

# **SHAREHOLDERS AGREEMENT**

Relating to

**BIOFUEL AS**

February \_\_ 2009

**THIS SHAREHOLDERS AGREEMENT** (this “**Agreement**”) is entered into on February \_\_\_\_ 2009 by and between:

- (1) **Statoil New Energy AS**, a private limited liability company established under the laws of Norway engaged in renewable energy investments, having its main office in Forusbeen 50, 4035 Stavanger registered in the Norwegian Register of Business Enterprises under registration number 981 269 217. Hereinafter referred to as “**Statoil**”.
- (2) **THE CO-INVESTOR**, a private limited liability company established under the laws of \_\_\_\_\_ having its main office at \_\_\_\_\_ registered in the \_\_\_\_\_ Register of Business Enterprises under registration number \_\_\_\_\_. Hereinafter referred to as “**Co-investor**”,
- (3) **Perennial Bioenergy AS**, a private limited liability company established under the laws of Norway engaged in renewable energy investments, having its main office in Professor Hanssens vei 7A, 4021 Stavanger, registered in the Norwegian Register of Business Enterprises under registration number 991 363 173. Hereinafter referred to as “**Perennial**”.
- (4) **Helcon Ltd**, the holding company of Arne Helvig, one of the founders of BioFuel AS, incorporated under the laws of the Seychelles, registered in the Norwegian Register of Business Enterprises under registration number 988 707 937, having its registered address in Norway at Kisteneset 27, 4085 Hundvåg, Norway.
- (5) **Discovery Channel Invest Ltd**, the holding company of Finn Byberg, one of the founders of BioFuel AS, incorporated under the laws of the Seychelles, registered in the Norwegian Register of Business Enterprises under registration number 988 510 270 having its registered address in Norway at Roaldsøyveien 58, 4085 Hundvåg, Norway.
- (6) **Kolcon Ltd**, the holding company of Steinar Kolnes, one of the founders of BioFuel AS, incorporated under the laws of the Seychelles, registered in the Norwegian Register of Business Enterprises under registration number 986 179 399, having its registered address in Norway at Bøveien 45, 4070 Randaberg, Norway, and Steinar Kolnes personally.

The parties listed above are hereinafter referred to as “**Part**”, or collectively referred to as “**the Parties**” or “**the Shareholders**” as the case may be.

Statoil and the Co-Investor are hereinafter collectively referred to as “**the Investors**”

The Parties listed in number 3, 4 and 5 above, both the holding companies and the persons mentioned therein, as applicable in the context where the term is used, are hereinafter collectively referred to as “**the Founders**” or individually as “**the Founder**”.

**WHEREAS**, BioFuel AS is a private limited liability company established under the laws of Norway having its main office at Verven 12 C, 4014 Stavanger Norway, registered in the Norwegian Register of Business Enterprises under registration number 991 537 201. Hereinafter referred to as “**BioFuel**” or the “**Company**”,

**WHEREAS**, BioFuel is the 100% owner of BioFuel Africa AS a private limited liability company established under the laws of Norway having its main office at Verven 12 C, 4014 Stavanger, Norway, registered in the Norwegian Register of Business Enterprises under registration number 992 636 351.

**WHEREAS**, BioFuel Africa AS is the 100% owner BioFuel Africa Ltd., a company established under the laws of Ghana, having its registered office at 3<sup>rd</sup> floor, Teachers Hall Complex, Education Loop, 4 Barnes Close, Adabraka, Accra, Ghana,

**WHEREAS**, Statoil, Perennial and the Co-Investor has entered into an investment agreement with BioFuel and the shareholders of BioFuel which are parties to this Agreement, the investment agreement is attached as **Exhibit 1** to this Agreement (the “**Investment Agreement**”).

**WHEREAS** BioFuel has entered into a loan agreement with the shareholders listed in number 3 – 6 above and has other outstanding debt to Perennial Bioenergy AS. All of the Company's outstanding debt owed to Perennial Bioenergy AS, [MNOK 10] shall be converted into share capital, as set out in the Investment Agreement. No capital from Statoil or a Co-Investor shall be used to repay any shareholder loans, except for the loans, principal and accrued interest, granted by the Founders in accordance with the loan agreement dated January 14 2009, **Exhibit 5.2** to the Investment Agreement .

The Shareholders have agreed that the following terms and conditions shall govern their collective shareholding in the Company:

**1. ARTICLES OF ASSOCIATION**

- 1.1. The Articles of Association shall be worded as set forth in, **Exhibit 1.1**.
- 1.2. The rights and obligations of each of the Parties as shareholders shall be as provided under Norwegian corporate law, however subject to any specific provisions set forth in the Articles of Association and this Agreement.
- 1.3. In the event that the Articles of Association should be in conflict with this Agreement, the provisions of this Agreement shall, to the extent permitted by law, prevail.

