or by unanimous written consent.

- 4) A member can be removed from the Committee only by an affirmative vote of a majority of the Board. A Committee member may resign by giving written notice to the Chairman of the Board or the Corporate Secretary.
- 5) A Committee Chair (the “Chair”) will be designated by the Board upon recommendation of the independent members of the Board or the Nominating and Corporate Governance Committee. The Chair will normally determine the agenda, frequency (which shall, in any event, be not less than quarterly) and length of meetings and shall have unlimited access to management and corporate information of any type requested. However, any member of the Committee may require a special meeting of the Committee to be convened if they believe it is required.
- 6) The Committee may designate one or more subcommittees, each consisting of one or more of its members. Subcommittees may exercise all the powers and authority of the Committee if such powers and authority are delegated to them. Subcommittees shall keep minutes of their meetings and report them to the Committee or the Board.
- 7) The Committee shall have the authority to engage or terminate outside legal, accounting and other advisors as needed, and approve the terms of their engagement and fees.
- 8) As required by applicable laws, rules and regulations of the SEC, the Company shall provide for appropriate funding, as determined by the Committee, for payment of compensation to the independent auditor for the purpose of preparing or issuing an audit report or performing other audit, review or attest services, for payment of compensation to any advisors employed by the Committee and for ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.
- 9) The Committee shall have the authority to conduct or authorize investigations into or studies of any matters within the Committee’s scope of responsibilities.

III. Authority and Responsibility

The Committee’s key responsibilities include:

- 1) Oversight of the independent auditors;
- 2) Oversight of the internal audit function (if any); and
- 3) Oversight of compliance with financial disclosure requirements and laws and regulations relating to audits.

Oversight of Independent Auditors

The Committee shall:

- 1) Be solely responsible for oversight of the work of the independent auditors, as well as their appointment, retention, dismissal and compensation, for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Company. The independent auditors will report directly to the Committee.
- 2) Review, at least annually, the qualifications, performance and independence of the auditors. The review will include an examination of any relationships between the independent auditors and the Company that could be considered to bear on the auditors' independence. In addition, the review shall ensure the rotation of partners in accordance with SEC rules and securities laws.
- 3) Approve in advance any audit or permissible non-audit engagement of the independent auditors (other than de minimus non-audit services as defined in Section 10A(i)(1)(B) of the Exchange Act which shall be approved prior to completion of the independent auditors' audit), in each case including fees.
- 4) Meet with the independent auditors prior to the annual audit to review planning and staffing, including the responsibilities of and staffing by Company personnel who will assist in the audit.
- 5) Approve and recommend to the Board the hiring of any employees or former employees of the independent auditors who have within ten years participated in any capacity in the audit of the Company.
- 6) Annually obtain and review a report from the independent auditors describing the firm's internal quality control procedures; any material issues raised by the most recent internal quality control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and all relationships between the independent auditors and the Company, including the matters covered by Independence Standards Board Standard Number 1. The Committee shall review and discuss with the independent auditors their periodic written disclosures regarding independence and any relationships or services that may impact the objectivity and independence of the independent auditors and, if so determined by the Committee, take, or recommend that the Board take, appropriate action to satisfy itself as to the independence of the auditors.

Oversight of Internal Audit

To the extent that the Company establishes an internal audit function, the Committee shall:

- 1) Review the hiring, appointment and/or replacement of internal auditing personnel.
- 2) Review the activities of the internal auditing department and any significant reports

to management as well as management's response.

- 3) Discuss with the independent auditors and management the responsibilities of the internal audit department including budget and staffing and any recommended changes in the planned scope of the department.

