

# **SOUTHWEST IOWA RENEWABLE ENERGY, LLC**

## **AUDIT COMMITTEE CHARTER**

### **I. ORGANIZATION**

There shall be a committee of the Board of Directors to be known as the Audit Committee. The Audit Committee shall consist of three or more directors, as determined by the Board of Directors, each of whom shall not be an officer or employee of the Southwest Iowa Renewable Energy, LLC (the "Company") or any of its affiliates, but shall be independent of the management of the Company and free of any relationship that, in the opinion of the Board of Directors, would interfere with his or her exercise of independent judgment as an Audit Committee member.

All members of the Audit Committee shall be able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement, and at least one member of the Audit Committee shall be an "audit committee financial expert," as that term is defined in rules promulgated by the Securities and Exchange Commission ("SEC").

The members of the Audit Committee shall be elected by the Board of Directors at the annual meeting of the Board of Directors to serve a term of one year or until their successors shall be duly elected and qualified. The Board of Directors will appoint a Chair to preside at the Audit Committee meetings and schedule meetings as appropriate.

The members of the Audit Committee shall meet the applicable independence and experience requirements of (1) the NASDAQ Stock Market, (2) the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations promulgated thereunder and (3) the rules and regulations of the SEC as such requirements are interpreted by the Board of Directors in its business judgment. At least one member of the Committee shall be an "audit committee financial expert" as defined by the rules and regulations of the SEC and under the Exchange Act.

The Board of Directors shall make the determination as to (a) the independence of each member of the Audit Committee; and (b) which member(s) of the Audit Committee qualify as an "audit committee financial expert."

### **II. PURPOSE**

The primary function of the Audit Committee is to assist the Board of Directors in fulfilling its oversight responsibilities by reviewing the financial reports and other financial information provided by the Company to any governmental body or the public; the Company's systems of internal controls regarding finance, accounting, legal compliance and ethics that management and the Board of Directors has established; and the Company's auditing, accounting and financial reporting processes generally. Consistent with this function, the Audit Committee should encourage continuous improvement of, and should foster compliance with, the Company's policies, procedures

and practices at all levels. The Audit Committee's primary duties and responsibilities are as follows:

- To serve as an independent and objective party to monitor the Company's financial reporting process and internal control system.
- To review and appraise the audit efforts of the Company's independent auditors and management of the Company.
- To provide an open avenue of communication among the independent auditors, financial and senior management, employees and the Board of Directors.

The Audit Committee will primarily fulfill these responsibilities by carrying out the activities enumerated in Section IV of this Charter.

### **III. MEETINGS**

The Audit Committee shall meet regularly as determined by the members of the Audit Committee or as directed by the Board of Directors. The Chair of the Audit Committee shall prepare or approve an agenda in advance of each meeting. The President, Chief Financial Officer, outside legal counsel, and a representative from the independent auditors may be invited to all meetings. Other management may be invited as necessary. Non-committee members may be excused from attendance at any meeting or portion of any meeting by the Chair.

As part of its job to foster open communication, the Audit Committee should meet at least annually with management and the independent auditors in separate executive sessions to discuss any matter that the Audit Committee or each of these groups believes should be discussed privately. In addition, the Audit Committee or its Chair should meet with the independent auditors and management quarterly to review the Company's financial statements and significant findings based upon the auditor's limited review procedures.

### **IV. AUTHORITY AND RESPONSIBILITIES**

The Audit Committee shall be solely responsible<sup>1</sup> for the retention, compensation and oversight of the work of the independent auditor (including resolution of disagreements between management and the independent auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work. The independent auditor shall report directly to the Audit Committee.

The Audit Committee shall have the authority, to the extent it deems necessary or appropriate, to retain independent legal, accounting or other advisors.<sup>2</sup> The Company shall provide for appropriate funding, as determined by the Audit Committee, for

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<sup>1</sup> See Rule 10A-3(b)(2) adopted under the Exchange Act.