**2. OWNERSHIP AND GOVERNANCE**

- 2.1. The Investors shall invest in BioFuel by subscribing to shares in a private placing to take place on the same day as entering into this Agreement, as further set out in the Investment Agreement (the "**Private Placing**"). Statoil and the Co-Investor is also granted an option to invest an additional amount in BioFuel provided that this investment has been finalized prior to November 1 2009, as set out in the Investment Agreement (the "**Option**").

Subsequent to completion of the Private Placing and at the time of entering into this Agreement, the shareholding between the Parties shall be as follows:

Statoil  
Co-Investor  
Perennial:  
Helcon Ltd.  
Discovery Channel Invest  
Kolcon and Steinar Kolnes, jointly  
[Shares owned by the Parties](#)  
[Other Shareholders](#)  
[Total number of outstanding shares](#)

**3. GENERAL MEETINGS**

- 3.1. General meetings shall be held whenever required by law or the provisions of the Articles of Association, minimum once every year. At the general meetings, whether ordinary or extraordinary, each of the Parties undertakes to vote, and cause its representatives to vote, in accordance with the provisions of this Agreement.
- 3.2. Each share shall have one vote at the general meeting of the Company, unless otherwise provided for in this Agreement or the Articles of Association.
- 3.3. Decisions by the general meeting shall be made in accordance with such majority as required by the Articles of Association or by Norwegian law unless otherwise lawfully set out in this Agreement.

#### 4. **BOARD OF DIRECTORS**

- 4.1. The board of directors of BioFuel shall consist of 5 (five) members, including the chairman of the board (the “**Board**”). Directors shall be elected for a period of 2 (two) years. Shareholders representing more than 15% of the shares issued in the Company, except Founder’s shares, may appoint one director and personal deputy director.

The Founders shall collectively have the right to appoint 1 (one) director and personal deputy director. Any remaining directors and their personal deputy directors shall be appointed by mutual agreements between the Parties.

- 4.2. Only external directors who do not own shares or are not entitled to stock related compensation in BioFuel, may receive remuneration for his/ hers services as director in BioFuel. This does not apply to agreements with Jan Reinås entered into before November 10 2008.
- 4.3. Chairman of the Board for the first 2 (two) years following the signing of this Agreement shall be Jan A. Reinås.

If and when appointment of new chairman of the Board is required, such appointment shall be made by the board of directors by unanimous decision.

- 4.4. The Parties have agreed that the following persons shall be elected as directors when executing this Agreement and the Investment Agreement:

|          |                                       |
|----------|---------------------------------------|
| Chairman | Jan A. Reinås                         |
| Director | [Appointed by Statoil] (Deputy: )     |
| Director | [Appointed by Perennial] (Deputy: )   |
| Director | [Appointed by Founders] (Deputy: )    |
| Director | [Appointed by Co-Investor] (Deputy: ) |

- 4.5. The Company is expected to conduct regular board meetings, at a minimum four times each year. For each board meeting a notice of the meeting and preparatory material shall be distributed at least one week in advance. The Board meetings shall be held in Norway if not otherwise agreed by all directors. Provided that a Board meeting has been correctly called for, a quorum will be constituted if more than half of the directors (or personal deputy director) are present, however provided that each director (or personal deputy director) appointed by Parties owning more than 15 percent of the shares and the director appointed by the Founders are present. A quorum will however be constituted in case of a directors’ absence if said absence may be regarded as disloyal under this Agreement.

#### 5. **BOARD RESOLUTIONS**

- 5.1. Resolutions by the Board shall require a majority of the votes present at the meeting, unless otherwise set forth in this Agreement.
- 5.2. The following decisions shall always be subject to approval by the Board:
- i) Committing BioFuel for expenditures of more than MNOK 3,5, unless already approved of in annual budgets and/or identified investment program.
  - ii) Hiring and firing of CEO.
  - iii) Compensation programs (i.e. salaries and bonus programs) for Key Management.
  - iv) Annual budgets, business plans as amended and including a cash budget guideline for the demo phase, and financial plans for BioFuel.
  - v) Agreements between the Company and any of the Shareholders, as set out in section 10.
  - vi) Implement and later revise (if necessary) an instruction for the Board and the CEO on corporate governance principle for BioFuel and its Subsidiaries.
- 5.3. The following decisions shall be subject to the approval of the director appointed by Statoil:

- i) Stock, or option to buy stock, programs for Key Management, except programs and agreements entered into prior to November 10 2008.
- ii) Annual budgets, business plans and financial plans for BioFuel substantially deviating from the agreed plans and budgets as approved, or later revised, in accordance to (iv) above.
- iii) Any corporate restructuring of BioFuel, including but not limited to inviting new shareholders to subscribe or purchase shares in subsidiaries of BioFuel. However, the director appointed by Statoil shall be obliged to comply with, and vote in accordance with, the provisions of section 16 (Exit).
- iv) Any agent or similar agreement which addresses the right for a third party to act on behalf of or for the Company or the Subsidiaries.