Oversight of Compliance and Reporting Issues

The Committee shall:

- 1) Prior to public dissemination, review with management and the independent auditors the annual audited and quarterly unaudited financial statements as well as disclosures under MD&A, including major issues regarding accounting, disclosure, auditing procedures, and adequacy of internal controls that could materially affect the financial statements.
- 2) Discuss with management, any internal auditors and the independent auditors significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including any significant changes in the selection or application of accounting principles, and major issues as to the adequacy of internal controls, including reviewing any management internal control report, any significant internal control deficiencies or material weaknesses, any fraud involving management or others significantly involved in the Company's internal controls, and any special steps adopted in light of material control deficiencies or weaknesses.
- 3) Review and discuss reports from the independent auditors on all critical accounting policies and practices to be used, all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management including the potential ramifications if such alternative treatments are adopted and the treatments preferred by the independent auditors.
- 4) Review any other material written communication between the independent auditors and management.
- 5) Prior to public dissemination, review and, if appropriate, discuss with management earnings press releases as well as any non-public information or earnings guidance provided to analysts or the rating agencies.
- 6) Discuss with management and the independent auditors the effect on the financial statements of significant regulatory and accounting initiatives as well as off-balance sheet structures, if any.
- 7) Discuss with management major financial risk exposures and the steps management has taken to monitor and control such exposures, including risk assessment and risk management policies.
- 8) Review with the independent auditors and any internal auditors any audit problems

and management's response, including any differences noted by the auditors on which the Company did not adjust the financial statements. The Committee will have the authority to resolve any disagreements between the auditors, any internal auditors and management regarding financial reporting.

- 9) Review and discuss the report of the Disclosure Controls Committee upon its establishment each quarter prior to the filing of the Form 10-Q or 10-K, as applicable.
- 10) Review any disclosures made to the Audit Committee by the CEO and CFO during their certification process for Forms 10-K and 10-Q regarding allegations of fraud or deficiencies in the disclosure procedures.
- 11) In connection with the annual audit and review by the independent auditors of the financial information included in the Company's Quarterly Reports on Form 10-Q, the Committee shall discuss with the independent auditors the matters required to be discussed by Statement of Auditing Standards No. 61 – Communication with Audit Committees, as amended or supplemented.
- 12) Review and approve all material related party transactions.
- 13) Prepare the report required in the annual proxy statement and review the matters described in such report.
- 14) Obtain quarterly assurances from the internal auditing staff and management that the system of internal controls is effective. Annually obtain a report from the independent auditors regarding management's assessment of the internal control procedures.
- 15) Obtain from the independent auditors assurance that no illegal acts or undisclosed related party transactions were discovered during their examination in regard to Section 10A(b) of the Securities Exchange Act of 1934, as amended.
- 16) Review and make recommendations to the Board regarding the adequacy of the Company's Code of Business Conduct and Ethics (the "Code") and the Company's procedures for ensuring proper distribution, education and compliance with the Code. The Committee shall also assist the Board in reviewing and, when appropriate, granting any requests by a director or executive officer for a waiver from compliance with such Code.
- 17) Approve related party transactions and review disclosures for compliance with the securities laws relating to related party transactions.
- 18) Establish procedures for the confidential, anonymous submission, retention and treatment of complaints or concerns by employees and others regarding accounting, internal accounting control or auditing matters.
- 19) Discuss with management and the independent auditors any correspondence with

regulators or governmental agencies and any published reports that raise material issues regarding the Company's financial statements and/or accounting policies.

- 20) At least annually, review any legal issues with the General Counsel (or outside counsel if there is no General Counsel) that may have a material impact on financial statements or compliance policies as well as any material reports or inquiries received from regulators or governmental agencies.
- 21) Meet periodically in separate sessions with each of: (a) the individual in charge of the internal audit function (if any); (b) the independent auditors; and (c) management.

Other

The Committee shall:

- 1) Report regularly to the Board any issues that arise regarding the integrity of the financial statements, compliance with legal or regulatory requirements, the performance and independence of the independent auditors or the performance of the internal audit function.
- 2) Review and reassess the adequacy of this Charter annually and recommend any proposed changes to the Board for approval.
- 3) Evaluate its performance relative to the responsibilities set forth in this Charter at least annually and report the results of these evaluations to the Board.
- 4) Keep minutes of each meeting and provide regular reports to the Board, promptly informing the Board of any material issues or concerns.
- 5) Perform any other duties as may be assigned it by the Board or required by regulation or law.