<sup>2</sup> See Rule 10A-3(b)(4) & (5) adopted under the Exchange Act.

payment of compensation to the independent auditor for the purpose of rendering or issuing an audit report and to any advisors employed by the Audit Committee, and for any ordinary administrative expenses necessary for the Audit Committee to carry out.

To fulfill its duties and responsibilities the Audit Committee shall:

Review Procedures

1. Review and reassess the adequacy of this Charter at least annually and recommend any proposed changes to the Board of Directors for approval.<sup>3</sup>
2. Review the Company's audited financial statements prior to the release of year-end earnings and/or the Company's financial statement and prior to filing the Company's Annual Report on Form 10-K including disclosures made in management's discussion and analysis, and recommend to the Board whether the audited financial statements should be included in the Company's Annual Report on Form 10-K.
3. Review the Company's quarterly financial results prior to the release of quarterly earnings and/or the Company's financial statements, including the results of the independent auditor's review of the quarterly financial statements.
4. Review, as appropriate, any other material financial information submitted to any governmental or public body, including any certification, report, opinion, or review rendered by the independent auditors.
5. Discuss with management the Company's earnings press releases, including the use of "pro forma" or "adjusted" non-GAAP information. Such discussion may be done generally (consisting of discussing the types of information to be disclosed and the types of presentations to be made).
6. Discuss with management and the independent auditor the effect of regulatory and accounting initiatives as well as off-balance sheet structures on the Company's financial statements.

Independent Auditors

7. The independent auditors are ultimately accountable to the Audit Committee and the Board of Directors, as representatives of the Company's Members. The Audit Committee and the Board of Directors have the ultimate authority and responsibility to select the independent auditors and the Audit Committee has the ultimate responsibility to evaluate and, where appropriate, replace the independent auditors (or to nominate the independent auditors to be proposed for Member approval in any proxy statement).<sup>4</sup>

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<sup>3</sup> See NASDAQ Rule 4350(d)(1).

<sup>4</sup> See *id.*

8. Obtain and review a report from the independent auditor at least annually regarding (a) the independent auditor's internal quality-control procedures, (b) 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, (c) any steps taken to deal with any such issues, and (d) all relationships between the independent auditor and the Company. Evaluate the qualifications, performance and independence of the independent auditor, including considering whether the auditor's quality controls are adequate and the provision of permitted non-audit services compatible with maintaining the auditor's independence, taking into account the opinions of management and internal auditors. The Audit Committee shall present its conclusions to the Board.<sup>5</sup>
9. Pre-approve any non-audit services that are permitted under the Exchange Act and SEC rules.<sup>6</sup>
10. Ensure receipt from the independent auditors of a formal written statement delineating all relationships between the auditor and the Company, consistent with Independence Standards Board Standard No. 1.
11. Actively engage in dialogue with the independent auditors and legal counsel with respect to any disclosed relationships or services that may impact the objectivity and independence of the independent auditors.
12. Take, or recommend that the full Board of Directors take, appropriate action to oversee the independence of the independent auditors.
13. Recommend to the Board policies for the Company's hiring of employees or former employees of the independent auditor who participated in any capacity in the audit of the Company.<sup>7</sup>
14. Approve, where appropriate, fees and other significant compensation to be paid to the independent auditors.
15. Meet with the independent auditors to review the scope of the proposed audit for the current year, the audit procedures to be utilized, the location, reliance on management, and staffing for the audit.
16. Following each audit by the independent auditors, obtain from the independent auditors assurance that Section 10A of the Exchange Act has not been implicated.

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<sup>5</sup> See §10A(k) of the Exchange Act and Rule 10a-3(b)(2) adopted under the Exchange Act (requiring the independent auditor to prepare such reports).

<sup>6</sup> See §10A(h) of the Exchange Act.

<sup>7</sup> See NASDAQ Rule 4200(a)(15).