The term “**Key Management**” referred to in 5.2 (iii) and 5.3 i) above shall include chief executive-, and chief financial officers, both in BioFuel and its subsidiaries,

- 5.4. Any proposal to the general meeting to distribute dividends shall require the votes of 4 out of 5 directors, cf. also section 10.
- 5.5. Any proposal for appointing new chairman of the Board shall require a unanimous vote of the directors, cf. also section 4.3.
- 5.6. The Parties agree that the purpose of the ownership exercised through BioFuel is to benefit all the shareholders in BioFuel. Any and all decisions of the Board should reflect the ambition to always act in the best interest of BioFuel and all of its shareholders.

## 6. **MANAGEMENT**

- 6.1. The current management shall continue to run BioFuel. Any new appointments to staff and/ or management are to be approved of by CEO in BioFuel, however conditioned upon sections 5.2 iii) and 5.3 i) above

## 7. **MAIN BUSINESS PRINCIPALS**

- 7.1. It shall always be given priority to safety-related matters, in order to protect life, health, property and the environment over business opportunities.
- 7.2. The Shareholders agree that the ability to create value in the Company is dependent on high ethical standards in its business activities so that partners, suppliers and customers can have trust in the Company.
- 7.3. In its business activities, the Company will comply with applicable laws and regulations and act in an ethical, sustainable and socially responsible manner. Respect for human rights is an integral part of values of the Shareholders and the Company. Shareholders, board members and management of the Company and/or its subsidiaries shall in every situation use their power, voting rights and influence to conduct business on a high ethical standard.
- 7.4. The Company shall be based on ethical values that are consistent with those of its Shareholders. Compliance with such ethical values may be audited by its Shareholders, cf section 7.10 and three weeks notice before such audit.
- 7.5. The Company will maintain an open dialogue on ethical and sustainability issues, internally and externally.
- 7.6. The Shareholders agree to exercise all reasonable efforts to ensure that the Company's business is conducted in such a manner as to maximize revenue and minimize costs without sacrificing HSE and other high business standards such as sustainable feedstock supply. Such standards considered to be in the long-term best interests of the Company.
- 7.7. Each Shareholder shall also use its best endeavours to secure the following:

- i) Ensure that all facilities of the assets are maintained and operated in accordance with applicable government legislation and regulations and high standards of the jatropha industry practice with special regard to the protection of health, safety and environment
  - ii) Establish a policy on HSE for the Company which shall include a program for regular audits of the HSE aspects and for regular monitoring of the effects of its operations on the environment.
- 7.8. To the extent possible, the Company shall request such high standard also from its business partners.
- 7.9. The Parties shall exert reasonable efforts to approve and harmonise any public statement or announcement concerning the subject regulated by the provisions of this Shareholders' Agreement and refrain from any public statements that could or would cause damage to the Company, its business or rights and legal interests of the other Parties.
- 7.10. For as long as Statoil holds more than 15 percent of the shares, the Company shall, upon Statoil's request deliver quarterly financial statements. In addition, Statoil shall have the right to, accompanied by its own auditors and advisors perform visitations at the Company's premises with three weeks written notice.
- 7.11. Business of the Company and/or its subsidiaries must under all circumstances be conducted in recognition of the principles of the Norwegian Penal Code (in particular paragraphs 276 a, 276 b and 276 c) the United States Foreign Corrupt Practices Act ("FCPA") and any applicable laws relating to anti-bribery and corruption of any country in which Contractor performs work under this Contract.

## **8. INCREASE OF CAPITAL**

- 8.1. The Company shall at all times have such share capital which, in the opinion of the Board, is necessary to maintain a secure funding of the Company.
- 8.2. The Shareholders are obliged to vote for any capital increase which is deemed necessary to maintain secure funding of the Company and to fulfil the intentions of the Parties as set forth in this Agreement and the Investment Agreement. No Shareholder shall be obliged to participate in such capital increase.
- 8.3. The Shareholders are obliged not to vote for any capital increase which is not justified based on the financial state of the Company but where the purpose of the proposed capital increase rather seems to be motivated by a desire to change the relative strength and the rate of ownership between the Parties.

