

MUTUAL NON-DISCLOSURE and NON-CIRCUMVENTION AGREEMENT

**THIS NON-DISCLOSURE AND NON-CIRCUMVENTION AGREEMENT** (this "Agreement") is between The NuPera Group, LLC a Florida Limited Liability Company, also doing business in the State of California as a Foreign Entity located at 10100 Santa Monica Blvd, S-300 Los Angeles, CA 90067 and

**WITNESSETH:**

**WHEREAS,** The NuPera Group, LLC and

\_\_\_\_\_ may provide to each other certain proprietary, confidential and trade secret information in connection with the sale of biodiesel plants and related equipment and items (the "Business Purpose"), and each desires that any such information will be kept confidential by the other parties; and

**WHEREAS,** in consideration of the disclosure of such information, each party is willing to keep such information confidential in accordance with the terms and conditions set forth in this Agreement;

**NOW, THEREFORE,** The NuPera Group, LLC and \_\_\_\_\_ hereby agree as follows:

**1. Confidentiality.** Each party agrees that, for a period of three years from receipt of information from the other party hereunder, such party will use the same means it uses to protect its own confidential proprietary information, but in any event not less than reasonable means, to prevent the disclosure and to protect the confidentiality of (i) written information received from the other party which is marked or identified as confidential, and (ii) oral or visual information identified as confidential at the time of disclosure which is accurately summarized in writing and provided to the other party in such written form promptly after such oral or visual disclosure (the "Confidential Information"). Confidential Information includes, without limitation, oral information, documents, devices and computer readable media, know-how, data, process, technique, programs, design, formula, marketing, advertising, financial, sales or programming matter, compositions, drawings, diagrams, computer programs, studies, visual demonstrations, concepts and other data or intellectual property. Confidential Information shall also include, without limitation, all information relating to the fact that negotiations or discussions are taking place between the parties. Confidential Information will not include information which belongs to the recipient party or is (i) already known by the recipient party without an obligation of confidentiality other than under this Agreement, (ii) publicly known or becomes publicly known through no unauthorized act of the recipient party, (iii) rightfully received from a third party, (iv) independently developed by the recipient party without use of the other party's Confidential Information, (v) disclosed without similar restrictions

to a third party by the party which owns the Confidential Information, (vi) approved by the other party for disclosure, or (vii) required to be disclosed pursuant to a requirement of a governmental agency or law of the United States of America or a state thereof, or any governmental or political subdivision thereof, so long as the party required to disclose the information provides the other party with timely prior notice of such requirement.

Each party may use Confidential Information received from the other party only in connection with the Business Purpose, and may provide such Confidential Information to its respective employees and agents for their use.

In the event that any Party receives a request or is required (by deposition, interrogatory, request for documents, subpoena, regulatory audit, civil investigative demand or similar process) to disclose all or any part of the Confidential Information, the recipient of that request agrees to: (a) notify the disclosing Party of the existence, terms and circumstances surrounding such request, (b) consult with the disclosing Party on the advisability of taking legally available steps to resist or narrow such request and (c) cooperate with the disclosing Party in seeking a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained and the recipient of the request is nonetheless, upon advice of counsel of the Party receiving the request, legally compelled to disclose the Confidential Information to any tribunal or governmental regulatory authority having jurisdiction over the Party, or else stand liable for contempt or suffer other censure, sanction or penalty, the Party receiving the request (i) may disclose to any tribunal or governmental regulatory authority having such jurisdiction that portion of the Confidential Information which the Party receiving the request is advised by the Party receiving the request's counsel is legally required to be disclosed, and shall exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information and (ii) the Party receiving the request shall not be liable hereunder for the actions of the disclosing Party.

**2. Return of Confidential Information.** Upon completion of the Business Purpose or upon the written request of the party owning the Confidential Information, the other party will return all copies of Confidential Information, and all derivatives thereof, to the owning party or certify, if so requested by the owning party, in writing that all copies of Confidential Information have been destroyed. Notwithstanding the above, a party may return Confidential Information, or any part thereof, to the other party at any time prior to the completion of the Business Purpose.

**3. No Warranty; Limitation of Liability.** Each party shall have the right to determine, in its sole judgment, what Confidential Information it shall provide to the other. It is understood and agreed that the party disclosing Confidential Information does not make any representations or warranties, expressed or implied, as to its accuracy, completeness or fitness for a particular purpose thereof. It is further understood and agreed that neither party nor its employees and agents shall have any liability or responsibility to the other party (except as pursuant

to this Agreement) or to any other person or entity resulting from the use of any Confidential Information or any errors therein or omissions therefrom.