17. In connection with the Company's year-end financials, discuss with financial management and the independent auditors significant issues regarding accounting principles, practices and judgments and any items required to be communicated by the independent auditors in accordance with Statement on Accounting Standards No. 61.
18. In connection with the Company's interim financials, discuss with financial management and independent auditors any significant changes to the Company's accounting principles and any items required to be communicated by the independent auditors in accordance with Statement on Accounting Standards No. 71. The Chair of the Audit Committee may represent the entire Audit Committee for purposes of the quarterly review and communication.
19. Consider and approve, if appropriate, significant changes to the Company's auditing and accounting principles and practices as suggested by the independent auditors or management.
20. Ensure the rotation of the audit partners as required by law. Consider whether, in order to assure continuing auditor independence, it is appropriate to adopt a policy of rotating the independent auditing firm on a regular basis.<sup>8</sup>

#### Improvement Process

21. Meet periodically with management and the Risk Committee to review the Company's major financial risk exposure and the steps management has taken to monitor and control such exposures.

#### Proxy Statement

22. Approve the report of the Audit Committee required by the rules of the SEC to be included in the Company's annual proxy statement.
23. Oversee the publication of this Charter, following amendment, and, in any event, at least every three years, in the Company's annual proxy statement in accordance with SEC regulations.

#### Ethical Compliance

24. Establish, review and update periodically the Company's Code of Ethics<sup>9</sup> and Policy Against Insider Trading and Prohibited Transactions ("Insider Trading Policy"). The effectiveness of Code of Ethics and Insider Trading Policy shall be reviewed annually by the Audit Committee, with a report thereafter by the Audit

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<sup>8</sup> See §10A(j) of the Exchange Act (requiring rotation of certain audit partners on a five-year basis in order to continue to provide audit services for a registrant).

<sup>9</sup> Under SEC rules, the Company is required to disclose whether it has a Code of Ethics applicable to the chief executive and senior financial officers; if the Company has not adopted such Code of Ethics, it must disclose why it has not done so. See Item 406(a) of Regulation S-K adopted under the Exchange Act.

Committee to the Board of Directors. The report shall include any recommendations for proposed changes to the Code of Ethics and Insider Trading Policy which the Audit Committee believes are reasonably necessary to ensure high ethical conduct by the Company's chief executive and senior financial officers and to prevent fraudulent, deceptive, misleading or manipulative acts by "Access Persons" as that term is defined in the Insider Trading Policy.

Procedures for Handling Complaints<sup>10</sup>

25. Establish procedures for the receipt, retention and treatment of (a) complaints received by the Company regarding accounting, internal accounting controls or auditing matters; and (b) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.

Miscellaneous

26. Review with the Company's general counsel legal matters that may have a material impact on the financial statements, the Company's compliance policies related to financial matters or the Insider Trading Policy and any material reports or inquiries related to financial matters that are received from regulators or governmental agencies.
27. The Audit Committee is authorized to review, from time to time, in the Committee's discretion, electronic data processing procedures and controls, policies and procedures regarding expenses and use of corporate assets.
28. Periodically conduct a self-assessment of the Audit Committee's performance.
29. Perform any other activities consistent with this Charter, the Company's Operating Agreement and governing law, as the Audit Committee or the Board of Directors deems necessary or appropriate.

**LIMITATION OF AUDIT COMMITTEE'S ROLE**

While the Audit Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Audit Committee to plan or conduct audits or to determine that the Company's financial statements are complete and accurate and are in accordance with generally accepted accounting principles. These are the responsibilities of management and the independent auditors. Nor is it the duty of the Audit Committee to assure compliance with laws and regulations, the Code of Ethics and the Insider Trading Policy.

As amended August 1, 2017

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<sup>10</sup> This section addresses the "whistleblower" requirements of Sarbanes-Oxley and Rule 10A-3(b)(3) adopted under the Exchange Act.