## **9. ANTI DILUTION PROTECTION (WEIGHTED AVERAGE PRINCIPLE)**

- 9.1. The Investors shall have anti-dilution protection as set out in this Section 9 up until March 1 2012 for their shares subscribed to under this Agreement.

Thus, in case of issuance of new shares in BioFuel prior to October 1 2010 at a subscription price lower than the subscription price paid by the Investors in the Private Placing, the Investors shall have the right to subscribe to such number of anti dilution shares in BioFuel which will cause the Investors' average subscription price to be equal to a Weighted Average Subscription Price ("**WASP**") calculated on the basis of the subscription price paid in the Private Placing (the "**Subscription Price**") and the lower subscription price ("**LSP**") in subsequent share issuances ("**Subsequent Issuance**").

Accordingly, each of the Investors shall, in case of Subsequent Issuances at LSP, have the right to subscribe to a number of anti dilution shares calculated on the basis of the following formula:

Anti dilution shares = Investors' shares x ((Subscription Price/ WASP) -1)

Where WASP equals:

$$\frac{(\text{Investors' shares} \times \text{Subscription Price}) + (\text{Number of shares in Subsequent Issuance} \times \text{LSP})}{\text{Investors' shares} + \text{Number of shares in Subsequent Issuance}}$$

The anti dilution protection shall be implemented by issue of shares, options, warrants or convertible loan at the choice of the Board.

For the avoidance of doubt, the anti dilution rights under this Section 9 shall also apply to Perennials share subscribed to as conversion of loan under the Investment Agreement.

- 9.2. The anti dilution protection shall not apply when shares are issued;
- i) to officers, directors and employees of, and consultants to, the Company in accordance with plans and arrangements entered into prior to November 10 2008 or later approved by the Board as set out in section 5.3 above.
  - ii) in connection with a merger or acquisition by the Company.
- 9.3. Each of the Parties hereto undertake to perform such acts and execute such documents as will be necessary in order to procure that Anti Dilution Shares are issued to the Investor in accordance with the provisions of this section 9, including but not limited to procuring that their representatives in the Board and/ or general meetings cast their votes in compliance with the principles set out in this section 9.

## 10. DISTRIBUTION OF DIVIDENDS

- 10.1. No dividends shall be distributed by BioFuel to any shareholder unless BioFuel is cash flow positive, in accordance with generally accepted accountancy principles, and was cash flow positive at the end of the previous calendar year. Further, any need for additional capital, cf. section 7, shall be taken into account.
- 10.2. Any proposal from the Board to the general meeting to distribute dividends shall be subject to decision by qualified majority, as set out in section 5.4 above.

## 11. TRANSACTIONS AND AGREEMENTS BETWEEN THE COMPANY AND THE SHAREHOLDERS

- 11.1. All agreements and transactions between the Company and its Shareholders or any related party, as defined in section 1-5 of the PLLC Act, shall always be based on bona fide arm's length principles, and subject to approval of the Board, cf. section 5.2 (v) above.

## 12. RESTRICTIONS ON SHARES OWNED BY THE FOUNDERS

- 12.1. All shares in BioFuel held prior to October 2007 (directly or indirectly) by any of the Founders are restricted from sale or transfer during the first 36 months following the signing of this Agreement.
- 12.2. If the employment of a Founder is terminated without fault from the Founder prior to the expiry of the 36 month lock up period, shares which are subject to the lock up provisions set out herein shall immediately be sold at fair market value, less a discount of 20 %, to either BioFuel or to such person appointed by BioFuel. This does not apply if the cause of termination is due to downsizing, reorganisations or similar circumstances in BioFuel.
- 12.3. If the Founders and other Parties hereto fail to agree on the fair market value of shares to be sold in accordance with this section 12 the Parties shall request that the fair market value is determined as set out in section 14.
- 12.4. If BioFuel decides to base parts of its remuneration to management on stock or options to buy stock, the above lock up provisions shall apply mutatis mutandis to those stocks from the time of the stock issue or the time of the exercise of such stock options respectively.

For stock (option) remuneration to management entered into prior to November 10 2007, the lock up provisions shall apply during the first 24 months following the signing of this Agreement.