**4. Non-Circumvention** The Parties agree that they will not use any of the Confidential Information for any purpose other than the Business Purpose set forth above. The Parties agree that, upon execution of this Agreement, none of the Parties or any entities with which they are affiliated, will at any time for any purpose, either directly or indirectly, (i) contact or initiate contact with any person involved directly or indirectly with any disclosing Party (including, without limitation, any shareholders, directors, officers, employees, affiliates, agents, attorneys, accountants, financial advisors, consultants, brokers, technical advisors and other representatives thereof) or (ii) undertake any transaction or series of transactions involving, directly or indirectly, the party who disclosed the Confidential Information, in each case without the prior express written consent of the disclosing party, which consent may be withheld in the disclosing party's absolute and sole discretion.

Notwithstanding anything to the contrary in this Agreement, the names of each investor client as defined in the Referral Source Agreement and any information with respect to any such investor client shall be deemed Confidential Information for purposes of this section.

**5. No Further Rights; No Third Party Beneficiary.** Nothing contained in this Agreement will be construed as granting or conferring any rights by license or otherwise in Confidential Information except for the use of such Confidential Information as expressly provided herein. This Agreement is not intended, nor will it be construed, to create or convey any right in or upon any person or entity not a party to this Agreement.

**6. No Obligation.** The parties expressly agree that the provision of Confidential Information hereunder and any discussions held in connection with the Business Purpose will not prevent either party from pursuing similar discussions with third parties or obligate either party to continue discussions with the other or to take, continue or forego any action relating to the Business Purpose. Any estimates or forecasts provided by either party to the other will not constitute commitments.

**7. Enforcement.** If either party breaches or threatens to breach the obligations of this Agreement, the other party will have the right, in addition to such other remedies which may be available to it, to seek injunctive relief enjoining such acts or attempts, it being acknowledged and agreed by the parties that monetary damages are inadequate to protect the other party.

This Agreement will be construed in accordance with, and its performance governed by the internal laws of the State of California without regard to conflict of law principles.

The Parties agree that any dispute between them will be resolved exclusively and finally by arbitration administered by the American Arbitration Association (AAA) and conducted under its rules, except as otherwise provided

below. The arbitration will be conducted before a single arbitrator, and will be limited to the dispute between the Parties. The arbitration shall be held at any reasonable location by submission of documents, by telephone, on-line or in person. Any decision rendered in such arbitration proceedings will be final and binding on each of the Parties, and judgment may be entered thereon in any court of competent jurisdiction. Should either Party bring a dispute in any forum other than AAA, the arbitrator may award the other party its reasonable costs and expenses, including attorneys' fees and disbursements, incurred in staying or dismissing such other proceedings or in otherwise enforcing compliance with this dispute resolution provision. For the purposes of this Section, the term "dispute" means any dispute controversy or claim arising out of or relating to this Agreement, its interpretation, or the breach, termination, applicability or validity thereof.

The Parties agree that if any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms and provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**8. Media Releases.** No media releases or public announcements or disclosures will be issued by either party relating to this Agreement, its subject matter or the Business Purpose without the prior written approval of the other party.

**9. Miscellaneous.**

(a) All notices required by or relating to this Agreement will be in writing and will be sent The NuPera Group, LLC to the attention of Victoria A. Norausky at 10100 Santa Monica Blvd, Suite 300 Los Angeles, CA 90067 or to such other address as either party may specify by written notice to the other.

(b) The parties agree that this Agreement (i) constitutes the entire agreement between the parties with respect to the use and protection of the confidentiality of Confidential Information, (ii) supersedes all related discussions and other communications between the parties, and (iii) may not be varied other than in writing, executed by the duly authorized representatives of both parties.

[Remainder of column intentionally left blank.]

**IN WITNESS WHEREOF**, the parties have duly executed and delivered this Agreement as of the last date written below.

Accepted by:

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

Address:

City:

State:

Accepted by:

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

Address:

City:

State:

Accepted by:

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

Address:

City:

State:

Accepted by:

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

Address:

City:

State:

Accepted by:

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

Address:

City:

State:

Received by:

The NuPera Group, LLC

By: \_\_\_\_\_

Name: Victoria A. Norausky

Title: President

Date: \_\_\_\_\_

Address: 10100 Santa Monica Blvd, Suite 300

City: Los Angeles

State: California 90067