



## CONFIDENTIALITY AGREEMENT

**THIS AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_

### **BETWEEN:**

- (1) **>>name<<** **LIMITED** a limited liability company incorporated in the Republic of Kenya whose postal address is Post Office Box Number \_\_\_\_\_ Nairobi in the said Republic (the “**Company**” which expression shall include its successors and assigns); and
- (2) **>>name<<** of Post Office Box Number **>> <<** Nairobi aforesaid (the “**Director**” which expression shall include his personal representatives and assigns); and
- (3) **>>name<<** and **>>name<<** both of Post Office Box Number **>><<** Nairobi aforesaid (the “**Partners**” which expression shall include their respective personal representatives and assigns).

### **WHEREAS:**

- A The Company intends to carry on the business of developing and providing renewable sources of energy derived from wind power and/or solar power, geothermal power, wave power and all other kinds of energy and power sources in Kenya;
- B The Partners have decided to enter into a joint venture with the Director and to this end have jointly formed the Company;
- C The Partners will fund the Company and thereby the Director, during an initial agreed phase of one year, will investigate and research the commercial and viability aspects of creating wind forms and other self sustaining renewable energy resources;
- D The Company wishes to utilise the services of the Director to carry out research



on the provision of wind power energy from wind farms and to assist the Company develop efficient and sustainable programmes for the development management and marketing of the wind power energy developed and produced by the Company;

E The Partners and/or the Company wish to protect the research and data acquired during the assessment, investigation period which is being funded by them.

**IT IS AGREED** as follows:

**1. Commencement**

The Company hereby engages the Director and the Director agrees to serve the Company as a consultant of the Company with effect from the        day of        2003 for a period of one (1) year unless and until this Agreement is terminated as hereinafter provided.

**2. Duties**

2.1 During the continuance of this Agreement the Director shall unless prevented by ill health devote his full time attention and abilities to research and study for the development and provision of wind power from wind farms by the Company together with other renewable energy sources in Kenya.

2.2 Subject to the foregoing the Director agrees to manage all the Company operations and especially with respect to the development and provision of wind power from wind farms and to advice and assist the Company in respect of the same. The Director in carrying out his duties shall comply with the reasonable directions of the Company and use his best endeavours to promote the interests of the Company.

2.3 The Director shall regularly report to the Partners as to how his research has progressed and avail them details of all such research and data.

**3. Remuneration**

3.1 In consideration of the services to be rendered by the Director hereunder the Company shall pay to the Director a consultancy fee of United States Dollars Five Thousand (USD 5,000) for the entire duration of the Director's engagement payable monthly on the last working day of each month in



equal installments or as shall be agreed between the parties. The said consultancy fee shall be paid gross and the Director agrees to discharge and pay all taxes payable on the same.

The Director undertakes and agrees to indemnify the Company against any claims for taxes required to be paid.

3.3 The Director shall be entitled to a rateable proportion of the consultancy fee payable under this clause for any period during which his engagement hereunder subsists.

#### 4. **Expenses**

The Company shall reimburse the Director all reasonable expenses properly incurred by him in the performance of his duties under this Agreement provided that the Company may require any such expenses to be duly vouched by written evidence where procurable.

#### 5. **Restrictions and confidentiality**

5.1 The Director is aware that in the course of his engagement under this Agreement he will have access to and be entrusted with information in respect of the business and financing of the Company and its dealings and transactions and affairs likewise in relation to its associated or subsidiary companies all of which information is or may be confidential and he undertakes to protect the confidentiality of that information and without prejudice to every other duty which the Director has to keep secret all information given to him in confidence or gained in confidence.

5.2 The Director shall well and faithfully serve the Company and in particular (but without restricting the general nature of his duty to the Company) shall not at any time while engaged hereunder:

disclose or make use of any trade secrets business methods or information of the Company which he knows or ought to have known were treated as confidential by the Company;

5.2.2 canvass any customer or client of the Company or treat with any supplier or business associate of the Company on behalf of himself



or of any other firm or corporation whether existing or proposed with a view to entering into any contract either while the Director's engagement continues or after it has ended;

5.2.3 approach any employee of the Company with a view to his or her ceasing to be employed by the Company;

## 6. Termination of employment

The engagement of the Director shall be determined:

6.1 by the Company without notice or payment in lieu of notice if the Director is guilty of any gross default or misconduct in connection with or affecting the business of the Company or in the event of any breach non-observance by the Director of any of the stipulations contained in this Agreement which is detrimental to the Company's interests;

by either party giving to the other not less than three (3) months' notice in writing

## 7. Ownership of research material

The ownership of and sole right to obtain copyright in any research and study material supplied by the Director to the Company upon the instructions of the Company shall be vested in the Company from the date of delivery of the same to the Company of such material and the Company shall thereupon be at liberty to effect and be responsible for the registration or other protection of such material as it may see fit.

## 8. Handover

The Director or his personal representatives shall upon the termination of his engagement immediately deliver up to the Company all correspondence documents specifications papers and property belonging to the Company which may be in his possession or under his control.

## 9. Notice

9.1 Any notice hereunder if given by the Director shall be delivered or sent by registered post to the Company at its registered office for the time being and if given by the Company shall be delivered at or sent by post to the last known residential address



of the Director;

9.2 Communications and notices shall be deemed to be received:

if delivered by hand, on the day of the delivery;

if sent by registered post, fourteen (14) days after posting.

#### 10. **Entire Agreement**

This Agreement contains the entire agreement between the parties and replaces all previous correspondence undertakings and warranties whether written or oral and may not be varied except in writing.

#### 11. **Invalidity**

If any term or provision in this Agreement shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law, that term or provision or part shall to that extent be deemed not to form part of this agreement and the enforceability of the remainder of this agreement shall not be affected.

#### 12. **Arbitration**

Any dispute difference or question which may arise between the parties to this Agreement or any of them touching upon the construction of this Agreement shall be referred to the decision of a single arbitrator to be agreed between the parties or in default of agreement within fourteen (14) days to be appointed at the request of either of the parties by the chairman for the time being of the institute of Chartered Arbitrators – Kenya Branch in accordance with and subject to the provisions of the Arbitration Act (Cap 49 Laws of Kenya) or any statutory modification or re-enactment thereof for the time being in force.

#### 13. **Applicable Law**

This Agreement shall be construed and governed in all respects in accordance with the Laws of Kenya.



**IN WITNESS WHEREOF** the parties hereto have hereunto executed this Agreement the day and year first hereinbefore written.

**SIGNED** by >>>< )  
for and on behalf of >>>< )  
**LIMITED** in the presence of: - )  
)  
)  
)  
)  
Advocate )

**SIGNED** by >>>< in )  
the presence of: - )  
)  
)  
)  
)  
Advocate )

**SIGNED** by >>>< )  
And >>>< as the **Partners** in )  
the presence of: - )  
)  
)  
)  
)  
Advocate )

**Drawn By:**