### **13. NON-COMPETE**

- 13.1. The Founders shall until the latest of 12 months from entering into the Agreement, or 3 months from termination of employment, not operate or otherwise be involved in any business directly or indirectly competing with the business of the Company whether as director, employee, advisor consultant or investor or in any other capacity.
- 13.2. In case of breach of the non-compete clause set out above all shares in BioFuel owned by the Founder in breach of said clause shall be assigned to BioFuel without compensation to said Founder.
- 13.3. In the event that BioFuel has been exposed to a documented and direct economic loss as a consequence of the Founders breach of the non-compete clause, BioFuel shall have the right to claim damages from the breaching Founder. The fair market value of the shares assigned to BioFuel, cf. section 12.2, shall however be deducted from any damages compensation due to BioFuel hereunder.

### **14. DETERMINING FAIR MARKET VALUE**

- 14.1. In any situation where shares in the Company are to be transferred to another Party or to the Company in accordance with the provisions of this Agreement and where the Parties do not agree on the purchase price to be paid for such shares each party may request in writing to the other Party that the basis for calculating the purchase price to be paid for said shares, as otherwise set out in the relevant section of the Agreement, shall be determined as set out in this section 14.
- 14.2. The Party, or Parties if more than one, which are in disagreement shall request its auditor(s) to each appoint a well reputed independent valuation firm to determine the fair market value of the shares. The two appointed firms shall thereafter appoint a third firm.

The appointed valuation firms, hereinafter referred to as the "Arbitrators" for the purpose of this section 14, shall bindingly determine the fair market value of the shares.

- 14.3. The fair market value of the shares shall be equal to the estimated sales value of the shares when selling all of the shares in the Company to one single buyer or to a group of buyers, less a discount of 15 percent.

The valuation of the shares shall reflect a valuation principle which would be applied by an independent buyer when considering a purchase of all the shares in comparable companies. The valuation shall reflect the assets and know-how owned by the Company and its subsidiaries, and shall further take into account the Company's current and realistic future earnings, goodwill and also market conditions for the Company. All shares in the Company shall for the purpose herein be regarded as having the same value.

- 14.4. The Arbitrators shall seek to determine the fair market value by consensus. The Arbitrators' value estimate, or estimates in case of diverging estimates, shall be put forward in writing and shall include a justification for the estimated fair market value. If the Arbitrators' estimates are diverging, the fair market value for the shares shall be equal to the average of the three estimates.
- 14.5. The Arbitrators' fees shall, as a starting point, be paid by all Parties involved in the arbitrary valuation process. However, if the Arbitrators' estimate of fair market value represents an adjustment in favour of the Party or Parties having requested valuation in accordance with this section 14, said Party or Parties shall not be liable to pay the Arbitrator's fees.

### **15. APPROVAL OF TRANSFER OF SHARES**



- 15.1. Transfer of Shares to third parties shall be subject to the approval of the Board, which shall not be unreasonably withheld. The Board may decline to approve transfer of shares if the transferee does not, in the opinion of the Board, have sufficient financial strength to provide for secure funding of the Company.
- 15.2. Any Shareholder may request that an integrity due diligence regarding the potential new shareholder is carried out prior to decision of acceptance is made, the cost of which shall be covered by the requesting Shareholder(s).
- 15.3. The Board may set as condition for its approval that new shareholders agree to accept this Agreement as binding upon them.
- 15.4. New shareholders will not be registered as shareholders until the deadline for asserting the right of first refusal according to applicable law or the tag-along right has expired. Registration shall in any case be subject to the approval of the Board, as set out herein.

## 16. TAG-ALONG RIGHTS

- 16.1. In the event that any Party to this Agreement, except [Statoil/ the Investors], sells Shares, the selling Party shall offer [Statoil/ the Investors] to co-sell a proportionate part of [Statoil/ the Investors]'s Shares. Such offer shall enable [Statoil/ the Investors] to sell the same percentage of Shares (of the total Shares in BioFuel) as the selling Party is selling, on the same terms and conditions (the "**Tag-Along Right**").

Example: In the event that a Founder sells shares in the Company equal to 3% of the issued shares in the Company, [Statoil/ the Investors] shall be offered to sell shares held by [Statoil/ the Investors] equal to 3 % of the issued shares in the Company.

[Statoil/ the Investors] may elect to utilise the Tag-Along Right for less shares than [Statoil/ the Investors] is entitled to.

