

# Mutual Nondisclosure Agreement

THIS AGREEMENT ("**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2023 ("**Effective Date**"), by and between Blue Source Sustainable Forests, LLC a Delaware Limited Liability Company headquartered at 2825 E. Cottonwood Parkway, Suite 400, Cottonwood Heights, Utah 84121 (hereinafter "**BSFC**") and \_\_\_\_\_ (hereinafter "**Counterparty**"). In this Agreement \_\_\_\_\_ and BSFC are collectively referred to as the "**Parties**" and are individually referred to as a "**Party**".

1. *Purpose:* Either Party may disclose certain confidential or proprietary business, trade, technical, or other information to the other Party to facilitate certain potential transactions (each a "**Transaction**") of real property (the "**Property**"). Such information is provided for evaluation purposes only and must be used in accordance with this Agreement. In consideration of the Receiving Party being granted access or continued access to such information, the Parties agree as follows:

2. *Confidential Information.*

(a) "**Confidential Information**" means all information relating to the business, services, and/or products of the Disclosing Party or a third party, including without limitation any research, products, services, ideas, know-how, business plans, inventions, processes, designs, specifications, software, distribution, engineering, marketing, customer, vendor, financial, merchandising, sales, or employee information that (i) is disclosed by one Party or on its behalf ("**Disclosing Party**") to the other Party ("**Receiving Party**") or its Representatives (as defined below), directly or indirectly, in writing, orally, electronically, or by drawings or inspection; and (ii) is not included in one of the **EXCEPTIONS** set forth below.

(b) **EXCEPTIONS:** Each Party's obligations under this Agreement with respect to any portion of the other Party's Confidential Information shall terminate when the Receiving Party can document that such Confidential Information: (i) is now or later becomes available in the public domain other than by a breach of this Agreement or any confidentiality obligation owed to the Disclosing Party; (ii) is rightfully received from a third party without, and not in breach of, any obligation of confidentiality; (iii) is independently developed by employees or agents of the Receiving Party without direct or indirect access to or use of the Confidential Information of the Disclosing Party; (iv) is known to the Receiving Party at the time of disclosure without an obligation of confidentiality; or (v) is produced in compliance with applicable law or a court order, provided that the Receiving Party first gives the Disclosing Party reasonable notice of such law or order and gives the Disclosing Party opportunity to oppose and/or attempt to limit such production, unless the law or court order prohibits giving of such notice. In such case, the Receiving Party will only disclose those portions of the Confidential Information that are legally required and will use reasonable efforts to maintain the confidential treatment of such Confidential Information.

3. *Non-use and Nondisclosure.* The Receiving Party shall disclose Confidential Information only to its employees, members, officers, affiliates, registered representatives, agents, and advisors ("**Representatives**"), and shall limit dissemination of Confidential Information to such Representatives who have a need to know the Confidential Information, have been advised of the confidentiality obligations related to the Confidential Information and are under an obligation of confidentiality no less stringent than that contained herein. Receiving Party may use Confidential Information only for pursuing the Purpose set forth above. The Receiving Party shall take the

same measures, but no less than reasonable security measures, and use the same care, but no less than a reasonable degree of care, to preserve and protect the secrecy of, and to avoid disclosure or unauthorized use of, the Disclosing Party's Confidential Information as it uses with its own confidential information. Furthermore, the existence of this Agreement, and any business negotiations, discussions, consultations or agreements in progress between the Parties shall not be disclosed or released in any form without the prior written approval of both Parties. The Receiving Party shall reproduce the Disclosing Party's proprietary rights and confidentiality notices on any such copies in the same manner in which such notices were set forth in or on the original. The Receiving Party shall promptly notify the Disclosing Party in the event of any unauthorized use or disclosure of the Confidential Information of which it becomes aware and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or breach of this Agreement. The Receiving Party shall be liable for any and all disclosures to a third party in violation of this Agreement by its Representatives.

4. *No License/Work Product.* Nothing in this Agreement is intended to grant any rights to the Receiving Party under any patent, copyright, trademark, trade secret, or other proprietary right of the Disclosing Party, nor shall this Agreement grant the Receiving Party any rights in or to Confidential Information. Title to any and all Confidential Information disclosed by either Party in connection with the Purpose shall remain exclusively with the Disclosing Party.

5. *Warranty.* Each Party warrants and represents that it possesses the right to lawfully make the disclosures subject to this Agreement. The Disclosing Party shall have no liability for any errors or omission in or decisions made by the Receiving Party in reliance on any Confidential Information disclosed under this Agreement. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS," AND NEITHER PARTY MAKES ANY WARRANTIES, EXPRESSED, IMPLIED, OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE. Each Party represents and warrants that its obligations under this Agreement do not and will not conflict with any of its obligations to any third party.