- 16.2. Procedure for exercising the Tag-Along Right:

- i) Without undue delay after having agreed to sell shares in the Company, the selling Party shall provide [Statoil/ the Investors] with a written notification concerning the sale (the "**Notification**"), stating the identity of the purchaser, the agreed purchase price and other significant terms and conditions for the sale.
- ii) [Statoil/ the Investors] shall notify the selling Party of whether or not [Statoil/ the Investors] wishes to participate in the sale (by selling all or a portion of its shares). Written notification to this effect must be received by the selling Party within 21 days after the date of the Notification. [Statoil/ the Investors] shall sell its shares without any charges, liens or encumbrances to the proposed purchaser on terms and conditions equal to the agreement between the selling Party and the purchaser.
- iii) Following the expiry of the 21 days deadline, the selling Party shall request the purchaser to increase the number of shares being acquired, and thereby also acquire the shares for which [Statoil/ the Investors] has exercised its Tag Along-Right.
- iv) In the event that the purchaser rejects the request to increase the number of shares being acquired, the selling Party shall reduce the number of shares being sold proportionally in order to ensure that [Statoil/ the Investors] is enabled to sell the same proportionate part of its Shares. In the event that the purchaser rejects to acquire shares from [Statoil/ the Investors] , the selling Party may at its sole discretion elect to (a) acquire a proportionate part of [Statoil/ the Investors]'s shares on the same terms and conditions as agreed with the purchaser or (b) decline to sell its Shares.
- v) In the event that (a) The selling Party fail to sell the shares within a period of 30 days after the expiry of the 21 days-deadline in Clause 15.2 ii), or (b) the terms and conditions of the sale are significantly changed compared to the information provided in the Notification or (c) the sale

will be made to another purchaser (other than other companies within the same group as the original purchaser), the selling Party shall not be entitled to carry through the sale without again adopting the procedure described in sections i) to iv) above.

## 17. STEP DOWN REGULATIONS

17.1. After the earliest of either the expiry of the Option, cf. the Investment Agreement, provided that Statoil has not exercised the Option, or 36 months from the date of Statoil's payment of the required subscription price under the Option, and upon six months written notice, Statoil shall have the right to redeem its Shares in BioFuel and in return receive shares in BioFuel Africa AS at an ownership percentage ratio of 1:1. For the avoidance of doubt it is expressly stated that the step down option set out in section 17.1 and 17.2 shall apply only to Statoil and not the Co-Investor.

Statoil's right to become shareholder in BioFuel Africa AS at a 1:1 ratio is conditioned upon no assets or know-how in BioFuel of more than insignificant value. If the Parties disagree in respect of the value of aforementioned assets and/ or know-how the value shall be determined according to the principles laid down in section 14. The Arbitrators shall in this case perform a valuation of the assets/ know-how and determining the total number of shares in BioFuel Africa AS which Statoil shall be entitled to.

17.2. In the event that Statoil's ownership is transferred to BioFuel Africa AS, the Parties agree that values jointly accumulated in BioFuel shall be fully transferred to BioFuel Africa AS, and if such transfer is prohibit by law or otherwise, that BioFuel Africa Ltd shall have a royalty free right to use such assets and know how.

17.3. After the earliest of either the expiry of the Option, cf. the Investment Agreement, provided that Statoil has not exercised the Option, or 36 months from the date of Statoil's payment of the required subscription price under the Option, shareholders jointly representing at least 30 % of issued shares in BioFuel shall have the right to demand that Statoil step down as described in this section 17 if they do not come to terms with Statoil in respect of;

- i) the future strategic development of the Company, or
- ii) a joint sale of the shares in BioFuel, or
- iii) an IPO of the shares in BioFuel,

provided that the aforementioned issues have been discussed and voted over in a shareholders meeting.

17.4. Subsequent to step down by Statoil as described above, the Parties agree that the provisions set out in this Agreement shall apply, to the extent possible, between Statoil and BioFuel for their collective shareholding in BioFuel Africa AS. BioFuel AS shall accept the aforementioned by signing this Agreement. In the event of a step down as set out in this section 17 the Agreement shall terminate for all other Shareholders.

17.5. BioFuel shall, subsequent to step down as described above, have the right to sell its shares in BioFuel Africa AS together with accompanying rights for the acquirer to purchase crude Jatropa oil from BioFuel Africa Ltd at market value.

BioFuel's right to include purchase rights to crude Jatropa oil when selling shares in BioFuel Africa AS shall comprise of all crude oil produced in BioFuel Africa Ltd, less the amount of crude oil which Statoil is entitled to in accordance with StatoilHydro ASA's off-take agreement, cf. **Exhibit 17.5** to this Agreement.

17.6. Under the off-take agreement, cf Exhibit 17.5, StatoilHydro ASA has the right to purchase a fixed quantity of crude Jatropa oil, XX.000 ton, with the addition of a share of any crude Jatropa oil exceeding such fixed quantity corresponding to Statoil's share of BioFuel/ BioFuel Africa AS. However, if Statoil do not exercise and/or pay up under the Option, StatoilHydro ASA's right to purchase crude Jatropa oil shall only correspond to a quantity equal to Statoils share of BioFuel/ BioFuel Africa AS (thus no fixed base volume).

## 18. BREACH OF CONTRACT - REMEDIES.

- 18.1. Each Shareholder (the "**Non-breaching Party**") may exclude a Shareholder by notice in writing ("**Termination Notice**") to that Shareholder (the "**Breaching Party**") if:
- i) The Breaching Party commits a material breach of its obligations under this Agreement or the Articles of Association and, if the breach is capable of remedy, fails to remedy the breach within 30 days of being specifically required in writing to do so by the Non-breaching Party.
  - ii) The Breaching Party makes an assignment for the benefit of his/ its creditors generally or fails to pay its debt generally as they become due, or any distress, execution or other similar process is levied, enforced upon or sued out against property of the Breaching Party which is not discharged within 14 days thereafter or an administrative receiver or a liquidator is appointed over the whole of or any substantial part of the Breaching Party's business, property or assets or those of its holding company, or a resolution is passed for the winding up of the Breaching Party.
- 18.2. In the event of a Party's breach of the provisions of this section 18, Non-breaching Parties shall have the right to purchase the breaching Party's Shares free of any charges, liens or encumbrances, as set out herein.
- 18.3. A Non-breaching Party may exercise his purchase right by written notification to the breaching Party, and the other Non-breaching Parties, giving the other Non-breaching Parties a deadline of not less than 14 days to exercise their purchase rights according to this section 18.
- 18.4. The purchase price per share being acquired from a Breaching Party shall be equal to each share's fair market value, or in the case of 18.1 i) above, with a deduction of 20 %. Fair market value shall be decided by agreement between the Breaching Party and the Non-breaching Parties, or in accordance with the provisions set forth in section 14 above.
- 18.5. The Shares of the Breaching Party shall be acquired by Non-breaching Parties having asserted their participation within the deadline set forth in the notice, cf. section 18.3, on a pro rata-basis calculated according to the number of Shares held by said Party at the date of the notice.
- 18.6. In the event that a participating Non breaching-Party defaults on his payment of the purchase price the other Non-breaching Parties may elect to exclude such Party from the purchase process and acquire the shares that should have been acquired by such Party as well.
- 18.7. The provisions set out in this clause 18 shall apply without prejudice to any other right of the other shareholder hereunder the general rules and principles according to Norwegian law of tort and damages.

## 19. ACCESS TO INFORMATION AND REPORTING

- 19.1. BioFuel shall as soon as possible use its best endeavour to establish routines which enable BioFuel to produce monthly financial reporting, including accommodating the reporting format and time schedule as may reasonably be requested by Statoil. Until such routines are established, BioFuel shall produce quarterly financial reporting to be presented and approved by the Board. Financial reports approved by the Board shall upon written request be submitted to any shareholder.

Statoil, or any other Party owning more than 15 percent of the issued shares in BioFuel, shall further have the right to, accompanied by its own auditors and advisors perform visitations at BioFuel's premises with three weeks written notice. The Parties shall in this respect also be given access to the management of the Company.

## 20. IMPLEMENTATION OF THE AGREEMENT

- 20.1. The Parties hereby undertake to perform such acts and execute such documents as will be necessary in order to procure that the provisions of this Agreement are implemented, including but not limited to procuring that their representatives in the Board and/ or general meetings cast their votes in said compliance.
- 20.2. In the event that the Board fails to comply with this Agreement, the Parties undertake to call an extraordinary general meeting and pass a resolution instructing the Board to withdraw any resolutions passed in conflict with this Agreement and pass new resolutions complying with this Agreement.

## 21. CONFIDENTIALITY

- 21.1. Except as may be required;

- a) by applicable law or regulations, or
- b) as a consequence of legal proceedings in connection with this Agreement;

the provisions of this Agreement, all negotiations relating hereto and information concerning the business of the Company are strictly confidential and no announcement or disclosure of the terms under this Agreement or regarding the business of the Company shall be made by any of the Parties to any third party except as described in Section 7.9.

- 21.2. The restrictions contained in this clause shall continue to apply after the termination of this Agreement without limit in time.

## 22. DURATION AND TERMINATION

- 22.1. This Agreement shall come into force when signed by all Parties, subject to approval by the board of directors of each Party being a company and further subject to all approvals and authorisations by relevant authorities that may be required, has been obtained.
- 22.2. Any Party transferring all of its Shares, not violating any regulation in this Agreement, ceases to be a Party to this Agreement when the Party ceases to hold shares in the Company.
- 22.3. This Agreement is entered into under the assumption that the Investors will exercise the Option, cf section 2.1, and provide for future necessary funding of the Company. In the event the Option is not exercised, the Parties are obligated to renegotiate the Agreement to the extent necessary for the purpose of inviting new investors.
- 22.4. This Agreement shall further automatically terminate if the Company is listed on a stock exchange or other market place for the shares.

## 23. NOTICES

- 23.1. All notices pursuant to or regarding this Agreement shall be made in English, by registered mail or by facsimile or e-mail with confirmation by mail, and shall be addressed to the following:

### If to Statoil

Name: Statoil New Energy AS  
Address: Forusbeen 50, 4063 Stavanger  
Attention:  
Telephone:  
Facsimile:  
E-mail:

If to the Co-Investor

Name:  
Address:  
Attention:  
Telephone:  
Facsimilie:  
E-mail:

If to Perennial

Name: Perennial Bioenergy AS  
Address: Professor Olav Hanssensvei 7 A, 4021 Stavanger  
Attention:  
Telephone:  
Facsimile:  
E-mail:

If to the Founders

Name:  
Address:  
Attention:  
Telephone:  
Facsimile:  
E-mail:

If a Party notifies the other Parties of a change in address, notices shall be sent to such new address.

**24. MISCELLANEOUS**

- 24.1. This Agreement supersedes all previous shareholders- or similar agreements between any of the Parties, and also the Term Sheet between Statoil and BioFuel dated November 10 2008, and is the only shareholder agreement in effect regarding BioFuel. This Agreement shall not be amended, supplemented or otherwise modified except by written agreement between the Parties.
- 24.2. The rights and obligations of each Party shall be such as are provided by applicable law, and the Articles of Associations, subject to any provisions set forth in this Agreement. In the event of any inconsistencies between the terms of this Agreement and the Articles of Associations or applicable law the terms of this Agreement shall to the extent permitted by applicable law prevail. The Parties shall in the event of any inconsistencies between this Agreement and the Articles of Associations amend the Articles of Association, to the extent possible, in order to achieve consistency.
- 24.3. If the provisions of this Agreement or part thereof shall to any extent become invalid, illegal, unenforceable under any applicable law, i) the validity, legality and enforceability of the remaining provisions of this Agreement shall in no way be affected or improved and ii) the Parties shall use their best efforts to achieve the purpose of the invalid provision by agreeing to a new legally valid provision in light of the main objectives prevailing at the time of execution of this Agreement.

**25. GOVERNING LAW**

- 25.1. This Agreement shall be governed by and construed in all respects in accordance with the laws of Norway.

26. **DISPUTE RESOLUTION**

26.1. Disputes arising from or in connection with this Agreement shall be sought resolved amicably between the Parties. Disputes which have not been resolved amicably shall be subject to dispute resolution by arbitration in accordance with the Norwegian Arbitration Act of 2004. The arbitration proceedings shall take place in Stavanger, Norway. The proceedings and their result shall be held confidential between the Parties so involved.

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This Agreement has been executed in 7 counterparts, one for each of the Parties, and one for BioFuel AS, having endorsed the Agreement.

Stavanger, February \_\_ 2009

Statoil New Energy AS

Perennial AS

\_\_\_\_\_  
Name: Gisle Melbo/Arve Kopperdal  
Position: Board members

\_\_\_\_\_  
Name: John Peter Hernes/Rolf Atle Seloter  
Position: Board Members

Helcon Ltd.

Discovery Channel Invest

\_\_\_\_\_  
Arne Helvig

\_\_\_\_\_  
Finn Byberg

Kolcon/ Steinar Kolnes

The Co-Investor:

\_\_\_\_\_  
Steinar Kolnes

\_\_\_\_\_  
Name:  
Position:

We, the Founders, hereby accept as binding upon ourselves all such duties and obligations set out herein which are applicable to us personally and undertake to comply with and act in accordance with such provisions.

\_\_\_\_\_  
Arne Helvig

\_\_\_\_\_  
Finn Byberg

\_\_\_\_\_  
Steinar Kolnes

BioFuel AS hereby accept as binding upon itself all such duties and obligations set out herein which is be applicable to BioFuel AS and undertake to comply with and act in accordance with the aforementioned provisions.

BioFuel AS

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Jan Reinås  
Chairman

Exhibit 1: Articles of Association  
Exhibit 1.1: The Investment Agreement  
Exhibit 16.5: Off-Take Agreement  
Exhibit