6. *No Further Rights.* Nothing herein shall require either Party hereto to (i) disclose any Confidential Information to the other or (ii) enter into any further agreements with the other Party. Neither this Agreement nor receipt of Confidential Information hereunder shall limit either Party's independent development and marketing of products or systems involving technology or ideas similar to those disclosed, nor will this Agreement or receipt of Confidential Information hereunder prevent the Receiving Party from undertaking similar efforts or discussions with third parties, provided the Receiving Party complies with this Agreement. This Agreement does not form any agency, partnership, joint venture, or other business arrangement between the Parties.

7. *Term.* The term of this Agreement ("**Term**") shall be for the period beginning on the Effective Date and ending one (1) year thereafter, which shall be the Disclosure Period except that either Party may terminate this Agreement upon ten (10) days prior written notice of termination to the other Party. Notwithstanding the foregoing, the period of confidentiality and restricted use for each disclosure of Confidential Information shall be five (5) years from the date of termination or expiration.

8. *Return of Materials.* The Receiving Party shall, upon the written request of the Disclosing Party: (i) return to the Disclosing Party or destroy (at the election of the Receiving Party) all Confidential Information delivered to the Receiving Party under this Agreement, and (ii) if it elects to destroy such Confidential Information, confirm to the Disclosing Party that all such Confidential Information has been destroyed. Notwithstanding the foregoing sentence, the Receiving Party and its Representatives may retain copies of Confidential Information in accordance with its internal record retention policies for legal, compliance, or regulatory purposes, and Receiving Party may retain copies of Confidential Information that are stored on Receiving Party's IT backup and disaster recovery systems until the ordinary course deletion thereof. All Confidential Information so retained shall remain subject to the terms of this Agreement.

9. *Access to the Property.* BSFC grants Counterparty, its agents, consultants, contractors and employees, the right to enter upon the Property to perform preliminary physical inspections including, but not limited to, a preliminary timber cruise and such other investigations or inspections that Counterparty deems reasonably necessary to evaluate the Property. Counterparty will give BSFC not less than 7 days prior written notice, unless otherwise agreed, prior to entering the Property, and BSFC will have the right to have a representative of BSFC accompany Counterparty in connection with any such entry upon the Property. This right of access shall expire upon the sooner to occur of (i) thirty (30) days after the date of this Agreement; or (ii) such date as BSFC and Counterparty enter into an agreement for purchase and sale of the Property. Counterparty's entry upon the Property is at Counterparty's own risk, and neither BSFC nor any of its employees, agents or representatives has made any representations or warranties with respect to the condition of the Property. Counterparty will indemnify, defend and hold harmless the Property, BSFC, its members, employees, agents, affiliates, contractors, representatives, successors and assigns from and against any and all demands, claims, causes of action, losses, costs, damages, or liabilities resulting to, imposed on, or incurred by BSFC as a result of, or arising from, an entry on or inspection or examination of the Property by Counterparty or any of its agents, consultants, contractors or employees. After any entry upon the Property, Counterparty, its agents, consultants, contractors,

or employees will promptly restore the Property to the condition that existed prior to such entry. This indemnification shall survive the termination of this Agreement.

10. *Miscellaneous.*

(a) Each Party acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information and that the Disclosing Party may be entitled, without waiving any other rights or remedies, to such or injunctive equitable relief as may be deemed proper by a court of competent jurisdiction without the necessity of posting a bond.

(b) If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

(c) Neither Party may assign or transfer any rights or obligations under this Agreement without the prior written consent of the other Party; such consent shall not be unreasonably withheld. This Agreement shall bind and inure to the benefit of the Parties hereto and its respective successors and assigns.

(d) Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof. A waiver given by either Party on any one occasion is effective only in that instance and will not be construed as a waiver of any right on any other occasion.

(e) This Agreement shall be governed and interpreted in accordance with the laws of the State of Utah, without reference to conflict of laws principles. Venue for any disputes which may arise under this Agreement shall be in the state or federal courts in and for Salt Lake City, Utah. In the event of any litigation between the Parties, the prevailing Party will be entitled to reasonable attorneys' fees and all costs incurred in enforcing this Agreement.

(f) The rights and obligations set forth in Sections 2, 3, 4, 6, 7 and 8 shall survive the expiration or termination of this Agreement for five (5) years.

(g) This Agreement sets forth the entire understanding and agreement of the Parties with regard to the subject matter hereof and supersedes all prior and contemporaneous written and oral agreements, arrangements and understandings related to the subject matter hereof. In the event of any inconsistency between this Agreement and any statement contained in or transmitted with any Confidential Information, this Agreement shall control. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both Parties. This Agreement may be executed in counterparts. An electronic reproduction of an original signature transmitted to the other Party is effective as if the original was sent to the other Party.

BLUE SOURCE SUSTAINABLE FORESTS COMPANY, LLC

By:  
Its:

By:  
Its: