SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported) **June 29, 2010**

PACIFIC ETHANOL, INC.

(Exact name of registrant as specified in its charter)

Delaware	**000-21467**	**41-2170618**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

400 Capitol Mall, Suite 2060, Sacramento, CA	**95814**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: **(916) 403-2123**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Introduction

The following "Introduction" discussion is disclosed pursuant to Item 8.01 of this Form 8-K and is set forth in advance of the Itemized disclosures below to provide context to the disclosures under Item 1.01 of this Form 8-K. The information in this Introduction shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended (the "Securities Act"), or the Exchange Act, except as may be expressly set forth by specific reference in such a filing.

As previously disclosed, on May 17, 2009, five indirect wholly-owned subsidiaries of Pacific Ethanol, Inc. (the "Company"), namely, Pacific Ethanol Holding Co. LLC ("PEHC"), Pacific Ethanol Madera LLC ("Madera"), Pacific Ethanol Columbia, LLC ("Boardman"), Pacific Ethanol Stockton, LLC ("Stockton") and Pacific Ethanol Magic Valley, LLC ("Burley" and, together with Madera, Boardman and Stockton, each a "Plant Owner" and, collectively, the "Plant Owners"), each commenced a case by filing a voluntary petition for relief under Chapter 11 ("Chapter 11") of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"). The cases were jointly administered as *In re Pacific Ethanol Holding Co. LLC, et al.*, Chapter 11 Case No. 09-11713 (KG). Neither the Company, nor any of its direct or indirect subsidiaries other than PEHC and the Plant Owners, filed petitions for relief under the Bankruptcy Code.

On June 29, 2010 (the "Effective Date"), PEHC and the Plant Owners emerged from Chapter 11 pursuant to the terms of the Amended Joint Plan of Reorganization (the "Plan"), which was filed with the Bankruptcy Court on April 16, 2010 and confirmed by the Bankruptcy Court on June 8, 2010. The following is a summary of certain material matters concerning the effectiveness of the Plan. This summary does not include a description of all of the terms, conditions and other provisions of the Plan and is not intended to be a complete description, or a substitute for a full and complete reading, of the Plan. This summary is qualified in all respects by reference to the full text of the Plan, which is filed as Exhibit 2.1 to the Company's Form 8-K filed with the Securities and Exchange Commission on June 11, 2010 and incorporated herein by this reference.

Generally

The prominent economic terms of the Plan include, but are not limited to, the restructuring of approximately $287.0 million in prepetition and postpetition secured indebtedness of PEHC and the Plant Owners pursuant to a credit agreement entered into on June 25, 2010 among PEHC and the Plant Owners, as borrowers, and WestLB, AG, New York Branch ("WestLB") and certain other lenders (the "Credit Agreement"), comprised of:

- Revolving loans in an aggregate principal amount not to exceed $15.0 million to fund working capital requirements so long as two of the four ethanol production facilities owned by the Plant Owners are not in operation (referred to as "Cold Shutdown"). If at any time more than two production facilities are in Cold Shutdown, the aggregate principal amount of the revolving loans may be increased by an amount approved by WestLB, as agent, and the required lenders under the Credit Agreement; provided that in no event will the aggregate principal amount of the revolving loans exceed $35.0 million;

- Term A-1 Loans in the aggregate principal amount of $25.0 million, the proceeds of which were used to pay in full in cash all revolving loans made to PEHC and the Plant Owners between the bankruptcy petition date and the Effective Date; and

- Term A-2 Loans in the aggregate principal amount of $25.0 million issued in cancellation of an equal amount of certain prepetition loans.

Ownership of PEHC and Plant Owners

Pursuant to the Plan, on the Effective Date, 100% of the ownership interest in PEHC was transferred to a newly-formed limited liability company ("New PE Holdco") solely owned by certain prepetition lenders and the Credit Agreement lenders, resulting in PEHC and the Plant Owners becoming direct and indirect wholly-owned subsidiaries of New PE Holdco. Beginning on the Effective Date, the agent under the Credit Agreement, initially WestLB, has authority to appoint the managers, directors and officers of PEHC and each Plant Owner.

Item 1.01. Entry into a Material Definitive Agreement.

Call Option Agreement

Pursuant to the Plan, on the Effective Date, the Company entered into a Call Option Agreement with New PE Holdco and certain current owners of membership interests in New PE Holdco, whereby the Company has the right to acquire from such current owners membership interests in New PE Holdco in an amount up to 25%, in the aggregate (the "Offered Interests"), of the total membership interests in New PE Holdco for a total price of $30,000,000 in cash (or $1,200,000 for each one percent of membership interest in New PE Holdco). The Company may exercise its option to purchase all or a portion of the Offered Interests at any time beginning on July 7, 2010 and ending on September 28, 2010, after which the Company's option to purchase the Offered Interests will terminate.

The description of the Call Option Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Call Option Agreement, which is filed as Exhibit 10.1 to this Form 8-K and incorporated herein by this reference.

Asset Management Agreement

Each of the Plant Owners owns a separate ethanol production facility. As contemplated by the Plan, on the Effective Date, the Company entered into an Asset Management Agreement with PEHC and the Plant Owners, pursuant to which the Company will provide certain management services to the Plant Owners whereby the Company will effectively operate and maintain the production facilities on behalf of the Plant Owners. These services generally included, but are not limited to, administering each Plant Owner's compliance with the Credit Agreement and related financing documents and performing billing, collection, record keeping and other administrative and ministerial responsibilities for each Plant Owner. The Company will supply all labor and personnel required to perform its services under the agreement, including, but not limited to, the labor and personnel required to operate and maintain the production facilities.

The Boardman production facility and the Burley production facility are currently operational. The Madera and Stockton facilities are currently in Cold Shutdown. For production facilities that are currently or in the future operational, the Company will provide substantially all services necessary for the operation and maintenance of the facilities. For production facilities that are currently or in the future in Cold Shutdown, the Company is responsible for the preservation and maintenance of the facilities to facilitate a cost effective return to operational status once determined appropriate by the facility's Plant Owner. Notwithstanding the services provided by the Company, each Plant Owner retains the ultimate decision-making authority on all matters concerning the production facility owned by it.

The costs and expenses associated with the Company's provision of services under the Asset Management Agreement are prefunded by the Plant Owners pursuant to a preapproved budget. The Company's obligation to provide services is limited to the extent there are insufficient funds advanced by the Plant Owners to cover the associated costs and expenses.

As compensation for providing the services, each Plant Owner will pay the Company $75,000 per month if its production facility is operational and $40,000 per month if its production facility is in Cold Shutdown. In addition to the monthly fee, if during any six-month period (measured on September 30 and March 31 of each year commencing March 31, 2011) a production facility has annualized EBITDA per gallon of operating capacity of $0.20 or more, the Plant Owner of that facility will pay the Company a performance bonus equal to 3% of the increment by which EBITDA exceeds $0.20. The aggregate performance bonus collectively payable by all Plant Owners is capped at $2.2 million for each six-month period. The performance bonus will be reduced by 25% if all production facilities then operating do not operate at a minimum average yield of 2.70 gallons of denatured ethanol per bushel of corn. In addition, no performance bonus will be paid if there is a default or event of default under the Credit Agreement resulting from the borrowers' failure pay any amounts then due and owing.

The Asset Management Agreement specifies that the Plant Owners intend to sell one or more of the production facilities and provides that the Company will use reasonable efforts to assist the Plant Owners in any such sale. Upon the sale of all or substantially all of the assets of a facility, or all of the equity interests in a Plant Owner, to a third party, the Company will receive an incentive fee with respect to such sale as follows:

"Sale Price per Gallon"	**Incentive Fee**
$.60 or less	$0
Above $.60 up to and including $.70	The excess of Sale Price Per Gallon over $.60, to and including the lesser of the Sale Price Per Gallon and $.70, multiplied by the operating capacity of the facility (in gallons), multiplied by 0.5%; *plus*
Above $.70 up to and including $.80	If the Sale Price Per Gallon exceeds $.70, the excess of the Sale Price Per Gallon over $.70, to and including the lesser of the Sale Price Per Gallon and $.80, multiplied by the operating capacity of the facility (in gallons), multiplied by 1.0%; *plus*
Above $.80	If the Sale Price Per Gallon exceeds $.80, the excess of the Sale Price Per Gallon over $.80, multiplied by the operating capacity of the facility (in gallons), multiplied by 1.5%.

The Asset Management Agreement has an initial term of six months and may be extended for additional six-month periods at the option of PEHC. In addition to typical conditions for a party to terminate the agreement prior to its expiration, the Company may terminate the agreement, and any Plant Owner may terminate the agreement with respect to its facility, at any time by providing at least 60 days prior notice of such termination. The agreement also contains other terms and provisions customary for an agreement of this type, including, but not limited to, provisions regarding insurance requirements, record retention, confidentiality, indemnification and force majeure.

The description of the Asset Management Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Asset Management Agreement, which is filed as Exhibit 10.2 to this Form 8-K and incorporated herein by this reference.

Ethanol Marketing Agreements

As contemplated by the Plan, on the Effective Date, Kinergy Marketing, LLC, a wholly owned subsidiary of the Company ("Kinergy"), entered into separate Ethanol Marketing Agreements with each of Boardman and Burley, which grant Kinergy the exclusive right to market, purchase and sell the ethanol produced at the Plant Owner's facility. If the production facilities owned by Madera or Stockton become operational, it is contemplated that Kinergy would enter into a substantially identical Ethanol Marketing Agreement with the Plant Owner of the newly-operational facility. Pursuant to the terms of the Ethanol Marketing Agreements, within ten days after a Plant Owner delivering ethanol to Kinergy, that Plant Owner is paid an amount equal to (i) the estimated purchase price payable by the third-party purchaser of the ethanol, minus (ii) the estimated amount of transportation costs to be incurred by Kinergy, minus (iii) the estimated incentive fee payable to Kinergy, which equals 1% of the aggregate third-party purchase price. Within the first five business days of each calendar month, the parties will reconcile and "true up" the actual purchase price, transportation costs and incentive fees for all transactions entered into since the previous true-up date.

To facilitate Kinergy's ability to pay amounts owing to the Plant Owners, the Ethanol Marketing Agreements require that Kinergy maintain lines of credit of at least $5.0 million. Upon the request of a Plant Owner, the Company will enter into a guaranty with the Plant Owner guaranteeing the performance of Kinergy's obligations under the Ethanol Marketing Agreement.

Due to the limited storage capacity of the Plant Owners, Kinergy agrees to take delivery of any ethanol requested by Kinergy within seven days of a Plant Owner making the ethanol available to Kinergy. Each Ethanol Marketing Agreement has an initial term of one year and may be extended for additional one-year periods at the option of the Plant Owner that is a party to the agreement. The agreements also contain other terms and provisions customary for agreements of this type, including, but not limited to, provisions regarding termination, insurance requirements, confidentiality, indemnification and force majeure.

The description of the Ethanol Marketing Agreements does not purport to be complete and is qualified in its entirety by reference to the full text of the form of Ethanol Marketing Agreement, which is filed as Exhibit 10.3 to this Form 8-K and incorporated herein by this reference.

Corn Procurement and Handling Agreements

As contemplated by the Plan, on the Effective Date, Pacific Ag. Products, LLC, an indirect wholly owned subsidiary of the Company ("Pacific Ag"), entered into separate Corn Procurement and Handling Agreements with each of Boardman and Burley. If the production facilities owned by Madera or Stockton become operational, it is contemplated that Pacific Ag would enter into a substantially identical Corn Procurement and Handling Agreement with the Plant Owner of the newly-operational facility. Pursuant to the terms of the Corn Procurement and Handling Agreements, each Plant Owner appoints Pacific Ag is its agent to solicit, negotiate, enter into and administer, on behalf of the Plant Owner, corn supply arrangements for the Plant Owner to procure the corn necessary to operate its facility. Pacific Ag will also provide each Plant Owner grain handling services including, but not limited to, receiving, unloading and conveying corn into the Plant Owner's storage facilitates and, in the case of whole corn delivered to the Plant Owner, processing and hammering the whole corn.

Pacific Ag receives a fee of $0.50 per ton of corn delivered to each Plant Owner as consideration for its procurement services and a fee of $1.50 per ton of corn delivered to each Plant Owner as consideration for its grain handling services, each payable monthly. Upon the request of a Plant Owner, the Company will enter into a guaranty with the Plant Owner guaranteeing the performance of Pacific Ag's obligations under the Corn Procurement and Handling Agreement. Each Corn Procurement and Handling Agreement has an initial term of one year and may be extended for additional one-year periods at the option of the Plant Owner that is a party to the agreement. The agreements also contain other terms and provisions customary for agreements of this type, including, but not limited to, provisions regarding termination, insurance requirements, confidentiality, indemnification and force majeure.

The description of the Corn Procurement and Handling Agreements does not purport to be complete and is qualified in its entirety by reference to the full text of the form of Corn Procurement and Handling Agreement, which is filed as Exhibit 10.4 to this Form 8-K and incorporated herein by this reference.

Distillers Grains Marketing Agreements

Pursuant to the Plan, on the Effective Date, Pacific Ag entered into separate Distillers Grains Marketing Agreements with each of Boardman and Burley, which grant Pacific Ag the right to market, purchase and sell the distillers grain products, including dried distillers grains and wet distillers grains, produced at the Plant Owner's facility. If the production facilities owned by Madera or Stockton become operational, it is contemplated that Pacific Ag would enter into a substantially identical Distillers Grains Marketing Agreement with the Plant Owner of the newly-operational facility. Pursuant to the terms of the Distillers Grains Marketing Agreements, within ten days after a Plant Owner delivers distillers grain product to Pacific Ag, that Plant Owner is paid an amount equal to (i) the estimated purchase price payable by the third-party purchaser of the distillers grain product, minus (ii) the estimated amount of transportation costs to be incurred by Pacific Ag, minus (iii) the estimated amount of fees and taxes payable to governmental authorities in connection with the tonnage of distillers grain product or corn condensed distiller's soluble produced or marketed, minus (iv) the estimated incentive fee payable to Pacific Ag, which equals the greater of (a) 5% of the aggregate third-party purchase price and (b) $2.00 for each ton of distillers grain product sold in the transaction. Within the first five business days of each calendar month, the parties will reconcile and "true up" the actual purchase price, transportation costs, governmental fees and taxes, and incentive fees for all transactions entered into since the previous true-up date.

Upon the request of a Plant Owner, the Company will enter into a guaranty with the Plant Owner guaranteeing the performance of Pacific Ag's obligations under the Distillers Grain Marketing Agreement. Due to the limited storage capacity of the Plant Owners, Pacific Ag agrees to take delivery of any distillers grain product requested by Pacific Ag within two days of a Plant Owner making the product available to Pacific Ag. Each Distillers Grain Marketing Agreement has an initial term of one year and may be extended for additional one-year periods at the option of the Plant Owner that is a party to the agreement. The agreements also contain other terms and provisions customary for agreements of this type, including, but not limited to, provisions regarding termination, insurance requirements, confidentiality, indemnification and force majeure.

The description of the Distillers Grain Marketing Agreements does not purport to be complete and is qualified in its entirety by reference to the full text of the form of Distillers Grain Marketing Agreement, which is filed as Exhibit 10.4 to this Form 8-K and incorporated herein by this reference.

Item 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

On June 30, 2010, the Company received a letter from The Nasdaq Stock Market ("Nasdaq") indicating that the bid price of its common stock for the last 30 consecutive business days had closed below the minimum $1.00 per share required for continued listing under Nasdaq Listing Rule 5550(a)(1). Under Nasdaq Listing Rule 5810(c)(3)(A), the Company has been provided an initial period of 180 calendar days, or until December 27, 2010, in which to regain compliance. The letter states that the Nasdaq staff will provide written notification that the Company has achieved compliance with Rule 5550(a)(1) if at any time before December 27, 2010, the bid price of the Company's common stock closes at $1.00 per share or more for a minimum of 10 consecutive business days unless the Nasdaq staff exercises its discretion to extend this 10 day period as discussed in Nasdaq Listing Rule 5810(c)(3)(F).

If the Company does not regain compliance with Rule 5550(a)(1) by December 27, 2010, the Nasdaq staff will provide written notice that the Company's securities are subject to delisting. At that time, the Company may appeal Nasdaq's determination to delist its securities to a Hearings Panel.

Item 8.01. Other Events.

The discussion in this Form 8-K under the heading "Introduction" above is disclosed pursuant to this Item 8.01 of this Form 8-K. The information under the heading "Introduction" shall not be deemed "filed" for purposes of Section 18 of the Exchange Act, nor shall it be deemed incorporated by reference in any filing under the Securities Act or the Exchange Act, except as may be expressly set forth by specific reference in such a filing.

Item 9.01. Financial Statements and Exhibits.

Exhibit No.	Description
10.1	Call Option Agreement (*)
10.2	Asset Management Agreement (*)
10.3	Form of Ethanol Marketing Agreement (*)
10.4	Form of Corn Procurement and Handling Agreement (*)
10.5	Form of Distillers Grains Marketing Agreement (*)

* Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PACIFIC ETHANOL, INC.

Date: July 6, 2010

By: /S/ CHRISTOPHER W. WRIGHT
Christopher W. Wright,
Vice President, General Counsel & Secretary

EXHIBITS FILED WITH THIS REPORT

Exhibit No.	Description
10.1	Call Option Agreement
10.2	Asset Management Agreement
10.3	Form of Ethanol Marketing Agreement
10.4	Form of Corn Procurement and Handling Agreement
10.5	Form of Distillers Grains Marketing Agreement

EXHIBIT 10.1

NEW PE HOLDCO LLC

CALL OPTION AGREEMENT

THIS CALL OPTION AGREEMENT, ("**Agreement**") dated as of June 29, 2010, is made by and among New PE Holdco LLC, a Delaware limited liability company (the **"Company"**), Pacific Ethanol, Inc., a Delaware corporation ("**PEI**") and certain members of the Company listed on Schedule A hereto (the "**Granting Members**").

W I T N E S S E T H

WHEREAS, as of the date hereof the Company has issued limited liability company interests denominated as "**Units**" pursuant to the LLC Agreement (as defined below) to the Granting Members in connection with the consummation of that certain Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated April 16, 2010, filed with the United States Bankruptcy Court for the District of Delaware by the predecessors in interest to the Company's direct and indirect wholly-owned subsidiaries;

WHEREAS, as of the date hereof and in connection with the issuance of the Units, the Company and the Granting Members, among others, have executed that certain Limited Liability Company Agreement of New PE Holdco LLC (the "**LLC Agreement**");

WHEREAS, the Granting Members have agreed with PEI that PEI will have the right to acquire the Call Option Units (as defined herein) from the Granting Members at the Call Option Price (as defined herein); and

WHEREAS, the parties desire hereby to provide for the terms and conditions upon which the Call Option Units may be acquired by PEI, and the Call Option Amount shall be paid.

NOW, THEREFORE, in consideration of the agreements and mutual covenants and based upon the representations and warranties set forth herein, the parties agree as follows:

1. Definitions.

"**Call Option Amount**" has the meaning set forth in Section 2(a).

"Call Option Price" means $120,000 per Call Option Unit.

"**Call Option**" has the meaning set forth in Section 2(a).

"Call Option Units" has the meaning set forth in Section 2(a).

"**LLC Agreement**" has the meaning set forth in the recitals hereto.

"**Exercise Notice**" has the meaning set forth in Section 2(b).

"**Person**" means any individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, association, nominee or other entity.

"**Transfer**" means, as a noun, any voluntary or involuntary transfer, sale, pledge or hypothecation or other disposition and, as a verb, voluntarily or involuntarily to transfer, sell, pledge or hypothecate or otherwise dispose of.

"Transferee" has the meaning set forth in Section 7.

"**Units**" has the meaning set forth in the recitals hereto.

2. Call Option.

(a) Each of the Granting Members hereby grants to PEI the right (the "**Call Option**") to acquire from such Granting Member (or from its Transferee(s), if any) such number of its Units as is set forth opposite such Granting Member's name on Schedule A hereto (as to any Granting Member, its "**Call Option Units**") in exchange for payment of an amount equal to the (i) Call Option Price *multiplied by* (ii) the number of such Granting Member's Call Option Units (as to each Member, such Member's "**Call Option Amount**").

(b) PEI shall have the right, in its sole discretion, to exercise the Call Option by giving written notice to each of the Granting Members (the "**Exercise Notice**") not earlier than five (5) Business Days after the date hereof and not later than ninety (90) days after the date hereof. The Call Option will expire at 5:00 p.m. (Pacific time) on September 28, 2010.

(c) The Exercise Notice shall include the number of Call Option Units that PEI intends to purchase in connection with its exercise of the Call Option (such Call Option Units, the "**Purchase Units**") and the Call Option Amount payable to each Granting Member. If the number of Purchase Units is less than all of the Call Option Units, then the Purchase Units shall be allocated on a pro rata basis among the Granting Members based upon the proportion each Granting Member's Call Option Units bear to the total number of all Call Option Units. The Company shall make such allocations and deliver notice thereof, and of each Granting Member's Call Option Amount, to PEI and each Granting Member (the "**Reallocation Notice**").

(d) Upon (i) notice of exercise by PEI of the Call Option with respect to all of the Call Option Units or, if for less than all Call Option Units, upon the Company's delivery of the Reallocation Notice and (ii) the subsequent tender of the Call Option Amount to each Granting Member, the Granting Members shall be deemed automatically, and without the need for any certificates to be delivered to PEI, to have sold and transferred to PEI its share of the Purchase Units.

3. Legend.

Each certificate evidencing any Call Option Units shall bear a legend in substantially the following form:

THE SECURITIES EVIDENCED BY THIS CERTIFICATE ARE SUBJECT TO AND ENTITLED TO THE BENEFITS OF THE TERMS OF A CALL OPTION AGREEMENT, DATED AS OF JUNE 29, 2010, A COPY OF WHICH IS ON FILE WITH THE ISSUER AND WILL BE FURNISHED TO ANY HOLDER ON REQUEST TO THE ISSUER. SUCH AGREEMENT PROVIDES, THAT THIS SECURITY IS SUBJECT (IN WHOLE OR IN PART, AS APPLICABLE) TO PURCHASE BY CERTAIN PERSONS UPON THE OCCURRENCE OF CERTAIN EVENTS.

4. **Granting Member Representations.** Each of the Granting Members represents that:

(a) It has all requisite corporate, limited liability company, partnership or other entity power and authority to enter into this Agreement and to perform its obligations hereunder;

(b) The execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate, limited liability company, partnership or other entity action;

(c) This Agreement has been duly authorized and validly executed by it;

(d) Neither the execution, delivery nor performance of this Agreement will result in the imposition of any lien or encumbrance on any Call Option Unit in favor of any third party;

(e) There is no litigation, action, suit, investigation, proceeding by or before any governmental authority or arbitrator pending or, to its knowledge, threatened against such Granting Member, which would prohibit its entering into, or that could materially and adversely affect its ability to perform its obligations under, this Agreement;

(f) This Agreement is a binding agreement on the part of such Granting Member enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to creditors' rights and general principles of equity; and

(g) Such Granting Member is the sole record and beneficial owner of its Call Option Units and owns such Call Option Units free and clear of any lien or other encumbrance created by such Granting Member, and, if such Granting Member is a Transferee, it acquired its Call Option Units as part of a Permitted Transfer pursuant to (and as defined in) the LLC Agreement.

5. **PEI Representations.** PEI represents that:

(a) It has all requisite corporate power and authority to enter into this Agreement and to perform its obligations hereunder;

(b) The execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action;

(c) This Agreement has been duly authorized and validly executed by it;

(d) There is no litigation, action, suit, investigation, proceeding by or before any governmental authority or arbitrator pending or, to its knowledge, threatened against it, which would prohibit its entering into, or that could materially and adversely affect its ability to perform its obligations under, this Agreement;

(e) This Agreement is a binding agreement on the part of PEI enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to creditors' rights and general principles of equity; and

(f) It is acquiring the Call Option Units for its own account for investment purposes only and not with a view to the distribution or resale thereof, in whole or in part.

6. **Equitable Relief**. Each party hereto agrees with the other parties hereto that the other parties would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that monetary damages would not provide an adequate remedy in such event. Accordingly, it is agreed that, to the fullest extent permitted by law, in addition to any other remedy to which the nonbreaching parties hereto may be entitled, at law or in equity, such nonbreaching parties shall be entitled to seek injunctive relief to prevent breaches of the provisions of this Agreement and specifically to enforce the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction thereof.

7. **Assignment and Transfer**.

(a) No Granting Member may Transfer, offer to Transfer, or accept an offer from any proposed Transferee for, all or any amount of its Call Option Units to another Person (a "**Transferee**") unless (i) such Transfer is a Permitted Transfer pursuant to (and as defined in) the LLC Agreement and (ii) the Transferee acknowledges and agrees in writing (y) that the Call Option Units it is acquiring are subject to the Call Option as set forth in this Agreement and (z) to be bound by this Agreement. Such acknowledgment and agreement by a Transferee shall be delivered to the Company.

(b) Upon any Transfer of any Call Option Units to any Person in violation of Section 7(a), the Granting Member attempting such Transfer shall remain fully bound hereby.

8. **Miscellaneous.**

(a) **Notices**. Any notice, payment, demand, or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be deemed to have been delivered, given, and received for all purposes (i) if delivered personally to the Person or to an officer of the Person to whom the same is directed, or (ii) when the same is actually received, if sent either by registered or certified mail, postage and charges prepaid, or by facsimile or electronic mail, if (y) delivery by electronic mail is permitted by such Person (which it shall be, unless otherwise indicated on such Person's signature page hereto) and (z) either (A) telephonic or electronic confirmation of delivery is obtained or (B) such facsimile or electronic mail is followed by a hard copy of the communication sent promptly thereafter by registered or certified mail, postage and charges prepaid, in each case addressed as follows, or to such other address as such Person may from time to time specify by notice to the Company pursuant to this Section 13.1: (a) if to the Company, to c/o JT Miller Group LLC, 777 Campus Commons Road #200, Sacramento, CA, 95825, facsimile 916.565.7423, jtm@jtmillergroup.com; (b) if to PEI, to Pacific Ethanol, Inc., 400 Capitol Mall, Suite 2060, Sacramento, CA 95814 (Attention: Neil Koehler), facsimile 916.446.3937; and (c) if to any of the Granting Members, to the notice address listed on such Granting Member's signature page to this Agreement.

(b) **Amendment**. No change in or modification of this Agreement shall be valid unless the same shall be in writing and signed by the Company, each Granting Member and PEI.

(c) **Waiver**. No failure or delay on the part of the parties or any of them in exercising any right, power or privilege hereunder, nor any course of dealing between the parties or any of them shall operate as a waiver of any such right, power or privilege nor shall any single or partial exercise of any such right, power or privilege preclude the simultaneous or later exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and are not exclusive of any rights or remedies which the parties or any of them would otherwise have. No notice to or demand on the Company in any case shall entitle the Company to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the other parties or any of them to take any other or further action in any circumstances without notice or demand.

(d) **Counterparts**. This Agreement may be executed in any number of counterparts with the same effect as if all of the parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one agreement. This Agreement and any amendments hereto, to the extent signed and delivered by means of a facsimile machine or electronic transmission (including a PDF file), shall be treated in all manner and respects as an original Agreement and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto shall raise the use of a facsimile machine or electronic transmission to deliver a signature or the fact that any signature was transmitted or communicated through the use of a facsimile machine or electronic transmission as a defense to the formation of a contract and each such party forever waives any such defense.

(e) **On File with the Company**. A copy of this Agreement and of all amendments hereto shall be kept on file at the Company.

(f) **GOVERNING LAW**. THE LAWS OF THE STATE OF DELAWARE SHALL GOVERN THE VALIDITY OF THIS AGREEMENT, THE CONSTRUCTION OF ITS TERMS, AND THE INTERPRETATION OF THE RIGHTS AND DUTIES ARISING HEREUNDER, WITHOUT REGARD TO ITS CONFLICTS OF LAWS PROVISIONS.

(g) **Submission to Jurisdiction; Waiver of Jury Trial and Venue**.

(1) SUBMISSION TO JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(2) WAIVER OF JURY TRIAL AND VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, (i) ANY AND ALL RIGHTS SUCH PARTY MAY HAVE TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR AND (ii) ANY OBJECTION THAT SUCH PARTY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN SECTION 8(g)(1). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(3) Service of Process. Each party hereto agrees that service of process may be effectuated by mailing a copy of the summons and complaint, or other pleading, by certified mail, return receipt requested, in accordance with Section 8(a).

(h) Termination. This Agreement may be terminated at any time by an instrument in writing signed by the Granting Members and PEI. This Agreement shall automatically terminate (i) at 5 p.m. (Pacific time) on September 28, 2010 if the Call Option has not been exercised prior thereto, or (ii) immediately following the completion of the purchase of the Call Option Units (including payment of the Call Option Amount to each Granting Member) if the Call Option has been exercised.

(i) Further Assurances. Each party agrees to execute and deliver additional documents and take other actions that another party may reasonably request for purposes of carrying out the transactions contemplated by this Agreement.

(j) Benefit and Binding Effect. Except as otherwise provided in this Agreement, no right under this Agreement shall be assignable and any attempted assignment in violation of this provision shall be void. Every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective executors, administrators, heirs, successors, Transferees, and assigns. It is understood and agreed among the parties that this Agreement and the covenants made herein are made expressly and solely for the benefit of the parties hereto, and that no other Person, other than as expressly set forth in this Section 8(j), shall be entitled or be deemed to be entitled to any benefits or rights hereunder, nor be authorized or entitled to enforce any rights, claims or remedies hereunder or by reason hereof.

(k) Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction. The parties hereto agree to negotiate in good faith to replace any illegal, invalid or unenforceable provision of this Agreement with a legal, valid and enforceable provision that, to the extent possible, will preserve the economic bargain of this Agreement. If any time period set forth herein is held by a court of competent jurisdiction to be unenforceable, a different time period that is determined by the court to be more reasonable shall replace the unenforceable time period.

(l) Headings; Construction. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof. Every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any party. Every schedule and other addendum attached to this Agreement and referred to herein is incorporated in this Agreement by reference unless this Agreement expressly otherwise provides. All terms and any variations thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural, as the identity of the Person or Persons may require.

(m) Time. In computing any period of time pursuant to this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

(n) Entire Agreement. This Agreement contains the entire understanding and agreement among the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and all contemporaneous oral agreements.

IN WITNESS WHEREOF, the parties hereto have executed this Call Option Agreement as of the day and year first above written.

COMPANY:

NEW PE HOLDCO LLC

By: **/s/ John T. Miller**
John T. Miller

PEI:

PACIFIC ETHANOL, INC.

By: **/s/ Neil M. Koehler**
Name: Neil M. Koehler
Title: CEO

GRANTING MEMBERS:

ANB ENERGY HOLDINGS, LLC

By: /s/ Craig L. Sanders
Craig L. Sanders
Vice President

Address: P.O. Box 1
Amarillo, Texas 79101

Facsimile: (806) 345-1663

Email: craig.sanders@anb.com

CIFC FUNDING 2007-III ASET-V LLC

By: /s/ Steve Vaccaro
Name: Steve Vaccaro
Title: Co-Chief Investment Officer

Address: _____
_____

Facsimile: _____

Email: _____

CIFC FUNDING 2007-IV ASET-IV LLC

By: /s/ Steve Vaccaro
Name: Steve Vaccaro
Title: Co-Chief Investment Officer

Address: _____
_____

Facsimile: _____

Email: _____

CITIGROUP GLOBAL MARKETS INC.

By: /s/ Vincent J. Farrell
Name: Vincent J. Farrell
Title: Authorized Signatory

Address: 1615 Baett Road
Newcastle, DE 19720

Facsimile: _____

Email: glcorporateaction@citigroup.com

CREDIT SUISSE SECURITIES (USA) LLC

By: /s/ Michael Wotanowski
Name: Michael Wotanowski
Title: Authorized Signatory

Address: 11 Madison Avenue
5th Floor
New York, NY 10010

Facsimile: (212) 743-3560

Email: terri.labarbera@credit-suisse.com

CREDIT SUISSE CANDLEWOOD PRIVATE FINANCE FUND L.P.

By: Credit Suisse Alternative Capital, Inc.,
as investment manager

By: /s/ Grant Pothast
Name: Grant Pothast
Title: Managing Director

Address: _____
_____

Facsimile: _____

Email: _____

CIFC FUNDING 2007-48 LTD

By: /s/ Michio Brunner
Name: Michio Brunner
Title: Authorized Signatory

Address: 383 Madison
New York, NY 10179

Facsimile: _____

Email: CH_Structured_NY@jpmorgan.com

CIFC FUNDING 2007-50 LTD

By: /s/ Michio Brunner
Name: Michio Brunner
Title: Authorized Signatory

Address: 383 Madison
New York, NY 10179

Facsimile: _____

Email: CH_Structured_NY@jpmorgan.com

METROPOLITAN LIFE INSURANCE COMPANY

By: /s/ David G. Yu
Name: David G. Yu
Title: Director

Address: 10 Park Avenue
Morristown, NJ 07962

Facsimile: (973) 355-4230

Email: dyu@metlife.com

NKPACIFIC LLC

By: /s/ Stefan Gerig
Stefan Gerig
Authorized Signatory

Address: Thurgauerstrasse 54
8050 Zurich / Switzerland

Facsimile: +41 44 306 49 11

Email: stefan.gerog@nordkapbank.com

SERIES G OF SPECIAL ASSET EQUITY HOLDINGS SERIES, LLC

By: /s/ Salvatore Esposito
Name: Salvatore Esposito
Title: Managing Director

By: /s/ Andrew Sherman
Name: Andrew Sherman
Title: Executive Director

Address: 245 Park Avenue
New York, NY 10167

Facsimile: _____

Email: salvatore.esposto@Rabobank.com

BANCO DE SABADELL

By: /s/ Maurici Llado
Name: Maurici Llado
Title: S.V.P.

Address: 2 South Biscayne Blvd., Suite 3301
Miami, FL 35131

Facsimile: (305) 350-1215

Email: LladoM@sabmia.com

PACIFIC ETHANOL EQUITY HOLDINGS LLC

By: /s/ Christian Grane
Name: Christian Grane
Title: Executive Director

By: /s/ Peter Pasqua
Name: Peter Pasqua
Title: Director

Address: c/o WestLB AG, New York Branch
7 World Trade Center
250 Greenwich Street
New York, NY 10007

Facsimile: +1 212 852 6320

Email: christian_grane@westlb.com

SCHEDULE A

Granting Member	Call Option Units
ANB Energy Holdings, LLC	14.363
CIFC Funding 2007-III Asset-V LLC	5.691
CIFC Funding 2007-IV Asset-IV LLC	9.486
Citigroup Global Markets Inc.	39.498
Credit Suisse Securities (USA) LLC	56.347
Credit Suisse Candlewood Private Finance Fund L.P.	0.802
CIFC Funding 2007-48 LTD	10.533
CIFC Funding 2007-50 LTD	4.213
Metropolitan Life Insurance Company	28.994
NKPacific LLC	7.589
Series G of Special Asset Equity Holdings Series, LLC	23.090
Banco De Sabadell S.A.	10.779
Pacific Ethanol Equity Holdings LLC	38.616
Total:	250.000

EXHIBIT 10.2

ASSET MANAGEMENT AGREEMENT

by and between

PACIFIC ETHANOL, INC.,

and

PACIFIC ETHANOL HOLDING CO. LLC,
PACIFIC ETHANOL MADERA LLC,
PACIFIC ETHANOL COLUMBIA, LLC,
PACIFIC ETHANOL STOCKTON, LLC and
PACIFIC ETHANOL MAGIC VALLEY, LLC

Dated as of June 29, 2010

This **ASSET MANAGEMENT AGREEMENT** (this "Agreement") is made and entered into as of June 29, 2010 by and between Pacific Ethanol Holding Co. LLC, a Delaware limited liability company ("Pacific Holding"), Pacific Ethanol Madera LLC, a Delaware limited liability company ("Madera"), Pacific Ethanol Columbia, LLC, a Delaware limited liability company ("Boardman"), Pacific Ethanol Stockton, LLC, a Delaware limited liability company ("Stockton"), and Pacific Ethanol Magic Valley, LLC, a Delaware limited liability company ("Burley" and, together with Madera, Boardman and Stockton, an "Owner" and collectively "Owners"), Pacific Holding as Owner Agent ("Owner Agent") and Pacific Ethanol, Inc., a Delaware corporation ("Manager"). Owners and Manager are each individually referred to herein as a "Party" and collectively are referred to herein as the "Parties".

RECITALS

WHEREAS, Owners have entered into the Credit Agreement (as defined below) to provide funds for the working capital requirements of Owners and for other purposes permitted under the Credit Agreement;

WHEREAS, as a condition precedent to the obligation of the lenders party to the Credit Agreement to make loans or other extensions of credit to Owners, Owners are required to engage Manager to provide certain management services to Owners;

WHEREAS, Manager desires to provide such management services.

NOW, THEREFORE, for good and adequate consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 Definitions. Capitalized terms used in this Agreement but not defined herein shall have the meanings assigned thereto in the Credit Agreement. The following terms shall have the meanings set forth below when used in this Agreement:

"Act of Insolvency" means, with respect to any Person, any of the following: (a) commencement by such Person of a voluntary proceeding under any jurisdiction's bankruptcy, insolvency or reorganization law; (b) the filing of an involuntary proceeding against such Person under any jurisdiction's bankruptcy, insolvency or reorganization law which is not vacated within 60 days after such filing; (c) the admission by such Person of the material allegations of any petition filed against it in any proceeding under any jurisdiction's bankruptcy, insolvency or reorganization law; (d) the adjudication of such Person as bankrupt or insolvent or the winding up or dissolution of such Person; (e) the making by such Person of a general assignment for the benefit of its creditors (assignments for a solvent financing excluded); (f) the appointment of a receiver or an administrator for all or a substantial portion of such Person's assets, which receiver or administrator, if appointed without the consent of such Person, is not discharged within 60 days after its appointment; or (g) the occurrence of any event analogous to any of the foregoing with respect to such Person occurring in any jurisdiction.

"Affiliate" of a specified Person means any corporation, partnership, sole proprietorship or other Person which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person specified. The term "control" means the ownership, either direct or indirect, of twenty-five percent (25%) or more of the voting securities (or comparable equity interests) or other ownership interests of a Person, or the possession, either direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or any other means whatsoever.

"Agreement" means this Asset Management Agreement, including all appendices hereto, as the same may be modified, supplemented or amended from time to time in accordance with the provisions hereof.

"Allocated Expenses and Asset Management Fee" means the expenses and fees included in the line item of the Budget captioned Asset Management Fee.

"Asset Management Services" has the meaning assigned to such term in Section 3.1.

"Asset Preservation Services" has the meaning assigned to such term in Section 3.2.

"Asset Sale Proceeds" in respect of a Facility means the cash proceeds received from the sale of such Facility net of reasonable attorney's fees, investment banking fees, accounting fees and other fees and all taxes applied or estimated (as determined in good faith by Owner of such Facility) required to be paid or that become due within the following 12 months as a result of such sale and any amounts escrowed or deferred (provided that when released such escrowed or deferred amounts shall be Asset Sale Proceeds when received).

"Availability of Funds" means, with respect to any obligation that constitutes an Allocated Expenses and Asset Management Fee, an Operating Disbursement or a Direct Reimbursement Expense, that sufficient funds have been provided by Owners and are available to Manager to pay such obligation.

"Boardman Corn Supply Agreement" means the Corn Procurement and Handling Agreement between Pacific AG. Products, LLC and Boardman dated as of June 29, 2010.

"Boardman Ethanol Sales and Marketing Agreement" means the Ethanol Marketing Agreement, dated as of June 29, 2010, by and between Boardman and Kinergy Marketing, LLC.

"Boardman Facility" means the Facility owned by Boardman.

"Boardman Facility Agreements" means this Agreement, the Boardman Corn Supply Agreement, the Technology Licensing Agreement to which Boardman is a party, the Boardman Ethanol Sales and Marketing Agreement, the Boardman WDG Sales and Marketing Agreement, and such other or additional material agreements entered into by Boardman with respect to the operation and maintenance of the Boardman Facility.

"Boardman WDG Sales and Marketing Agreement" means the Distillers Grains Marketing Agreement, dated as of June 29, 2010, by and between Boardman and Pacific Ag Products, LLC.

"Budget" means the Budget attached hereto as Appendix E, as amended or modified from time to time.

"Burley Corn Supply Agreement" means the Corn Procurement and Handling Agreement between Pacific AG. Products, LLC and Burley dated as of June 29, 2010.

"Burley Ethanol Sales and Marketing Agreement" means the Ethanol Marketing Agreement, dated as of June 29, 2010, by and between Burley and Kinergy Marketing, LLC.

"Burley Facility Agreements" means this Agreement, the Burley Corn Supply Agreement, the Technology Licensing Agreement to which Burley is a party, the Burley Ethanol Sales and Marketing Agreement, the Burley WDG Sales and Marketing Agreement, and such other or additional material agreements entered into by Burley with respect to the operation and maintenance of the Magic Valley Facility.

"Burley WDG Sales and Marketing Agreement" means the Distillers Grains Marketing Agreement, dated as of June 29, 2010, by and between Burley and Pacific Ag Products, LLC.

"Business Day" means any day other than a Saturday, Sunday or a day on which commercial banks in Sacramento, California or New York, New York are required or authorized to be closed.

"Consistent with Past Practices" means consistent with those practices previously utilized by the Manager with respect to a Facility pursuant to the Amended and Restated Asset Management Agreement dated as of December 10, 2009, by and between predecessors of Owners or predecessors of Owner Agent and the Manager.

"Consumables" means all items consumed, or needing regular, periodic replacement or replenishment by Manager in the performance of services pursuant to this Agreement, including, but not limited to, chemicals, hand tools, catalysts, lubricants, rags, oils, filter media, ammonia, additives, anti-corrosion devices, gases (CO_2, O_2, halon, etc.), and other expendable materials.

"Credit Agreement" means the Credit Agreement, dated June 25, 2010, among Owners, Owner Agent, each of the Lenders from time to time party thereto, WestLB AG, New York Branch, as Administrative Agent and Collateral Agent, and Amarillo National Bank, as accounts bank, as the same may be amended, restated, modified or otherwise supplemented from time to time.

"Delta-T" means Delta-T Corporation.

"Direct Reimbursement Expense" means those expenses included in the line items of the Budget under the category "Asset Management Agreement-Direct Reimbursement".

"EBITDA" means, with respect to an Owner, the earnings of such Owner before interest, taxes, depreciation and amortization, reorganization adjustments, financing charges and fees, current month lower cost or market inventory adjustment, and other lender related expenses calculated in accordance with Exhibit A.

"EBITDA per Gallon of Operating Capacity" of a Facility means the quotient obtained by dividing EBITDA by Operating Capacity.

"Environmental Law" means any statute, law, regulation, ordinance, rule, judgment, order, decree, legally binding directive or requirement, or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by a Governmental Authority, relating to the environment, health or safety as affected by the environment or any Hazardous Material as now or hereinafter in effect.

"Facility" means an ethanol production facility owned by an Owner including (a) all equipment associated with the operation of such facility and forming part thereof, (b) the storage space for corn, ethanol and wet distillers grains, (c) administrative offices and building structures housing facility equipment, (d) site improvements such as roads, railroad spur lines, barge docks and fencing, and (e) the Loading/Unloading Facilities and (f) piping, structures and equipment for the delivery of ethanol and wet distillers grains and for water, fuel, sewer, waste water discharge and other Consumables required for facility operation and maintenance.

"Facility Agreements" means the Boardman Facility Agreements and the Burley Facility Agreements.

"Facility Manuals" means Facility equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation as developed by the construction contractor of the Facility and/or Delta-T.

"Facilities Records" has the meaning assigned to such term in Section 3.11.1 .

"Force Majeure Event" has the meaning assigned to such term in Section 15.1.

"Governmental Authority" means any United States federal, state, municipal, local, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial or administrative body.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or works of similar import, under the Environmental Laws, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.); the Hazardous Material Transportation Act, as amended (49 U.S.C. §1801 et seq.); the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.); the Toxic Substances Control Act, as amended (42 U.S.C. § 7401 et seq.); the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.); or in the regulations promulgated pursuant to said laws; or (c) any other chemical, material, substance or waste declared to be hazardous, toxic, or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Law" means any law, statute, act, legislation, bill, enactment, policy, treaty, international agreement, ordinance, judgment, injunction, award, decree, rule, regulation, interpretation, determination, requirement, writ or order of any Governmental Authority.

"Liabilities" has the meaning assigned to such term in Section 11.1.

"Loading/Unloading Facilities" means the rail spurs, barge and/or truck docks located at a Facility, and all loading and unloading equipment and facilities with respect thereto located at such Facility, including, but not limited to, all conveyors, lifts and elevators used in connection with movement of materials and products (including grain and grain products) in and out of the Storage Silos and other locations at a Facility.

"Magic Valley Air Permit" means a final, non-appealable air quality permit required to operate the Magic Valley Facility at not less than nameplate capacity.

"Magic Valley Facility" means the Facility owned by Burley.

"Management Fee" has the meaning assigned to such term in Section 8.1.

"Manager" has the meaning assigned to such term in the Preamble.

"Manager Account" means a depositary account designated by Manager, from time to time, which account shall be under the sole dominion and control of Manager and located in a banking institution designated by Manager.

"Manager Indemnified Person" has the meaning assigned to such term in Section 11.2.

"Manager Proprietary Property" has the meaning assigned to such term in Section 9.5(a).

"NewCo" means New PE Holdco LLC, a Delaware limited liability company and the indirect owner on the date hereof of all the equity interests in Owner Agent and each Owner.

"Operating Capacity" means 57,142,857 un-denatured gallons annually in the case of each of the Magic Valley and the Stockton Facilities and 38,095,238 un-denatured gallons annually in the case of each of the Boardman and Madera Facilities, plus, in each case, the actual gallons of denaturant used annually with regard to any Facility not in Cold Shutdown.

"Operating Disbursements" means those expenses included in the line items of the Budget under the category "Operating Disbursements".

"O&M Services" has the meaning assigned to such term in Section 3.3.

"Owner Agent" has the meaning assigned to such term in the Preamble

"Owners" has the meaning assigned to such term in the Preamble.

"Owner Indemnified Person" has the meaning assigned to such term in Section 11.1.

"Party" has the meaning assigned to such term in the Preamble.

"Permits" means all permits, authorizations, registrations, consents, approvals, waivers, exceptions, variances, orders, judgments, written interpretations, decrees, licenses, exemptions, publications, filings, notices to and declarations of or with, or required by, any Governmental Authority, or required by any Law, and shall include all environmental and operating permits and licenses that are required for the full use, occupancy, zoning and operation of each Facility.

"Person" means any individual, partnership, corporation, association, business, trust, government or political subdivision thereof, governmental agency or other entity.

"Prudent Ethanol Practices" means those reasonable practices, methods and acts that (i) are commonly used in the regions where the Facilities are located to manage and maintain ethanol production, distribution, equipment and associated facilities of the size and type that comprise the Facilities safely, reliably, and efficiently and in compliance with applicable Laws, manufacturers' warranties and manufacturers' and licensor's recommendations and guidelines, and (ii) in the exercise of reasonable judgment, skill, diligence, foresight and care are expected of an ethanol plant manager, in order to efficiently accomplish the desired result consistent with safety standards, applicable Laws, manufacturers' warranties and manufacturers' recommendations, in each case taking into account whether a Facility is in operation or is in Cold Shutdown. Prudent Ethanol Practices does not necessarily mean one particular practice, method, equipment specifications or standard in all cases, but is instead intended to encompass a broad range of acceptable practices, methods, equipment specifications and standards.

"Sale Price per Gallon" in respect of a Facility (or the equity interests in Owner of such Facility) means the quotient obtained by dividing (i) the excess of (x) Asset Sale Proceeds in respect of such Facility (or such equity interests) over (y) the pro rata portion of the Loans allocated (on the basis of relative Operating Capacities) to such Facility by (ii) the Operating Capacity of such Facility.

"Services" means, collectively, the Asset Management Services, the Asset Preservation Services and the O&M Services and any other services provided by or on behalf of the Manager with respect to the Facilities in accordance with this Agreement.

"Sponsor Support Agreement" means that certain Amended and Restated Sponsor Support Agreement, dated as of October 22, 2008, among Owner Agent, Manager and WestLB AG, New York Branch, as Administrative Agent.

"Stockton Completion Obligation" means those actions required to be taken to cause the Stockton Facility to achieve Final Completion (as defined in the Pre-Petition Credit Agreement) including receipt of all Permits.

"Stockton Facility" means the Facility owned by Stockton.

"Storage Silos" means Owners' grain storage silos located at a Facility.

"Supplemental Termination Payment" means the product obtained by multiplying (i) the difference between (x) 60 and (y) the number of days notice (fewer than 60) that Manager is given pursuant to clause (y) of Section 9.4 by (ii) the quotient of (x) the Management Fee with respect to the relevant Facility divided by (y) 30.

"Technology Licensing Agreement" means (i) each License for Technology between an Owner of a Facility (other than Madera) and Delta-T, each dated as of September 6, 2006 and (ii) the License for Technology between Madera and Delta-T, dated as of September 1, 2005 in each case, as such agreement may from time to time be amended.

"Termination Payment" has the meaning assigned to such term in Section 9.6.1.

1.2 Interpretation. The following interpretations and rules of construction shall apply to this Agreement:

(a) titles and headings are for convenience only and will not be deemed part of this Agreement for purposes of interpretation;

(b) unless otherwise stated, references in this Agreement to "Sections," "Appendices" or "Articles" refer, respectively, to Sections, Appendices or Articles of this Agreement;

(c) "including" means "including, but not limited to", and "include" or "includes" means "include, without limitation" or "includes, without limitation";

(d) "hereunder", "herein", "hereto" and "hereof", when used in this Agreement, refer to this Agreement as a whole and not to a particular Section or clause of this Agreement;

(e) in the case of defined terms, the singular includes the plural and vice versa;

(f) unless otherwise indicated, all accounting terms not specifically defined shall be construed in accordance with generally accepted accounting practices in the United States;

(g) unless otherwise indicated, each reference to a particular Law is a reference to such Law as it may be amended, modified, extended, restated or supplemented from time to time, as well as to any successor Law thereto;

(h) unless otherwise indicated, references to agreements shall be deemed to include all subsequent amendments, supplements and other modifications thereto; and

(i) unless otherwise indicated, each reference to any Person shall include such Person's successors and permitted assigns.

ARTICLE II

APPOINTMENT

Owners hereby appoint and retain Manager to provide the Services from the date hereof on the terms and conditions set forth in this Agreement. Manager hereby accepts such appointment and agrees to perform the Services in accordance with the terms and conditions set forth in this Agreement.

ARTICLE III

RESPONSIBILITIES OF MANAGER

3.1 Scope of Asset Management Services. With respect to each Facility, commencing on the date hereof, subject to the terms of this Agreement and the Availability of Funds, Manager shall perform, or cause to be performed, the following services with respect to such Facility (collectively, the "Asset Management Services"):

3.1.1 Administration of Financing Documents. Subject to the terms of this Agreement, Manager shall administer Owners' compliance with all covenants and obligations set forth in the Financing Documents. Manager shall be authorized to deal directly with the Administrative Agent and the Collateral Agent on behalf of Owners and to receive notifications from the Administrative Agent and the Collateral Agent pursuant to the Financing Documents. Manager shall reasonably cooperate with the Administrative Agent, the Collateral Agent and the Consultants. Manager shall not cause any Owner to contravene such Owner's obligations under the Financing Documents. The parties to this Agreement hereby agree that the terms of this Agreement shall not vary or amend the obligations of any Owner under any Financing Document to which such Owner is a party or subject Manager to any obligations under the Financing Documents.

3.1.2 Billing and Collection of Revenues. Manager shall implement and maintain billing and collection procedures in respect of all accounts receivable and other amounts due Owners.

3.1.3 Bank Accounts and Disbursement of Funds. Manager shall establish and/or maintain on behalf of and in the name of the applicable Owner one or more bank accounts as may be required by the applicable Owner or the Financing Documents. Subject to availability of adequate funds in such accounts, Manager shall withdraw from such accounts such funds as may be necessary to pay such Owner's Operating Disbursements and Direct Reimbursement Expenses in accordance with the Budget.

3.1.4 Accounting and Documentation. Manager shall provide full bookkeeping, accounting (including tax accounting), and record keeping services to Owners as required from time to time by Owners and the Financing Documents.

3.1.5 Insurance. Manager shall implement Owners' insurance programs, including procuring and maintaining any and all insurance required to be maintained by Owners under the Financing Documents. Manager also shall be responsible for administering all claims, arranging for all payments, and making all collections on behalf of Owners under insurance policies covering Owners.

3.1.6 Licenses and Permits. Manager shall monitor and use commercially reasonable efforts to assist each Owner with its respective obligations to maintain compliance with any required permits, licenses and governmental approvals required and obtained by or for an Owner in connection with the ownership or operation of its Facility. Manager shall, upon request by any Owner, prepare or cause the preparation of any application, filing or notice related thereto, shall cause such materials to be submitted to, and shall represent Owner in contacts with, the appropriate governmental agency, and shall perform all ministerial or administrative acts necessary for timely issuance and the continued effectiveness thereof. Copies of all permits, licenses and governmental approvals obtained by or for an Owner pursuant hereto shall be maintained by Manager at its offices and at the respective Facility sites.

3.1.7 Public Relations. Manager shall coordinate all public and community relations matters of Owners with respect to the Facilities as directed by Owner Agent. Notwithstanding the foregoing, the Manager shall not issue (nor have any obligation to issue) any press release regarding an Owner or a Facility without the prior written consent of such Owner.

3.1.8 Reports and Budgets. Manager shall prepare and distribute, or cause to be prepared and distributed, all financial or other reports, budgets (including the Budget), estimates, tax returns and other information required to be prepared and distributed by Owners pursuant to the Financing Documents.

3.1.9 Dispute Resolution. Subject to the directions of Owner Agent, Manager shall manage any litigation, arbitration, or other proceedings involving any Facility (except any litigation, arbitration, or other proceedings involving Manager). Manager shall obtain Owner Agent's written approval prior to commencing any litigation, arbitration or other proceeding on behalf of an Owner and Manager shall periodically advise Owner Agent on the status of each litigation, arbitration and other proceeding involving any Facility. In addition, notwithstanding the foregoing, except as otherwise authorized by Owner Agent, Manager shall not settle any claim brought by or against an Owner without the prior written approval of Owner Agent.

3.1.10 Materials. Manager shall provide all materials necessary for the performance of the Asset Management Services and shall provide appropriate office space for its personnel performing the Asset Management Services.

3.1.11 Sale of Facilities. Manager shall use commercially reasonable efforts to assist Owners with the sale of the Facilities.

3.1.12 Offices. Manager shall maintain the principal office of each Owner and arrange for the provision of cleaning, security and other necessary services with respect to each such office and to each Facility.

3.1.13 Consultation. Manager shall consult with Owner Agent on all aspects of the preservation, operation and maintenance of each Facility, at such places and times as Owner Agent may reasonably request.

3.1.14 Other. Manager shall use commercially reasonable efforts to provide any other assistance or services reasonably requested by Owners that are consistent with the foregoing services and necessary for, or materially beneficial to, the management or administration of the Facilities including the services set forth in Appendix A-1.

3.2 Scope of Asset Preservation Services. With respect to each Facility that is in Cold Shutdown, subject to the terms of this Agreement and the Availability of Funds, Manager shall perform, or cause to be performed, the following services with respect to such Facility (collectively, the "Asset Preservation Services"):

3.2.1 Layup Services. Manager will take all commercially reasonable steps to ensure that site security measures, equipment preservation and general site maintenance is conducted in order to support a cost effective return of each Facility to operational status once schedules therefor are established by Owners and communicated to Manager. Manager shall:

(a) be in complete charge of, and have care and custody over, each Facility;

(b) perform, or cause to be performed on behalf of Owners, all maintenance of each Facility Consistent with Past Practice; and

(c) perform periodic inspections Consistent with Past Practice.

3.2.2 Waste Management. Subject to Environmental Laws and any permits maintained with respect to each Facility by its Owner or Manager, Manager shall be responsible for the onsite management of all wastes generated by or used in the preservation of each Facility.

3.2.3 Other. Manager shall use commercially reasonable efforts to provide any other assistance or services reasonably requested by Owners that are consistent with the foregoing services, Consistent with Past Practices and necessary for, or materially beneficial to, the preservation of the Facilities including the services set forth in Appendix A-1.

3.3 Scope of O&M Services. With respect to each Facility that is not in Cold Shutdown, commencing on the date hereof and subject to the terms of this Agreement, the Availability of Funds and Consistent with Past Practices, Manager shall perform, or cause to be performed, the following services (collectively, the "O&M Services"):

3.3.1 Operations and Maintenance. Manager shall operate and maintain each such Facility. Manager shall:

(a) perform, or cause to be performed on behalf of such Facility, all operations and maintenance of such Facility;

(b) supply, or cause to be supplied, all goods and materials, including spare parts, required to operate and maintain such Facility;

(c) maintain, control and store such Facility's equipment and spare parts inventory;

(d) perform periodic inspections; and

(e) coordinate compliance by Owner with the applicable Facility Agreements.

3.3.2 Waste Management. Subject to Environmental Laws and any permits maintained with respect to such Facility by Owner of such Facility or Manager, Manager shall be responsible for the onsite management of all wastes generated by or used in the operation or maintenance of such Facility.

3.3.3 Other. Manager shall use commercially reasonable efforts to provide any other assistance or services reasonably requested by Owner of such Facility, that are consistent with the foregoing services and necessary for, or materially beneficial to, the operations and maintenance of such Facility, respectively, including the services set forth in Appendix A-2.

3.4 Subcontracts. Manager shall not enter into any subcontract for the services described herein without the prior written consent of Owner Agent; provided that Manager shall be permitted to subcontract certain of the Services relating to the maintenance and operation of the Facilities to Affiliates of Manager (other than Owners) Consistent with Past Practices (it being understood that Manager shall remain primarily liable for any services performed by any subcontractor).

3.5 Standards for Performance of the Asset Management Services. Manager shall perform the Asset Management Services in a prudent, businesslike and efficient manner in accordance with (i) all applicable Laws (including Environmental Laws) and Permits, (ii) the applicable terms and conditions of the Financing Documents and (iii) this Agreement.

3.6 Standards for Performance of the Asset Preservation Services and the O&M Services. Subject to Availability of Funds and Consistent with Past Practices, Manager shall perform the Asset Preservation Services and the O&M Services in accordance with (i) the Facility Manuals, (ii) all applicable Laws (including Environmental Laws) and Permits, (iii) Prudent Ethanol Practices, (iv) the applicable Facility Agreements and (v) this Agreement. Manager shall obtain and maintain in effect all licenses and permits required to allow Manager to do business or perform its services hereunder in the jurisdictions where such services are to be performed except where the failure to do so shall not adversely affect Manager's ability to perform its obligations under this Agreement.

3.7 Personnel Standards.

(a) Manager shall provide and make available as necessary, in accordance with the requirements of this Agreement, all labor and professional, supervisory and managerial personnel as are required to perform its services hereunder in accordance with the terms hereof. Such personnel shall be qualified and experienced in the duties to which they are assigned and shall be the employees of Manager or its Affiliates, and their working hours, rates of compensation and all other matters relating to their employment shall be determined solely by Manager. Manager shall retain sole authority, control and responsibility with respect to its employment policy in connection with the performance of its obligations hereunder. A preliminary listing of personnel that Manager anticipates will be necessary to operate, preserve and/or maintain each Facility in its current state of operation or Cold Shutdown as applicable as such state may change from time to time, including function, the number of such positions and the date by which such personnel should be hired, is set forth in Appendix B, it being understood that such listing is non-binding and shall be revised from time to time by Manager in consultation with Owner Agent.

(b) Upon the written request of Owner Agent, Manager shall remove from each site and each Facility workforce, any employee or subcontractor.

3.8 Training. Manager shall maintain regular training procedures approved by Owner Agent in the exercise of its reasonable judgment and discretion. Such procedures shall be adequate to keep Manager's personnel informed and knowledgeable regarding the operation and maintenance of each Facility.

3.9 Additional Obligations of Manager. Anything contained herein to the contrary notwithstanding and without regard to Availability of Funds, Manager shall (i) take all actions as may be necessary to cause the Stockton Facility to satisfy the Stockton Completion Obligation and (ii) perform its obligations under Section 2.01(b) of the Sponsor Support Agreement to cause the Magic Valley Facility to obtain the Magic Valley Air Permit. This Section 3.9 shall not be deemed to make Manager a party to the Facility Agreements (other than this Agreement) or to impose any obligations on Manager under the Facility Agreements (other than this Agreement).

3.10 Licenses and Permits. Manager has reviewed and shall continue to review all Laws and regulations containing or establishing compliance requirements in connection with the operation and maintenance of each Facility and applicable to Manager in connection with its obligations under this Agreement, and assist Owners in securing and complying with, as appropriate, all Permits necessary for the operation and maintenance of each Facility (and renewals or replacements of the same), including those relating to Facility operation, waste water and sewer use and treatment, chemical and other waste including Hazardous Materials; provided, however, that all such permits, licenses and approvals relating to Hazardous Materials shall be in the name of Owners except for any individual licenses or permits required under Section 3.6. Manager shall also initiate and maintain precautions and procedures necessary to comply with applicable provisions of all such Laws (including Environmental Laws), including those related to prevention of injury to persons or damage to property at each Facility.

3.11 Records and Reports; Other Material Information

3.11.1 Records and Reports. Manager shall prepare and maintain logs, records and reports documenting the operation and maintenance of each Facility including all information and reports required by applicable Laws or beneficial for proper operation and maintenance of each Facility in accordance with Prudent Ethanol Practices. Manager shall also prepare reports and data related to the maintenance of Hazardous Materials onsite at each Facility in a manner complying with applicable Environmental Laws, and shall maintain current revisions of the drawings, specifications, lists, clarifications and other materials provided to Manager by Owners, construction contractors and/or Delta-T. Copies of all such reports that may be submitted to any Governmental Authority by Manager shall be transmitted to Owner Agent. All such reports and other documents specified in this Section 3.11.1 are referred to as the "Facilities Records"

3.11.2 Other Material Information. Manager shall promptly submit to Owner Agent any material information that it or any of its Affiliates may have concerning new or significant developments relating to any Facility and, upon Owner Agent's reasonable request, shall promptly submit any other information that it or any of its Affiliates may have concerning any Facility or the services performed by Manager hereunder.

3.12 No Liens or Encumbrances. Manager shall keep and maintain each Facility free and clear of all liens and encumbrances resulting from the action of Manager or work done at the request of or by Manager.

3.13 Emergency Action. In the event of an emergency affecting the safety or protection of Persons or endangering a Facility or property located at a Facility, Manager shall promptly notify Owner Agent and, take prompt action to attempt to prevent any damage, injury or loss resulting from such emergency.

3.14 Scope; Manager Authority. On at least 60 days prior written notice, Owner Agent may revoke or rescind all or any material part of the authority granted to Manager or materially reduce or materially restrict the scope of the Services.

3.15 Retention of Control by Owners. Notwithstanding anything in this Agreement to the contrary, Owners and Manager expressly acknowledge and agree that: (a) this Agreement does not convey ownership or control over the Facilities from Owners to the Manager; and (b) Owners retain ultimate decision-making authority with respect to the Facilities, including ultimate decision-making authority relating to the operation of, and sale of products produced by, the Facilities.

3.16 Limitations on Performance. Notwithstanding anything herein to the contrary, none of the following shall result in a breach of Manager's obligations under this Agreement to the extent such breach is caused by: (i) lack of Availability of Funds, (ii) Force Majeure Events or (iii) any failure by Owners to perform their respective obligations under this Agreement.

3.17 Deficiency of Funds. If funds shall not be sufficient to make applicable disbursements for Operating Disbursements or Direct Reimbursement Expenses, Manager shall promptly notify Owner Agent and Owner Agent shall promptly provide the required funds, subject to the terms of this Agreement. Manager, in its sole discretion, may elect (but shall not be obligated), to advance any such funds for the account of Owners, and Owner Agent shall promptly reimburse Manager for any such advances properly made by Manager in accordance with the terms of this Agreement. Manager shall use commercially reasonable efforts to keep Owner Agent advised as to projected cash deficits so as to permit the orderly funding thereof by Owner Agent.

ARTICLE IV

ITEMS TO BE FURNISHED BY OWNERS

4.1 General. Owners shall furnish to Manager, at Owners' expense, the information, services, materials and other items described in this Article IV. All such items shall be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Manager.

4.2 Information. Owners shall provide copies of the Facility Agreements and the Facility Manuals to Manager as well as technical, operational and other Facility information reasonably available to Owners or in Owners' possession and necessary for the performance of the Services. Subject to the standards of performance set forth in Article III, Manager shall be entitled to rely upon such information in the performance of the Services.

4.3 Corn, Fuel and Other Materials. During the period in which Manager is required to provide O&M Services to a Facility, Owner of such Facility shall be responsible for furnishing and delivering to such Facility: (a) corn, (b) water, (c) natural gas, (d) electricity, (e) denaturant, and (f) any other materials necessary for the operation of such Facility, in each case, in sufficient quantities to produce ethanol and wet distillers grains in accordance with the Boardman Ethanol Sales and Marketing Agreement and the Boardman WDG Sales and Marketing Agreement or the Burley Ethanol Sales and Marketing Agreement and the Burley WDG Sales and Marketing Agreement, as applicable.

4.4 Cold Shutdown or Start Up of a Facility. From time to time, upon not less than 60 days notice to Manager, Owner Agent or Owner of a Facility may elect to recommence operations of such Facility that is then in Cold Shutdown or to place such Facility in Cold Shutdown. Within 10 days of receipt of any such notice, Manager shall provide Owner's Agent and Owner of such Facility with a budget for any costs to be incurred with such recommencing operation or Cold Shutdown. Upon agreement of Manager, Owner Agent and Owner of such Facility with respect to such budget, and the concurrence therewith by the Administrative Agent, Manager shall recommence operations or place such Facility in Cold Shutdown, as applicable. Recommencing operation of a Facility or placing a Facility in Cold Shutdown shall be done in accordance with Prudent Ethanol Practices.

ARTICLE V

DEVELOPMENT PROJECTS; FACILITY SERVICES

5.1 Development Projects. If, during the term of this Agreement, Manager intends to develop or pursue any business opportunity that involves or promotes any Facility assets, properties located adjacent to the Facilities or products produced at the Facilities, then Manager shall notify Owners of such opportunity, including providing reasonable detail thereof (following Owners' execution of a reasonable and customary confidentiality and non-intervention agreement, if required by Manager), and Manager agrees to negotiate, in good faith, Owners participating in such business opportunity on terms mutually acceptable to the parties. Notwithstanding the foregoing, Manager (i) shall not be under any obligation to include any Owner in any transaction regarding any such opportunities and Owners shall have no right to participate in any such transaction, (ii) shall be free to pursue and engage in such opportunity with any or no party as Manager shall in its sole and absolute discretion deem appropriate, (iii) shall be free to negotiate concurrently with third parties regarding such opportunity and (iv) may cease discussions with Owners regarding any such opportunity at any time and in Manager's sole discretion.

ARTICLE VI

REPORTING AND PERSONNEL

6.1 Accounts and Reports. Manager shall furnish or cause to be furnished to Owner Agent (i) the reports required to be delivered to the Administrative Agent pursuant to the Financing Documents and (ii) the following reports and information:

6.1.1 CS Reports. (a) With respect to each Facility that is in Cold Shutdown, as soon as available and in any event within 25 days following the end of each calendar month, Manager shall submit to Owner Agent a summary report in the form attached hereto as Appendix C, which report shall include, with respect to each Facility, a numerical and narrative assessment in respect of such month of (i) the Facility's compliance with each category in the Budget, (ii) plant availability, (iii) cash receipts and disbursements including balances in the Accounts, (iv) major maintenance activity, (v) material casualty losses (whether or not covered by insurance), (vi) disputes with any contractor, materialman, supplier or other Person and any related claims against any Owner, (vii) compliance with governmental permits, and (viii) a comparison of figures to corresponding figures provided in the prior month.

(b) With respect to each Facility that is in Cold Shutdown, as soon as practicable and in any event within 25 days following the end of each calendar quarter, Manager shall submit to Owner Agent a summary report containing the information required to be provided pursuant to Section 6.1.1(a) for the quarter then ended.

6.1.2 Operating Reports. With respect to each Facility that is not in Cold Shutdown, as soon as available and in any event within 25 days following the end of each calendar month, Manager shall submit to Boardman a summary report in the form attached hereto as Appendix D, which report shall include, with respect to Boardman, a numerical and narrative assessment in respect of such month of (i) Boardman's compliance with each category in the Budget, (ii) ethanol and WDG production and delivery, (iii) corn deliveries and use, (iv) plant availability, (v) cash receipts and disbursements including balances in the Accounts, (vi) major maintenance activity, (vii) material casualty losses (whether or not covered by insurance), (viii) disputes with any contractor, materialman, supplier or other Person and any related claims against Boardman, (ix) compliance with governmental permits, and (x) a comparison of figures to corresponding figures provided in the prior month.

6.1.3 Manager Report. As soon as available and in any event within ten (10) days after the filing thereof, Manager shall submit to Owner Agent and the Administrative Agent copies of all reports filed by Manger or any Affiliate with the Securities and Exchange Commission and any communications or information provided by Manager to its shareholders or by Kinergy Marketing LLC to its working capital lenders (except daily borrowing base reports). Each report shall be certified as complete and correct by an Authorized Officer of Manager.

6.1.4 Other Information. Any other information concerning the Services, Owners or the Facilities or reasonably requested by Owner Agent regarding any Facility or the Services.

6.2 Budget. The Budget sets forth the budgeted amounts for all Operating Disbursements and Direct Reimbursement Expenses and for Allocated Expenses and Asset Management Fee. Manager shall promptly notify Owner Agent of any actual or anticipated variance from the amounts budgeted for Operating Disbursements and Direct Reimbursement Expenses, the reasons therefor and Manager's recommendations with respect thereto. Each Owner shall be responsible for (but shall not be obligated to fund) all Operating Disbursements and Direct Reimbursement Expenses in respect of its Facility; provided that any failure by an Owner to provide such funding shall relieve Manager of any obligation hereunder for which there is no Availability of Funds. Each Owner agrees to pay Manager the Management Fee in respect of its Facility; provided that, except as expressly set forth herein, any such failure to fund shall relieve Manager of its obligations hereunder. Manager agrees that the amount of Allocated Expenses and Asset Management Fee is fixed and that any increase or decrease in the costs underlying such Allocated Expenses and Asset Management Fee shall be solely for the account of the Manager and shall not result in any increase or decrease in the amount of the Management Fee.

6.3 Manager Representative. Manager has appointed a representative (a "Manager Representative") authorized and empowered to act for and on behalf of Manager on all matters concerning this Agreement and the Services with respect to a Facility. The appointment of any Manager Representative shall be subject to the reasonable approval of Owner Agent. Such appointment shall remain in full force and effect until such Manager Representative is replaced by Manager with the reasonable approval of Owner Agent. At any time, a Manager Representative may act through or be represented by one or more individuals appointed by Manager.

ARTICLE VII

LIMITATIONS ON AUTHORITY

Notwithstanding any provision in this Agreement to the contrary, unless otherwise approved in writing in advance by Owner Agent, Manager shall not (and shall not permit any of its agents or representatives to):

(a) sell, lease, pledge, mortgage, encumber, convey, or make any license, exchange or other transfer or disposition of any property or assets of an Owner (other than products produced by an Owner for sale in the ordinary course of business), including any property or assets purchased by Manager hereunder;

(b) make, enter into, execute, amend, terminate, modify or supplement any contract or agreement (including any labor or collective bargaining agreement) on behalf of or in the name of an Owner;

(c) make any expenditure or acquire any equipment, materials, assets or other items, except in substantial conformity with the Budget, or consent or agree to do any of the foregoing; provided, that in the event of an emergency affecting the safety or protection of Persons or endangering a Facility or property located at a Facility, Manager, without approval from Owner Agent, shall be authorized to take all reasonable actions to prevent damage, injury or loss;

(d) settle, compromise, assign, pledge, transfer, release or consent to the compromise, assignment, pledge, transfer or release of, any claim, suit, debt, demand or judgment against or due by, Owners, or submit any such claim, dispute or controversy or arbitration or judicial process, or stipulate in respect thereof to a judgment, or consent to the same; or

(e) engage in any other transaction on behalf of Owners not permitted under this Agreement.

ARTICLE VIII

COMPENSATION AND REIMBURSEMENT

8.1 Management Fee; Reimbursement. As compensation to Manager for the performance of the Services in respect of a Facility, Owner of such Facility shall pay Manager a monthly management fee equal to (i) $75,000 for each calendar month during which a Facility is not in Cold Shutdown, and (ii) $40,000 for each calendar month during which a Facility is in Cold Shutdown (the "Management Fee"), payable in advance in equal semi-monthly installments on the 1st and 11th Business Days of each month by deposit into the Manager Account (and pro rated for partial calendar months) commencing on the date hereof and continuing for the term of this Agreement with respect to such Facility.

In addition to the foregoing compensation, during any six-month period (measured on September 30 and March 31 of each year commencing March 31, 2011) in which any Facility shall have EBITDA Per Gallon of Operating Capacity of $.20 or greater, Owner of such Facility shall pay to Manager a performance bonus equal to the product of 3% of the amount by which annualized EBITDA Per Gallon of Operating Capacity exceeds $.20 multiplied by the number of gallons of ethanol produced at such Facility during such period; provided that (i) no performance bonus shall be paid at any time when a Default on Event of Default under the Credit Agreement as a result of Borrower's failure to pay any amounts then due and owing shall exist and be continuing; (ii) such performance bonus shall be capped at $2.2 million for each semi-annual period; and (iii) the annual performance bonus shall be reduced by 25% if all Facilities then operating do not operate at a minimum average yield of 2.70 gallons of denatured ethanol per bushel of corn.

An example of this computation is set forth in Exhibit B.

8.2 Sale Incentive Fee. Upon the sale of all or substantially all the assets of a Facility or all of the equity interests in an Owner of a Facility, in each case to a third party, Manager shall receive an Incentive Fee with respect to such sale, as set forth below:

"Tier"	Sale Price per Gallon	Incentive Fee
Tier I	$.60 or less	0
Tier II	Above $.60 up to and including $.70	The excess of Sale Price Per Gallon over $.60, to and including the lesser of the Sale Price Per Gallon and $.70, multiplied by the Operating Capacity of the Facility (in gallons), multiplied by 0.5%; *plus*
Tier III	Above $.70 up to and including $.80	If the Sale Price Per Gallon exceeds $.70, the excess of the Sale Price Per Gallon over $.70, to and including the lesser of the Sale Price Per Gallon and $.80, multiplied by the Operating Capacity of the Facility (in gallons), multiplied by 1.0%; *plus*
Tier IV	Above $.80	If the Sale Price Per Gallon exceeds $.80, the excess of the Sale Price Per Gallon over $.80, multiplied by the Operating Capacity of the Facility (in gallons), multiplied by 1.5%.

An example of this computation is set forth in Exhibit C.

8.3 Lien Waivers. In connection with any payment of the Management Fee, Manager shall provide such releases or waivers of mechanics or other liens as any Owner may require.

ARTICLE IX

TERM

9.1 Term. This Agreement shall be effective on the date hereof and, unless earlier terminated in accordance with its terms, shall continue in effect until and including the six-month anniversary of the date of this Agreement; provided, that Owner Agent may extend this Agreement for additional six-month periods, in each case by written notice to Manager ("Owner Agent Notice") delivered not less than 60 days prior to the end of the original or renewal term, provided further that this Agreement shall nonetheless terminate if Manager rejects such extension in a written notice delivered to Owner Agent not more than 10 days after receipt of the Owner Agent Notice. Notwithstanding anything to the contrary contained herein, the obligations set forth in Section 3.9 hereof shall survive the termination or expiration of this Agreement; provided, that (i) following the termination of this Agreement with respect to the Magic Valley Facility by Burley pursuant to Section 9.4, the total liability of Manager with respect to such obligations relating to the Magic Valley Facility hereunder and under Section 2.01(b) of the Sponsor Support Agreement shall not exceed the reasonable cost of performing such obligations as estimated by the Independent Engineer plus fifteen percent (15%) of such estimate and (ii) such obligations relating to the Stockton Facility shall survive only to the extent that Stockton pays to Manager any amounts required to perform such obligations constituting Operating Disbursements or Direct Reimbursement Expenses.

9.2 Termination by Manager. Manager may terminate this Agreement with respect to a Facility by written notice to Owner of such Facility, upon the occurrence of any of the following events:

(a) the failure by such Owner to pay the Management Fee required to be paid to Manager hereunder within 10 days after the date such payment is required to be made with respect to the first such failure and within 5 days after the date such payment is required to be made with respect to any subsequent such failure;

(b) the failure by such Owner to make any other payment, deposit or transfer required to be paid to Manager hereunder within 15 Business Days after the date such payment, deposit or transfer is required to be made;

(c) the failure of any statement, representation or warranty made by such Owner in this Agreement to have been correct in any material respect when made if such failure could reasonably be expected to have a material adverse effect on such Owner's ability to perform its obligations under this Agreement; or

(d) the failure of such Owner to perform any of its material obligations under this Agreement (other than with respect to the payment of money) and such failure continues for 30 days after receipt of written notice from Manager of such failure; provided, that such 30-day period shall be extended for up to an aggregate of 90 days so long as such Owner is diligently attempting to cure such failure.

9.3 Termination by Owners. Each Owner may terminate this Agreement with respect to its Facility by written notice to Manager, upon the occurrence of any of the following events, provided, that no such notice shall be required for a termination pursuant to clause (c) of this Section 9.3:

(a) the failure by Manager to make any payment, deposit or transfer required hereunder within 15 Business Days after the date such payment, deposit or transfer is required to be made;

(b) the failure of any statement, representation or warranty made by Manager in this Agreement to have been correct in any material respect when made if such failure could reasonably be expected to have a material adverse effect on Manager's ability to perform its obligations under this Agreement;

(c) the occurrence of an Act of Insolvency with respect to Manager; or

(e) the failure of Manager to perform any of its material obligations under this Agreement and such failure continues for 30 days after receipt of written notice from such Owner of such failure; provided, that such 30-day period shall be extended for up to an aggregate of 90 days so long as Manager is diligently attempting to cure such failure.

9.4 Termination for Convenience. Each Owner may terminate this Agreement with respect to its Facility for any reason upon (x) sixty (60) days prior written notice to Manager or (y) less than 60 days prior written notice to Manager if such Owner shall pay the Supplemental Termination Payment. Manager may terminate this Agreement with respect to the Facilities for any reason upon sixty (60) days prior written notice to Owner Agent.

9.5 Facility Condition at End of Term; Successor Manager.

(a) Upon expiration or termination of this Agreement with respect to a Facility, Manager shall remove its personnel from such Facility. Manager shall leave such Facility in as good condition as at the date hereof subject to (i) normal wear and tear, (ii) if a Facility has suffered damages covered by insurance, the availability to Manager of the proceeds of such insurance and (iii) changes in condition resulting from Force Majeure Events; provided that Manager is otherwise in compliance with its obligations under this Agreement. All special tools, improvements, inventory of supplies, spare parts, safety equipment (in each case as obtained by or provided by Manager and paid for by Owners during the term of this Agreement), Facilities Records, and any other items furnished under this Agreement will be left at the Facility and will remain the property of Owner without additional charge. Owners shall also have the right, in their sole discretion, to directly assume and become liable for any contracts or obligations that Manager may have undertaken with third parties principally in connection with the Services. Manager shall execute all documents and take all other reasonable steps requested by Owner that may be required to assign to and vest in Owner all rights and obligations, benefits, interests and title in connection with such contracts or obligations. Notwithstanding the foregoing, Manager, at all times, shall be deemed the owner of and shall be permitted to retain or remove all trademarks, logos, trade names and similar proprietary rights of Manager and its Affiliates ("Manager Proprietary Property") and shall disable all connections to Manager's ERP System servicing the Facilities (provided that Manager shall provide hard copies of financial, operational and other information relating principally to the Facilities as reasonably requested by Owners).

(b) Upon expiration or termination of this Agreement with respect to a Facility, Manager shall, at the request and expense of Owner of such Facility, assist such Owner in arranging for the future performance of the Services by such Owner or the successor to Manager (the "Successor Manager"), provided that Manager shall provide such assistance at no charge to such Owner if the Agreement is terminated pursuant to Section 9.3. Manager shall provide such Owner and the Successor Manager full access to such Facility and to all relevant information, data and records relating thereto reasonably required for taking over the performance of Services for such Facility.

(c) Promptly after expiration or termination of this Agreement with respect to a Facility, Manager shall deliver to Owner of such Facility or (if so required by such Owner by notice to Manager) to the Successor Manager all property in its possession or under its control owned by such Owner or leased or licensed to such Owner.

(d) The parties agree that Manager has granted each Owner and Owner's Agent a license to use the name "Pacific Ethanol". Upon expiration or termination of this Agreement, each Owner and Owner Agent as promptly as practicable shall cease using the name Pacific Ethanol and shall change its name to delete any reference to Pacific Ethanol, it being understood that Owner and Owner's Agent may use existing letterhead and similar supplies for a period not to exceed 30 days.

9.6 Termination Payment; Manager Payment

9.6.1 Termination Payment. Promptly after the date of any termination, Manager shall be paid on a pro rata basis (i) the Management Fee earned through the date of termination but not paid (the "Termination Payment"), (ii) if such termination is pursuant clause (y) of Section 9.4 the Supplemental Termination Payment and (iii) all other payments that it is entitled to under this Agreement for the period through the date of termination. Except for the Termination Payment, the Supplemental Termination Payment, if applicable, and such other payments, Owners shall not be liable for any costs incident to termination.

9.6.2 Manager Payment. Subject to Article XII, in the event of a termination of this Agreement by an Owner under Section 9.3 which results from the action or omission of Manager, such Owner shall be entitled to recover from Manager any damages, costs, fines or penalties such Owner suffers or incurs as a result of any such termination, including the reasonable costs of mobilizing and training a successor Manager, and such Owner hereby releases Manager from any liability in excess thereof. In calculating such reasonable costs, any savings achieved due to the retention by the successor Manager of any or part of the Facility workforce shall be taken into account.

ARTICLE X

INSURANCE

10.1 Manager Insurance. Without limiting any of the other obligations or liabilities of Manager under this Agreement, Manager shall at all times carry and maintain or cause to be carried and maintained, the minimum insurance coverage set forth in this Section 10.1:

(a) Manager shall maintain (i) Workers' Compensation insurance in compliance with the workers' compensation laws of the jurisdictions in which each Facility is located as extended by the Broad Form All States Endorsements, the United States Longshoreman's and Harbor Workers' Coverage Endorsements on an if-any-exposure basis and the Voluntary Compensation Coverage Endorsement, and (ii) Employer's Liability (including Occupational Disease) coverage with limits of not less than $1,000,000, which shall cover all of Manager's employees engaged in providing services hereunder.

(b) Manager shall maintain automobile liability insurance for owned (if any), non-owned and hired vehicles with combined single limits for bodily injury/property damage not less than $1,000,000 per occurrence and containing appropriate no-fault insurance provisions wherever applicable.

(c) Manager will maintain commercial general liability insurance with a limit for bodily injury/property damage of not less than $1,000,000 per occurrence and $2,000,000 in the annual aggregate. Such coverage shall include premises/operations, explosion, collapse and underground property damage, broad form contractual, independent contractors, products/completed operations (including Manager errors and omissions), broad form property damage, sudden and accidental pollution, personal injury and incidental professional liability (if not covered under product/completed operations and if commercially available).

(d) Manager shall maintain or cause to be maintained umbrella liability insurance providing coverage limits in excess of those set forth in Section (a), (b) and (c) above. The limits of this umbrella coverage shall not be less than $10,000,000 per occurrence and in the annual aggregate.

The terms and conditions of all insurance policies (including the amount, scope of coverage, deductibles, and self-insured retentions) shall be acceptable in all respects to Owner Agent. All insurance carried pursuant to this Section shall conform to the relevant provisions of this Agreement and be with insurance companies which are rated "A, IX" or better by Best's Insurance Guide and Key Ratings, or other insurance companies of recognized responsibility satisfactory to Owner Agent. Owner Agent shall be furnished with satisfactory evidence that the foregoing insurance is in effect and shall be notified 30 calendar days prior to the cancellation or material change of any such coverage. Coverage for the insurance under Section (c) and (d) above shall be written on a claims made basis provided that if the policy is not renewed, Manager shall obtain for the benefit of Owners an extended reporting period coverage or "tail" of at least three years past the final day of coverage of such policy. Manager shall provide Owner Agent with evidence that such extended reporting period coverage or "tail" has been obtained. Manager agrees to ensure that the insurance policies outlined in this Section require the insurer to waive subrogation against Owners, the Senior Secured Parties and their respective Affiliates together with their respective officers, directors, Affiliates and employees and all such Persons shall be an additional insured as their interests may appear with respect to all policies procured by Manager.

10.2 Owners Insurance. Owners shall ensure, to the extent commercially available, that Manager is named as an additional insured on each insurance policy relating to ownership, operation and maintenance of each Facility which Owners are required to take out and maintain pursuant to the Financing Documents. Owners shall provide Manager with a certified copy of each such insurance policy and shall notify Manager in writing of any changes to such policy from time to time or, before doing so, of the cancellation of any such policy or policies. Any obligation or liability for premiums, commissions, assessments or calls in connection with any insurance policy required under this Section shall be the sole responsibility of Owners except for claims arising from losses due to Manager error and omissions in which case Manager shall be responsible for all deductibles. All policies procured by Owners shall require the insurer to waive subrogation against Manager and its officers, directors, Affiliates and employees and all such Persons shall be named as additional insureds to the extent of their interests; provided, that Manager shall have no interest with respect to business interruption coverage.

10.3 Manager Insurance Premiums and Deductibles. All premiums for insurance coverage procured by Manager pursuant to Section 10.1 shall be for the account of Manager. Manager shall be liable for the payment of deductibles on insurance policies obtained pursuant to Section 10.1.

10.4 Subcontractor Insurance. Before permitting any Manager's subcontractor to perform any services at a Facility, each such subcontractor must provide proof of insurance satisfactory to Owner Agent and obtain a certificate of insurance evidencing that such subcontractor has obtained insurance in such amounts and such risks as is customarily carried by Persons engaged in similar businesses in the same geographic area and from such carriers as are licensed to do business in the jurisdiction in which such Facility is located.

ARTICLE XI

INDEMNIFICATION

11.1 Owners' Indemnity. Each Owner shall defend, indemnify and hold harmless Manager and its Affiliates (and each officer, director, employee, shareholder, partner, member or agent of Manager and its Affiliates) (each, an "Owner Indemnified Person") from and against (i) any and all claims, actions, damages, expenses (including reasonable and documented attorneys' fees and expenses), losses, settlements or liabilities (collectively, "Liabilities") incurred or asserted against any Owner Indemnified Person (a) as a result of any failure on the part of such Owner to perform its obligations under this Agreement or (b) arising out of or in any way connected with the grossly negligent acts or omissions of such Owner and (ii) Liabilities incurred by any Owner Indemnified Person to a third party or asserted against any Owner Indemnified Person by a third party as a result of Manager performing the Services in accordance with the terms of this Agreement.

11.2 Manager's Indemnity. Manager shall defend, indemnify and hold harmless each Owner and its Affiliates (and each officer, director, employee, shareholder, partner, member or agent of each Owner and its Affiliates) (each, a "Manager Indemnified Person") from and against any and all Liabilities incurred or asserted against any Manager Indemnified Person (a) as a result of any failure on the part of Manager to perform its obligations under this Agreement, or (b) arising out of or in any way connected with the grossly negligent acts or omissions of Manager or its subcontractors and Affiliates (other than Owners) in connection with this Agreement.

ARTICLE XII

LIABILITIES OF THE PARTIES

12.1 Maximum Liability of Manager. The total aggregate liability of Manager to Owners under this Agreement during the term of this Agreement shall not exceed one million dollars ($1,000,000). Notwithstanding the foregoing, such limitations on liability shall not apply with respect to any net loss, damage or liability resulting from or arising out of the gross negligence or willful misconduct of Manager.

12.2 No Consequential or Punitive Damages. In no event shall either Party be liable to any other Party by way of indemnity or by reason of any breach of contract or of statutory duty or by reason of tort (including negligence or strict liability) or otherwise for any loss of profits, loss of revenue, loss of use, loss of production, loss of contracts or for any incidental, indirect, special or consequential or punitive damages of any other kind or nature whatsoever that may be suffered by such other Party.

ARTICLE XIII

CONFIDENTIALITY

Manager agrees to maintain the confidentiality of the Owner Information (as defined below), except that Owner Information may be disclosed (a) to Manager's Affiliates and its and their officers, directors, managers, employees, partners, shareholders, members, agents and representatives, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Owner Information and instructed to keep such Owner Information confidential), (b) to the extent requested by any regulatory authority having jurisdiction over Manager, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) in accordance with any Financing Document, (e) in connection with any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder, (f) with the consent of Owner Agent, (g) to the extent necessary or appropriate to perform its duties under this Agreement, (h) to any potential equity investors in PEI or any acquirer of all or any of the equity interests in NewCo or any subsidiary thereof, provided that such potential equity investors agree to similar confidentiality provisions or (i) to the extent such Owner Information (i) becomes publicly available other than as a result of a breach of this Article XIII or (ii) becomes available to Manager on a non-confidential basis from a source other than an Owner. "Owner Information" means all information received from any Owner, or developed by Manager in the course of performing its obligations under this Agreement, relating to the business and operations of any Owner. Manager shall be considered to have complied with its obligation to maintain the confidentiality of Owner Information if Manager has exercised the same degree of care with respect to the Owner Information as Manager would accord to its own confidential information.

ARTICLE XIV

TITLE, DOCUMENTS AND DATA

14.1 Materials and Equipment. Title to all materials, equipment, supplies, Consumables, spare parts. and other items purchased or obtained by Manager shall pass immediately to and vest in Owners upon the passage of title from the vendor or supplier thereof, provided, however, that such transfer of title shall in no way affect Manager's obligations as set forth in the other provisions of this Agreement.

14.2 Documents. All materials and documents prepared or developed by Manager or its employees, representatives or contractors in connection with a Facility or the performance of the Services hereunder, including all manuals, data, designs, drawings, plans, specifications, reports and accounts but expressly excluding any Manager Proprietary Property, shall become or remain the property of Owners when prepared. All such materials and documents, together with any materials and documents furnished to Manager or to its contractors by Owners, and any and all copies thereof shall be delivered to Owners upon expiration or termination of this Agreement. In addition, all such materials and documents shall be available for review by Owners at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of Owners shall be prepared and processed in accordance in all material respects with the requirements and specifications set forth in the Facility Manuals. However, Owners' approval of materials and documents submitted by Manager shall not relieve Manager of its responsibility to perform its obligations under this Agreement.

ARTICLE XV

FORCE MAJEURE

15.1 Events Constituting Force Majeure. As used herein, "Force Majeure Event" means any cause(s) which render(s) a Party wholly or partly unable to perform its obligations under this Agreement (other than obligations to make payments when due), and which are neither reasonably within the control of such Party nor the result of the fault or negligence of such Party, and which occur despite all reasonable attempts to avoid, mitigate or remedy, and shall include acts of God, war, riots, civil insurrections, cyclones, hurricanes, floods, fires, explosions, earthquakes, lightning, storms, chemical contamination, epidemics or plagues, acts or campaigns of terrorism or sabotage, blockades, embargoes, accidents or interruptions to transportation, trade restrictions, acts of any Governmental Authority after the date hereof, strikes and other labor difficulties, mechanical breakdowns, and other events or circumstances beyond the reasonable control of such Party.

15.2 Effect. A Party claiming relief as a result of a Force Majeure Event shall give the other Parties written notice within five Business Days of becoming aware of the occurrence of the Force Majeure Event, or as soon thereafter as practicable, describing the particulars of the Force Majeure Event, and will use reasonable efforts to remedy its inability to perform as soon as possible. If the Force Majeure Event (including the effects thereof) continues for fifteen consecutive days, the affected Party shall report to the other Parties the status of its efforts to resume performance and the estimated date thereof. If the affected Party was not able to resume performance prior to or at the time of the report to the other Parties of the onset of the Force Majeure Event, then it will report in writing to the other Parties when it is again able to perform. If a Party fails to give timely notice, the excuse for its non-performance shall not begin until notice is given.

15.3 Limitations. Any obligation(s) of a Party (other than an obligation to make payments when due) may be temporarily suspended during any period such Party is unable to perform such obligation(s) by reason of the occurrence of a Force Majeure Event, but only to the extent of such inability to perform, provided, that:

(a) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event; and

(b) the Party claiming the occurrence of the Force Majeure Event bears the burden of proof.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

16.1 Assignment. No Party shall assign this Agreement or any of its rights or obligations hereunder without first obtaining the prior written consent of each other Party and the Administrative Agent; provided, that each Owner shall be entitled to assign its rights hereunder (as collateral security or otherwise) for financing purposes (including a collateral assignment) without the consent of Manager.

16.2 Sale of Facilities. The Parties acknowledge that Owners intend to sell the Facilities to one or more purchasers. In connection with any sales process, if requested by Owners, Manager will make all records and other documents under its control regarding the Facilities available to potential purchasers and will provide such other services and assistance as Owners may reasonably request. Manager will not restrict or limit its personnel who are, or have been, working on-site at any Facility from joining any company or Affiliate of a company that acquires ownership of a Facility (excluding any personnel that on the date of this Agreement are full time employees of Manager).

16.3 Cooperation in Financing. Manager shall use its reasonable efforts to execute, acknowledge and deliver any and all further documents and instruments, and to take any other actions, which may be necessary to satisfy the reasonable requests of any Senior Secured Party or prospective Senior Secured Party in connection with the financing of each Facility, including delivering to the Collateral Agent a customary consent to the assignment by Owners of its rights under this Agreement to the Collateral Agent.

16.4 Access

16.4.1 Owners. Each Owner and its agents and representatives shall have access at all times to its Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations. Upon request of such Owner, and its agents and representatives, Manager shall make available to such Persons on site and provide them with access to any data and all logs relating to such Facility.

16.4.2 Senior Secured Parties. As and to the extent required under the Financing Documents, the Senior Secured Parties and their agents and representatives, at all reasonable times (and upon reasonable prior notice), shall have access to each Facility, all Facility operations and any documents, materials, records and accounts relating to Facility operations for purposes of inspection and review. Manager shall have the right to have its personnel accompany such Senior Secured Parties and such agents and representatives during such access.

16.4.3 Cooperation. During any such inspection or review of any Facility, Owners, the Senior Secured Parties and their agents and representatives shall comply with all of Manager's safety and security procedures, and Owners, the Senior Secured Parties and their agents and representatives shall conduct such inspection and reviews in such a manner as to cause minimum interference with Manager's activities. Manager also shall cooperate with Owners in allowing other visitors access to each Facility under conditions as Owners shall designate.

16.5 Not for Benefit of Third Parties. Except as otherwise expressly provided in Articles XI and XVI, this Agreement and each and every provision hereof are for the exclusive benefit of the Parties hereto and is not for the benefit of any third party.

16.6 Amendments. No Party hereto shall be bound by any amendment, supplement, waiver or modification of any term hereof unless such Party and the Administrative Agent shall have consented thereto in writing.

16.7 Survival. Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration or termination, including remedies, limitations on liability, promises of payment, indemnity and confidentiality. Without limiting the generality of the foregoing, the following provisions of this Agreement shall survive cancellation, expiration or earlier termination of this Agreement: Articles V, VIII, IX, XI, XIII and XVI and the limitations on liabilities set forth in Article XII.

16.8 No Waiver. No delay or failure on the part of any Party in exercising any rights hereunder, and no partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights hereunder.

16.9 Notices. All notices or other communications which are required or permitted hereunder shall be in writing and shall be deemed sufficiently given (a) upon delivery, if delivered personally, (b) the day the notice is received, if it is delivered by overnight courier or certified or registered mail, postage prepaid, or (c) upon the effective receipt of electronic transmission, facsimile, telex or telegram (with effective receipt being deemed to occur upon the sender's receipt of confirmation of successful transmission of such notice or communication), to the addresses set forth below or such other address as the addressee may have specified in a notice duly given to sender as provided herein:

If to Manager: Pacific Ethanol, Inc.
400 Capitol Mall, Suite 2060
Sacramento, CA 95814
Attention: Neil Koehler
Facsimile: (916) 446-3937

With a copy to: Pacific Ethanol, Inc.
400 Capitol Mall, Suite 2060
Sacramento, CA 95814
Attention: General Counsel
Facsimile: (916) 446-3936

If to Owners: Pacific Ethanol Holding Co. LLC
c/o JT Miller Group LLC
777 Campus Commons Road #200
Sacramento, CA 95825
Attention: John Miller
Telephone: (916) 565-7422
Facsimile: (916) 565-7423

16.10 Representations and Warranties.

16.10.1 Manager's Representations and Warranties. Manager represents and warrants to Owners, as of the date hereof, as follows:

16.10.1.1 Due Formation. Manager (a) is a corporation duly formed and validly existing under the laws of the State of Delaware, (b) has the requisite power and authority to own its properties and carry on its business as now being conducted and currently proposed to be conducted and to execute, deliver and perform its obligations under this Agreement, and (c) is qualified to do business in every jurisdiction in which failure so to qualify could be reasonably be expected to have a material adverse effect on Manager's ability to perform its obligations hereunder.

16.10.1.2 Authorization; Enforceability. Manager has taken all action necessary to authorize it to execute, deliver and perform its obligations under this Agreement. This Agreement constitutes a legal, valid and binding obligation of Manager enforceable in accordance with its terms.

16.10.1.3 No Conflict. The execution, delivery and performance by Manager of this Agreement does not and will not (a) violate any Law applicable to Manager, (b) result in any breach of Manager's constituent documents or (c) conflict with, violate or result in a breach of or constitute a default under any agreement or instrument to which Manager or any of its properties or assets is bound or result in the imposition or creation of any lien or security interest in or with respect to any of Manager's property or assets, other than in each case any such violations, conflicts, breaches or impositions which could not be reasonably be expected to have a material adverse effect on Manager's ability to perform its obligations hereunder.

16.10.1.4 No Authorization. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority (other than those which have been obtained) is required for the due execution, delivery and performance by Manager of this Agreement, other than any such authorizations, approvals or actions the failure of which to obtain could not be reasonably be expected to have a material adverse effect on Manager's ability to perform its obligations hereunder.

16.10.1.5 Litigation. Manager is not a party to any legal, administrative, arbitration or other proceeding, and, to Manager's knowledge, no such proceeding is threatened, which could be reasonably be expected to have a material adverse effect on Manager's ability to perform its obligations hereunder.

16.10.2 Owners' Representations and Warranties. Each Owner represents and warrants to Manager, as of the date hereof, as follows:

16.10.2.1 Due Formation. Such Owner (a) is a limited liability company duly formed and validly existing under the laws of the State of Delaware, (b) has the requisite power and authority to own its properties and carry on its business as now being conducted and currently proposed to be conducted and to execute, deliver and perform its obligations under this Agreement, and (c) is qualified to do business in every jurisdiction in which failure so to qualify could be reasonably be expected to have a material adverse effect on such Owners' ability to perform its obligations hereunder.

16.10.2.2 Authorization; Enforceability. Such Owner has taken all action necessary to authorize it to execute, deliver and perform its obligations under this Agreement. This Agreement constitutes a legal, valid and binding obligation of such Owner enforceable in accordance with its terms.

16.10.2.3 No Conflict. The execution, delivery and performance by such Owner of this Agreement does not and will not (a) violate any Law applicable to such Owner, (b) result in any breach of such Owner's constituent documents or (c) conflict with, violate or result in a breach of or constitute a default under any agreement or instrument to which such Owner or any of its properties or assets is bound or result in the imposition or creation of any lien or security interest in or with respect to any of such Owner's property or assets, other than in each case any such violations, conflicts, breaches or impositions which could not be reasonably be expected to have a material adverse effect on such Owner's ability to perform its obligations hereunder.

16.10.2.4 No Authorization. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority (other than those which have been obtained) is required for the due execution, delivery and performance by such Owner of this Agreement, other than any such authorizations, approvals or actions the failure of which to obtain could not be reasonably be expected to have a material adverse effect on such Owner's ability to perform its obligations hereunder.

16.10.2.5 Litigation. Such Owner is not a party to any legal, administrative, arbitration or other proceeding, and, to such Owner's knowledge, no such proceeding is threatened, which could be reasonably be expected to have a material adverse effect on such Owner's ability to perform its obligations hereunder.

16.11 Counterparts and Execution. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same agreement.

16.12 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereof.

16.13 Entire Agreement. This Agreement contains the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements, negotiations and understandings among the Parties with respect to such subject matter. Nothing in this Agreement shall be construed as creating a partnership or joint venture among the Parties.

16.14 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic and practical effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

16.15 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

16.16 Owner Agent. Each Owner hereby appoints and authorizes Pacific Holding, and Pacific Holding hereby accepts such appointment, as such Owner's Owner Agent to act as agent on such Owner's behalf and to make any representations or certifications, deliver and receive any notices or other communications, and otherwise represent and act on behalf of such Owner under this Agreement, and to comply with all covenants, conditions and other provisions of this Agreement required to be satisfied by Owner Agent. Each Owner hereby acknowledges and agrees that it will be bound by any action or inaction taken by Owner Agent as if such action or inaction had been taken by such Owner.

16.17 Independent Contractor. Manager shall be an independent contractor with respect to the performance of the Services and its other obligations hereunder. Neither Manager nor its employees or other agents employed in the Services shall be deemed to be agents of Owners or to have assumed any other obligations with respect to any Person, except to the extent of the obligations expressly created hereunder pursuant to the authority granted to Manager under this Agreement.

16.18 Captions; Appendices. Titles or captions of sections contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope of meaning of this Agreement or the intent of any provision hereof. All appendices attached hereto shall be considered a part hereof as though fully set forth herein.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, this Amended and Restated Asset Management Agreement has been duly executed by the parties hereto as of the date first written above.

PACIFIC ETHANOL, INC.

By: /s/ Neil M. Koehler
Name: Neil M. Koehler
Title: CEO

PACIFIC ETHANOL COLUMBIA, LLC

By: /s/ John T. Miller
Name: John T. Miller
Title: COO

PACIFIC ETHANOL MADERA LLC

By: /s/ John T. Miller
Name: John T. Miller
Title: COO

PACIFIC ETHANOL STOCKTON, LLC

By: /s/ John T. Miller
Name: John T. Miller
Title: COO

PACIFIC ETHANOL MAGIC VALLEY, LLC

By: /s/ John T. Miller
Name: John T. Miller
Title: COO

PACIFIC ETHANOL HOLDING CO. LLC

By: /s/ John T. Miller
Name: John T. Miller
Title: COO

APPENDIX A-1

SCOPE OF ASSET MANAGEMENT SERVICES AND ASSET PRESERVATION SERVICES

A. General Approach.

With respect to each Facility, Manager shall perform, or cause to be performed, all tasks necessary to manage and preserve such Facility in accordance with the Agreement, including:

- Staffing - Headcount, Task assignment, Scheduling
- Management - Methods, Procedures, Safety, Consumables/Materials Procurement
- Maintenance Management - Methods, Procedures, Safety
- Subcontract Management
- Administrative - Manager Payroll
- Training
- Security
- Permit Compliance

B. Facility Monitoring.

Manager will provide usual and customary monitoring including the following:

(a) Perform and record periodic operational checks and tests of equipment in accordance with the equipment manufacturer's specifications.

(b) Maintain logs, records and reports for operation of the Facility.

(c) Inform Owners as far in advance as possible when the facility does not have the capability to receive corn or store Ethanol or wet distillers grains.

Each Facility will be monitored on a continuing basis so that data are distributed quickly and accurately to the Facility staff and to Owners.

C. Layup Preservation Services.

Manager will provide usual and customary services including the following:

(a) Adhere to all regulatory requirements including management of all applicable permits including the Facility Storm Water Pollution Plan and the Facility air permits to include leak detection and repair inspections.

(b) Clean and lay-up equipment to protect from environmental factors including rust and mold.

(c) Maintain a regular program for equipment preservation to include equipment rotation and inspection.

(d) Monitor plant fire protection system and alarms

(e) Maintain plant readiness for potential re-start or sale

(f) Maintain site to include lawn and garden maintenance

(g) Perform site security services to prevent theft, vandalism, etc

D. Facility Restart.

If a Facility restart is requested by an Owner, Manager will provide usual and customary services including the following:

(a) Interview, select, hire and train necessary operating personnel.

(b) Make ready all equipment

(c) Order necessary start-up supplies

(d) Communicate re-start activities to appropriate parties including city and county officials, suppliers, vendors, etc

(e) Obtain all necessary permits and conduct all testing necessary to satisfy the terms and conditions of any such permit

E. Administrative Support.

Manager will provide usual and customary support including the following:

1. General.

Manager will develop and implement a comprehensive and specific administrative procedures including:

(a) Maintain an effective Facility work force through proper hiring, training, administration and compensation.

(b) Procure labor, materials and services.

(c) All replacement spare parts for those taken out of inventory with either an identical part or replacement part(s) manufactured by the original equipment manufacturers, or where practical and economical, refurbish (or have refurbished) spare parts to allow their reuse.

(d) Provide information and other reasonable assistance at Owners' request, regarding operation and maintenance of the Facility.

(e) Maintain accurate Facility cost ledger and accounting records regarding the materials and services provided in accordance with generally accepted accounting principles, consistently applied.

(f) Cooperate with Owners' independent certified public accountant to perform annual financial audits for all cost reimbursable services provided for the Facility.

(g) Communicate with: (i) the corn suppliers or transporters, as the case may be, under each Corn Supply Agreement with respect to the amount of corn Owners procures from such corn suppliers or transporters; and, (ii) Owners with respect to all other matters.

(h) Procure Consumables.

2. Facility Safety Program.

To ensure the safety of all employees and personnel working in or near the Facility, Manager will establish and implement a safety plan which conforms to federal and any state or local regulations. Key components of the plan will include:

(a) Lock Out/Tag Out. Only trained and authorized employees shall perform work on equipment that requires Lock out/tag out (LOTO). Employees shall follow written LOTO procedures when performing such work.

(b) Confined Spaced Entry. Only trained and authorized employees shall perform work on any equipment that requires the employee to enter a permit required confined space. Employees shall follow written confined space entry procedures.

(c) Hot Work. Only trained and authorized employees shall perform work on any equipment that requires the employee to obtain a hot work permit. Employees shall follow written hot work procedures.

(d) Responsibility. Operations and duties shall be performed only by duly authorized employees, who shall be held responsible for their actions.

(e) Facility Safety Inspections. Employees shall inspect on a routine basis; operating conditions, equipment and the general workplace to prevent a potential hazard to personnel and equipment.

(f) Records. Employees required to keep logs and records shall keep them current and accurately. Abnormal or special conditions shall be called promptly to the attention of the proper supervisor and logged. Shift employees shall familiarize themselves with all activities within their jurisdiction that have taken place during the preceding shift.

3. Facility Security.

Manager will adhere to the written Facility Security Plan and Facility staff will be trained in its requirements. Facility staff and all visitors will be required to adhere to the plan to ensure security of the Facility in normal as well as emergency situations.

F. Maintenance Management Program.

Manager will provide usual and customary services including the following:

The prime objective of the maintenance management program will be to maximize equipment reliability and availability and minimize maintenance costs. The ultimate goal is to maximize Facility profitability and to maintain, as closely as possible, given normal mechanical degradation, to the original design performance of all major pieces of equipment.

The key elements of the maintenance program are:

- Preventive maintenance
- Predictive maintenance
- Corrective maintenance
- Operational downtime management
- Spare parts inventory control

1. Preventive Maintenance.

Preventive maintenance will be done by the Facility staff, consisting of periodic inspection and adjustment of equipment, to avoid deterioration to a point at which the equipment will not start, run, or operate efficiently or reliably. Some preventive maintenance can be accomplished while the unit is shutdown or running.

Preventive maintenance schedules will be included in the computerized program and calibrated to an overall Facility schedule. This schedule will alert maintenance crews, providing daily, weekly, monthly and annual forecasting of preventive maintenance activities. Spare parts considerations, such as lead time, can also be correlated.

Preventive maintenance intervals are directed by two measures, calendar time and unit operating parameters (vibration measurements, operating temperatures, amp loading, etc). Items scheduled by calendar time will be reviewed on a daily, weekly, monthly or yearly basis. As a rule, preventive maintenance work will be scheduled to result in minimal interference with Facility operations.

2. Predictive Maintenance.

A predictive maintenance program will center on Manager's ability to track vital trend information. Observing critical variables over time will yield valuable information regarding equipment deterioration. The preventive maintenance frequency may be increased or decreased, depending on the condition of the equipment found during a predictive maintenance inspection.

Use of the preventive and predictive maintenance schedules, in conjunction with the monitoring of operational data that reflect equipment condition, will result in high reliability and reduced maintenance costs.

3. Corrective Maintenance.

The corrective maintenance activities will be aimed at avoiding repeat failures. Discussion meetings will be held to review failures which caused major repairs or shutdowns. Facility staff will review the conditions preceding the failure and, if possible, determine the exact cause, and make findings available to maintenance and operating personnel.

4. Shutdown Management.

Shutdowns for equipment repair or replacement will be aggressively managed to minimize downtime. Advanced planning, work packages, shutdown schedules and other project management methods will be used to allocate Facility resources to produce efficient shutdowns.

During the pre-shutdown phase, the Facility staff and the major equipment manufacturers will cooperate closely to conduct the planned inspections in a minimum amount of time at a reasonable cost. This advance planning might begin anywhere from six months to a year before the shutdown, depending on the need for and the availability of major equipment components.

All pre-shutdown and shutdown related activities will be broken down into work packages or discrete elements which are more easily tracked over the course of the shutdown and provide a better means to manage the shutdown schedule.

A scheduling program, such as Microsoft Project, using the critical path method will itemize various work packages, organize them and calculate the effect any work package has on the overall shutdown length. This program will provide a reporting tool that allows the Facility staff to create easy-to-understand shutdown schedules and reports showing manpower and equipment resources, usage profiles and problems leading to schedule slippage.

5. Spare Parts Inventory Control.

The Facility staff will implement a spare parts inventory control system designed to minimize tied-up capital, yet not jeopardize Facility contractual commitments by risking extended equipment downtime.

The Facility staff will establish an adequate spare parts inventory by studying manufacturers' recommendations, reviewing past experience, and evaluating parts availability and delivery time from the various vendors, taking into account acceptable equipment downtime. The spares inventory will be managed so that parts are replaced when used, maintenance records are kept current, and the inventory is updated regularly to reflect changing Facility requirements.

Prior to outages and inspections, the Facility staff will order parts prone to normal wear and tear that are identified as needing to be replaced through the preventive/predictive maintenance programs. Furthermore, by maintaining close contact with the original equipment suppliers, the Facility staff will ensure that they purchase the latest revision parts.

G. Corporate Support.

Manager will provide usual and customary support including the following:

Accounting & Finance

– Invoice/AR/Collection
– Purchasing/AP
– Inventory Tracking
– Hedge Accounting
– Utilize Software for Reporting
– Quarterly and Year End Reports – Audited if required by an Owner

Treasury & Cash Management
Loan Compliance
Insurance
Property Tax Preparation & Appeals
Corporate Tax Preparation

Administration Services

Human Resources
– Payroll Administration (ADP)
– Benefits Administration
– Employee Relations
– Recruit/Hire/Terminate Personnel
– Training Obligations

IT
– Operate ERP System
– Implement and Operate Communications Systems
– Maintain Desktop Equipment and Services

Facilities Management
– Lease Administration
– Office Supplies
– Administrative Support

Operations Services
Plan, monitor and report plant activities.
– Activity planning for lay-up and preservation to minimize asset risk and cost.
– Monitoring/auditing of activities to ensure compliance with regulations/loan provisions.
– Manage personnel resources during activities.

Plan, monitor and report SH&E activities.
– Numerous regulatory issues to manage during plant layup and preservation.
– Title V activities for California plants.
– CA low NOx requirement being instituted.
– Regulatory reports management.

Licensing and Reporting
– EPA RFS program registration.
– DOT hazardous materials registration.
– DOE monthly reports.
– USDA grain warehouse operator reports.
– Others as may be required by any Permit condition or applicable law.

Legal Services
Litigation/Dispute Management
– Claims in process
Contract Management
– Documentation tracking systems
Compliance Oversight
– Operating and environmental regulatory oversight

APPENDIX A-2

SCOPE OF O&M SERVICES

A. General Approach.

Manager shall perform all tasks necessary to operate and maintain the Facilities not in Cold Shutdown in accordance with the Agreement, including:

- Staffing - Headcount, Task assignment, Scheduling
- Operations Management - Methods, Procedures, Safety, Consumables/Materials Procurement
- Maintenance Management - Methods, Procedures, Safety
- Subcontract Management
- Administrative - Manager Payroll
- Training
- Security
- Permit Compliance

B. Operations Management.

1. Develop Schedules, Shift Routines, Manloadings.

In developing the staffing plan for each Facility, the continuous operational and maintenance requirements of such Facility will be analyzed. All periodic testing, inspections and maintenance activities will be identified as well as those operational and maintenance requirements that require specialized and additional assistance at specific times during the maintenance cycle of such Facility.

The staffing plan will provide for a permanent Facility staff that will be fully responsive to all ethanol and wet distillers grains production demands and will be responsible for the performance of all preventive maintenance and routine repairs.

Each Facility will be manned on a 24-hours per day, 7 days a week basis. Most operating personnel will work a rotating shift schedule. This schedule will coincide with the times of the peak production hours and provide for minimal shift changes and possible interruptions during the high production periods. Selected off-shift personnel will be used for performing maintenance tasks and when necessary, fill in for sickness, absence and vacation relief.

The remaining Facility staff will work a normal five-day, 40-hour week but may be rescheduled to respond to events being carried out at the Facility. Each Facility staff will be autonomous and under the direction of the Manager Representative. In the absence of the Manager Representative, he/she will appoint a senior person to act in his/her behalf.

The onsite operations and maintenance staff will be supported for non-routine functions by Manager's home office, parent, Affiliate, and available companies. Specialized vendor associated technical support will be subcontracted as needed during outage planning, inspections and overhauls.

During periods of high maintenance activity, qualified maintenance personnel will be made available to each Facility staff through contract support.

2. Facilities Operations and Performance Monitoring.

Manager's management duties will include the following:

(a) Perform and record periodic operational checks and tests of equipment in accordance with the equipment manufacturer's specifications.

(b) Maintain operating logs, records and reports for operation of each Facility.

(c) Perform all Grain Handling Services at each Facility.

(d) Inform Boardman and Burley, respectively, as far in advance as possible when the Boardman Facility or the Magic Valley Facility, respectively, does not have the capability to receive corn or store ethanol or wet distillers grains.

Performance of each Facility will be monitored on a continuing basis so that performance data are distributed quickly and accurately to the Facility staff and to Owners. Important parameters to be monitored include Ethanol, wet distillers grains and, if applicable, CO_2 output. These parameters are assumed to be available through the distributive control system.

C. Layup and Preservation Services.

(a) Adhere to all regulatory requirements including management of all applicable permits including each Facility Storm Water Pollution Prevention Plan and the Facility air permits to include leak detection and repair inspections.

(b) Clean and lay-up equipment to protect from environmental factors including rust and mold.

(b) Maintain a regular program for equipment preservation to include equipment rotation and inspection.

(c) Monitor plant fire protection system and alarms

(d) Maintain plant readiness for potential re-start or sale

(e) Maintain site to include lawn and garden maintenance

(f) Perform site security services to prevent theft, vandalism, etc

D. Facility Restart.

If a Facility restart is requested by an Owner, Manager will provide usual and customary services including the following:

(a) Interview, select, hire and train necessary operating personnel.

(b) Make ready all equipment

(c) Order necessary start-up supplies

(d) Communicate re-start activities to appropriate parties including city and county officials, suppliers, vendors, etc

(e) Obtain all necessary permits and conduct all testing necessary to satisfy the terms and conditions of any such permit

E. Administrative Support.

1. General.

Manager will develop and implement a comprehensive and specific administrative procedures including:

(a) Maintain an effective Facility work force through proper hiring, training, administration and compensation.

(b) Procure labor, materials and services exclusive of items which are designated the responsibility of Boardman or Burley.

(c) All replacement spare parts for those taken out of inventory with either an identical part or replacement part(s) manufactured by the original equipment manufacturers, or where practical and economical, refurbish (or have refurbished), spare parts to allow their reuse.

(d) Provide information and other reasonable assistance at Boardman's and Burley's respective request regarding operation and maintenance of the Facilities not in Cold Shutdown.

(e) Maintain accurate Facility cost ledger and accounting records regarding the materials and services provided in accordance with generally accepted accounting principles, consistently applied.

(f) Cooperate with Boardman and Burley's independent certified public accountant to perform annual financial audits for all cost reimbursable services provided for the Facilities not in Cold Shutdown.

(g) Communicate with: (i) the corn suppliers or transporters, as the case may be, under each Corn Supply Agreement with respect to the amount of corn Owners procures from such corn suppliers or transporters; and, (ii) Owners with respect to all other matters including the amount of Ethanol, wet distillers grains and, if applicable, CO_2 produced per Owners' schedule and optimize the use of the corn.

(h) Procure Consumables.

2. Facility Safety Program.

To ensure the safety of all employees and personnel working in or near each Facility, Manager will establish and implement a safety plan which conforms to federal and any state or local regulations. Key components of the plan will include:

(a) Lock Out/Tag Out. Only trained and authorized employees shall perform work on equipment that requires Lock out/tag out (LOTO). Employees shall follow written LOTO procedures when performing such work.

(b) Confined Spaced Entry. Only trained and authorized employees shall perform work on any equipment that requires the employee to enter a permit required confined space. Employees shall follow written confined space entry procedures.

(c) Hot Work. Only trained and authorized employees shall perform work on any equipment that requires the employee to obtain a hot work permit. Employees shall follow written hot work procedures.

(d) Responsibility. Operations and duties shall be performed only by duly authorized employees, who shall be held responsible for their actions.

(e) Facility Safety Inspections. Employees shall inspect on a routine basis; operating conditions, equipment and the general workplace to prevent a potential hazard to personnel and equipment.

(f) Records. Employees required to keep logs and records shall keep them current and accurately. Abnormal or special conditions shall be called promptly to the attention of the proper supervisor and logged. Shift employees shall familiarize themselves with all activities within their jurisdiction that have taken place during the preceding shift.

3. Facility Security.

Manager will adhere to each written Facility Security Plan and each Facility staff will be trained in its requirements. Each Facility staff and all visitors will be required to adhere to the plan to ensure security of such Facility in normal as well as emergency situations.

F. Maintenance Management Program.

The prime objective of the maintenance management program will be to maximize equipment reliability and availability and minimize maintenance costs. The ultimate goal is to maximize Facility profitability and to maintain, as closely as possible, given normal mechanical degradation, to the original design performance of all major pieces of equipment.

The key elements of the maintenance program are:

- Preventive maintenance
- Predictive maintenance
- Corrective maintenance
- Operational downtime management
- Spare puts inventory control

1. Preventive Maintenance.

Preventive maintenance will be done by each Facility staff, consisting of periodic inspection and adjustment of equipment, to avoid deterioration to a point at which the equipment will not start, run, or operate efficiently or reliably. Some preventive maintenance can be accomplished while the unit is shutdown or running.

Preventive maintenance schedules will be included in the computerized program and calibrated to an overall Facility schedule. This schedule will alert maintenance crews, providing daily, weekly, monthly and annual forecasting of preventive maintenance activities. Spare parts considerations, such as lead time, can also be correlated.

Preventive maintenance intervals are directed by two measures, calendar time and unit operating parameters (vibration measurements, operating temperatures, amp loading, etc). Items scheduled by calendar time will be reviewed on a daily, weekly, monthly or yearly basis. As a rule, preventive maintenance work will be scheduled to result in minimal interference with Facility operations.

2. Predictive Maintenance.

A predictive maintenance program will center on Manager's ability to track vital trend information. Observing critical variables over time will yield valuable information regarding equipment deterioration. The preventive maintenance frequency may be increased or decreased, depending on the condition of the equipment found during a predictive maintenance inspection.

Use of the preventive and predictive maintenance schedules, in conjunction with the monitoring of operational data that reflect equipment condition, will result in high reliability and reduced maintenance costs.

3. Corrective Maintenance.

The corrective maintenance activities will be aimed at avoiding repeat failures. Discussion meetings will be held to review failures which caused major repairs or shutdowns. Each Facility staff will review the conditions preceding the failure and, if possible, determine the exact cause, and make findings available to maintenance and operating personnel.

4. Shutdown Management.

Shutdowns for equipment repair or replacement will be aggressively managed to minimize downtime. Advanced planning, work packages, shutdown schedules and other project management methods will be used to allocate Facility resources to produce efficient shutdowns.

During the pre-shutdown phase, each Facility staff and the major equipment manufacturers will cooperate closely to conduct the planned inspections in a minimum amount of time at a reasonable cost. This advance planning might begin anywhere from six months to a year before the shutdown, depending on the need for and the availability of major equipment components.

All pre-shutdown and shutdown related activities will be broken down into work packages or discrete elements which are more easily tracked over the course of the shutdown and provide a better means to manage the shutdown schedule.

A scheduling program, such as Microsoft Project, using the critical path method will itemize various work packages, organize them and calculate the effect any work package has on the overall shutdown length. This program will provide a reporting tool that allows each Facility staff to create easy-to-understand shutdown schedules and reports showing manpower and equipment resources, usage profiles and problems leading to schedule slippage.

5. Spare Parts Inventory Control.

Each Facility staff will implement a spare parts inventory control system designed to minimize tied-up capital, yet not jeopardize Facility contractual commitments by risking extended equipment downtime.

Each Facility staff will establish an adequate spare parts inventory by studying manufacturers' recommendations, reviewing past experience, and evaluating parts availability and delivery time from the various vendors, taking into account acceptable equipment downtime. The spares inventory will be managed so that parts are replaced when used, maintenance records are kept current, and the inventory is updated regularly to reflect changing Facility requirements.

Prior to outages and inspections, each Facility staff will order parts prone to normal wear and tear that are identified as needing to be replaced through the preventive/predictive maintenance programs. Furthermore, by maintaining close contact with the original equipment suppliers, each Facility staff will ensure that they purchase the latest revision parts.

G. Corporate Support.

Manager will provide usual and customary support including the following:

Accounting & Finance

– Invoice/AR/Collection
– Purchasing/AP
– Inventory Tracking
– Hedge Accounting
– Utilize Software for Reporting
– Quarterly and Year End Reports – Audited if required by an Owner

Treasury & Cash Management
Loan Compliance
Insurance
Property Tax Preparation & Appeals
Corporate Tax Preparation

Administration Services

Human Resources
– Payroll Administration (ADP)
– Benefits Administration
– Employee Relations
– Recruit/Hire/Terminate Personnel
– Training Obligations

IT
– Operate ERP System
– Implement and Operate Communications Systems
– Maintain Desktop Equipment and Services

Facilities Management
– Lease Administration
– Office Supplies
– Administrative Support

Operations Services
Plan, monitor and report plant activities.
– Activity planning for lay-up and preservation to minimize asset risk and cost.
– Monitoring/auditing of activities to ensure compliance with regulations/loan provisions.
– Manage personnel resources during activities.

Plan, monitor and report SH&E activities.
– Numerous regulatory issues to manage during plant layup and preservation.
– Title V activities for California plants.
– CA low NOx requirement being instituted.
– Regulatory reports management.

Licensing and Reporting
– EPA RFS program registration.
– DOT hazardous materials registration.
– DOE monthly reports.
– USDA grain warehouse operator reports.
– Others as may be required by any Permit condition or applicable law.

Legal Services
Litigation/Dispute Management
– Claims in process
Contract Management
– Documentation tracking systems
Compliance Oversight
– Operating and environmental regulatory oversight

APPENDIX B

Appendix B to
Asset Management Agreement

PERSONNEL

Last Name	First Name	Division	Department	Job title	Level
Williamson	Douglas	PECA	740070 Operations Management	Contract Admin, Director	DIR
Pagard	Cheryl	PECA	740070 Operations Management	Permitting & Compliance, Director	DIR
Holthus	Jay	PECOL	690010 Plant Labor - General	Plant, Manager	DIR
Stark	William	PECOL	690010 Plant Labor - General	Maintenance, Manager	MGR
Trim	Steven	PECOL	690010 Plant Labor - General	Production, Manager	MGR
Pierce	David	PECOL	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Jundt	James	PECOL	690010 Plant Labor - General	Commodity/Ag Prod, Manager	MGR
Pierce	Sherri	PECOL	690010 Plant Labor - General	Lab Manager	MGR
Henry	Charlene	PECOL	690010 Plant Labor - General	Safety Coordinator	Non-EX
Richards	David	PECOL	690010 Plant Labor - General	Electrician	Non-EX
Richardson	David	PECOL	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Braden	Larry	PECOL	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Guenther	Marvin	PECOL	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Drayton	Donald	PECOL	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Gumbert	Vernon	PECOL	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Bittinger	Wanliya	PECOL	690010 Plant Labor - General	Office, Manager	Non-EX
Bieren	John	PECOL	690010 Plant Labor - General	Production Operator	Non-EX
Savage	Cory	PECOL	690010 Plant Labor - General	Production Operator	Non-EX
White	Michael	PECOL	690010 Plant Labor - General	Production Operator	Non-EX
Hedgpeth	Robert	PECOL	690010 Plant Labor - General	Production Operator	Non-EX
McBride	Ronnie	PECOL	690010 Plant Labor - General	Commodities Processing Clerk	Non-EX
Pena	Jose	PECOL	690010 Plant Labor - General	Production Operator	Non-EX
Shuler	Michael	PECOL	690010 Plant Labor - General	Production Operator	Non-EX
Town	Mitchell	PECOL	690010 Plant Labor - General	Production Operator	Non-EX
Orcutt	Johnny	PECOL	690010 Plant Labor - General	Production Utility Operator	Non-EX
Magallanes	Hector	PECOL	690010 Plant Labor - General	Production Operator	Non-EX
Putman	Jackie	PECOL	690010 Plant Labor - General	Lab Technician I	Non-EX
Abercrombie	Mafe	PECOL	690010 Plant Labor - General	Lab Technician I	Non-EX
Powell	Joey	PECOL	690010 Plant Labor - General	Commodities Processing Clerk	Non-EX
Fitch	John	PECOL	690010 Plant Labor - General	Commodities Processing Clerk	Non-EX
Hernandez	Arturo	PECOL	690010 Plant Labor - General	Commodities Processing Clerk	Non-EX
Timpy	Michael	PECOL	690010 Plant Labor - General	Grain Handler	Non-EX
Allardin	Jeanette	PECOL	690010 Plant Labor - General	Commodity Operator	Non-EX
Spinney	Peter	PECOL	690010 Plant Labor - General	Grain Operator	Non-EX
Open	Open	PECOL	690010 Plant Labor - General	Administrative Assistant I	Non-EX
Wilson	Gerald	PECOL	690010 Plant Labor - General	Janitor	Non-EX
Todd	Royce	PEM	690010 Plant Labor - General	Plant, Manager	DIR
Open	Open	PEM	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Lovett	Michael	PEM	690010 Plant Labor - General	Commodity/Ag Prod, Manager	MGR
Abarca	Jose	PEM	690010 Plant Labor - General	Production Operator	Non-EX
Barboza	Bruno	PEM	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Valenzuela	Luis	PEM	690010 Plant Labor - General	Operator	Non-EX
Ochoa	Bacilio	PEM	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Taito	Talaonuupo	PEM	690010 Plant Labor - General	Commodity Operator	Non-EX
Wilson	Thomas	PEMV	690010 Plant Labor - General	Plant, Manager	DIR
Lowe	Alvin	PEMV	690010 Plant Labor - General	Maintenance, Manager	MGR
Open	Open	PEMV	690010 Plant Labor - General	Lab Manager	MGR
Garza	Juan	PEMV	690010 Plant Labor - General	Commodity/Ag Prod, Manager	MGR
Open	Open	PEMV	690010 Plant Labor - General	Environmental Health & Safety Manager	MGR
Richins	Paul	PEMV	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Koyle	Jared	PEMV	690010 Plant Labor - General	Production Operator	Non-EX
Shippy	Skyler	PEMV	690010 Plant Labor - General	Production Operator	Non-EX
Jones	Lyndon	PES	690010 Plant Labor - General	Plant, Manager	DIR
Open	Open	PES	690010 Plant Labor - General	Maintenance, Manager	MGR
Montoya	Mark	PES	690010 Plant Labor - General	Production, Manager	MGR
Okoreeh	Emmanuel	PES	690010 Plant Labor - General	Lab Manager	MGR
Torre	Christopher	PES	690010 Plant Labor - General	Electrician	Non-EX
Bowen	Michael	PES	690010 Plant Labor - General	Maintenance Mechanic	Non-EX
Gauba	Sukrat	PES	690010 Plant Labor - General	Production Operator	Non-EX
Mccullough	Edker	PES	690010 Plant Labor - General	Production Operator	Non-EX

Pacific Ethanol, Inc.

Appendix C to
Asset Management Agreement

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Contents:

Prepared by Plant Manger	Lyndon Jones	6/10/2009
Reviewed by Manager Representative		6/12/2009

Pacific Ethanol, Inc.

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Description	Budget	Actual	Variance

Pacific Ethanol, Inc.

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Plant Availability

The plant is currently in cold shutdown mode. The Stockton facility is available for restart.

Pacific Ethanol, Inc.

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Cash Receipts and Disbursements

Date	Customer/Vendor	Debit	Credit	Balance
5/1/2009	Beginning Balance			
5/31/2009	Ending Balance			

Pacific Ethanol, Inc.

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Major Maintenance Activities

Date	Cost	Remaining Cost	Activity
5/1/2009	$2,800.00	0	Boiler layup chemicals
Total	$2,800.00		

Pacific Ethanol, Inc.

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Material Casualty Losses

No material casualty losses this month

Pacific Ethanol, Inc.

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Disputes

Date	Amount	Contractor	Issue
Total		0	

Pacific Ethanol, Inc.

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Permits

Date	Permit Description	Agency	Issue

Pacific Ethanol, Inc.

Pacific Ethanol Stockton LLC
Monthly Cold Shutdown Report

May 2009

Budget Comparison vs Last Month

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Contents:

Prepared by Plant Manger	Jay Holthus	6/10/2009
Reviewed by Manager Representative		6/12/2009

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Description	Budget	Actual	Variance

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Plant Availability

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Corn Inventory Status and Delivery Schedule

Starting Inventory

Deliveries

Corn Used

Ending Inventory

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Plant Availability

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Cash Receipts and Disbursements

Date	Customer/Vendor	Debit	Credit	Balance
5/1/2009	Beginning Balance			
5/31/2009	Ending Balance			

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Major Maintenance Activities

Date	Cost	Remaining Cost	Activity
Total	$	-	

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Material Casualty Losses

Description	Estimated Loss	Insurance Coverage

No material casualty losses this month

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Disputes

Date	Amount	Contractor	Issue
Total		0	

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Permits

Date	Permit Description	Agency	Issue

Pacific Ethanol, Inc.

Pacific Ethanol Columbia LLC
Monthly Operations Report

May 2009

Budget Comparison vs Last Month

Pacific Ethanol Newco
Cash Budget Weekly
As of June 24, 2010

	Jun-10	Jul-10	Jul-10	Jul-10	Jul-10	Aug-10	Aug-10	Aug-10	Aug-10	Sep-10	Sep-10	Sep-10	Sep-10	Sep-10
	JUNE	JULY				AUGUST				SEPTEMBER				
	week 1	week 2	week 3	week 4	week 5	week 6	week 7	week 8	week 9	week 10	week 11	week 12	week 13	week 14
	06/28-07/02	07/05-07/09	07/12-07/16	07/19-07/23	07/26-07/30	08/02-08/06	08/09-08/13	08/16-08/20	08/23-08/27	08/30-09/03	09/06-09/10	09/13-09/17	09/20-09/24	09/27-10/01
Beginning Cash Balance (1)	$ 1,425,291	$ 2,225,452	$ 1,606,296	$ 1,441,406	$ 1,384,694	$ 3,814,187	$ 2,116,293	$ 2,179,994	$ 1,954,607	$ 1,402,532	$ 3,189,544	$ 3,318,331	$ 4,166,903	$ 3,291,030
Cash Inflows														
Revenue - Ethanol (Kinergy)	2,736,171	2,389,345	2,900,615	2,900,615	3,061,761	3,061,761	2,981,957	2,891,595	3,162,682	3,162,682	3,198,408	3,198,408	2,375,960	3,198,408
Revenue - WDG (PAP) and others	640,915	614,166	678,508	697,356	716,203	701,488	681,468	705,025	733,888	733,888	733,888	634,353	634,353	733,888
Revenue - PEMV Corn Transloading	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Cash Inflows	3,377,086	3,003,511	3,579,123	3,597,971	3,777,964	3,763,249	3,663,425	3,596,620	3,896,570	3,896,570	3,932,297	3,832,761	3,010,313	3,932,297
Disbursements														
Operating Disbursements														
Corn	(2,217,231)	(2,713,517)	(2,713,517)	(2,864,268)	(2,864,268)	(2,762,689)	(2,680,776)	(2,931,096)	(2,931,096)	(2,931,096)	(2,931,096)	(2,175,553)	(2,931,096)	(2,931,096)
Natural Gas	(160,615)	(158,950)	(167,781)	(167,781)	(155,586)	(149,396)	(163,324)	(163,324)	(163,324)	(164,989)	(121,186)	(163,324)	(163,324)	(163,324)
Electricity	-	-	-	(146,098)	(158,255)	-	-	-	(133,795)	(156,358)	-	-	-	(115,102)
Lease Payments	(689)	(32,990)	-	-	(689)	(32,990)	-	-	-	(33,679)	-	-	-	-
Insurance	-	(77,500)	-	(30,539)	-	-	-	-	(30,539)	-	-	-	(30,539)	-
Property Tax and other Taxes	(2,691)	-	-	-	(2,966)	(1,076,217)	-	-	(2,870)	-	-	-	-	(2,679)
Ethanol freight	(98,462)	(116,923)	(116,923)	(123,419)	(123,419)	(119,398)	(109,809)	(123,419)	(123,419)	(123,419)	(123,419)	(97,745)	(123,419)	(123,419)
Co-product freight	(60,640)	(59,259)	(59,259)	(62,551)	(62,551)	(53,616)	(62,551)	(62,551)	(62,551)	(62,551)	(62,551)	(35,744)	(62,551)	(62,551)
Grain procurement and handling w/ PAP	(249,261)	-	-	-	(261,883)	-	-	-	(262,086)	-	-	-	-	(244,614)
Plant Supplies & Maintenance	(336,737)	(403,527)	(335,027)	(335,027)	(335,027)	(340,366)	(340,366)	(340,366)	(340,366)	(320,573)	(320,573)	(320,573)	(320,573)	(320,573)
Other PEHC costs	-	-	-	-	(100,000)	-	-	-	-	-	-	-	-	-
Total Operating Disbursements	(3,126,326)	(3,562,666)	(3,392,507)	(3,729,683)	(4,064,643)	(4,534,671)	(3,356,827)	(3,620,757)	(4,060,047)	(3,792,666)	(3,658,825)	(2,792,939)	(3,631,503)	(3,963,359)
Asset Management Agreement														
Direct Reimbursement														
Payroll & Benefits - Plants & Plant Operatio	(234,647)	-	(234,481)	-	(234,481)	-	(234,647)	-	(234,647)	-	(236,434)	-	(236,434)	-
Other Direct Expenses	(127,600)	-	(94,375)	-	(52,425)	(86,250)	(8,250)	(86,250)	(46,450)	(86,250)	(8,250)	(86,250)	(8,250)	(113,050)
Asset Management Fee	(115,000)	-	(115,000)	-	-	(115,000)	-	(115,000)	-	(115,000)	-	(115,000)	-	(115,000)
Total Asset Management Agreement	(477,247)	-	(443,856)	-	(286,906)	(201,250)	(242,897)	(201,250)	(281,097)	(201,250)	(244,684)	(201,250)	(244,684)	(228,050)
Plan Administration Related Cash Flow	(4,471,205)	(60,000)	-	75,000	(117,500)	-	-	-	(117,500)	-	-	-	-	(117,500)
Interest & Fees	(3,002,146)	-	-	-	-	(725,222)	-	-	-	(745,645)	-	-	-	(730,200)
Total Disbursements	(11,076,925)	(3,622,666)	(3,836,363)	(3,654,683)	(4,469,048)	(5,461,142)	(3,599,724)	(3,822,007)	(4,448,645)	(4,743,561)	(3,903,509)	(2,994,189)	(3,876,187)	(5,039,109)
Exit Facility Funding	8,500,000	-	92,349	-	3,120,577	-	-	-	-	2,634,003	-	-	-	430,615
Ending Cash Balance	$ 2,225,452	$ 1,606,296	$ 1,441,406	$ 1,384,694	$ 3,814,187	$ 2,116,293	$ 2,179,994	$ 1,954,607	$ 1,402,532	$ 3,189,544	$ 3,318,331	$ 4,166,903	$ 3,291,030	$ 2,614,832
Net funding	6,274,548	6,893,704	7,150,943	7,207,655	7,898,740	9,596,633	9,532,932	9,758,320	10,310,394	11,157,385	11,028,598	10,190,026	11,056,899	12,162,711

Notes:
(1): Beginning balance was reconciled with accounting record for outstanding checks

Exhibit A

PROPOSED EBITDA
PECOL 4/1/10 - 4/30/10

Description	**Current Period Actual**	**Notes**
Sales		Reflects financials as currently reported in monthly AMA report
Ethanol Sales	$ 5,456,493	
Biodiesel Sales		
E85 Sales		
Denaturant Sales		
RIN Sales		
WDG Sales	1,101,804	
Syrup Sales	270,456	
Kornplex Sales		
Grain Sales		
Freight Handling Fees		
Service Revenues		
Freight Revenues	8,204	
Other Sales		
Intercompany Sales	(189,855)	
Total Sales	**6,647,103**	
Cost of Goods Sold		
Ethanol	5,812,345	
Biodiesel		
E85		
Denaturant		
RINS		
WDG COGS	2,524	
Syrup COGS		
Kornplex Incremental Costs		
Grain		
Labor	192,806	
Freight	490,577	
Demurrage	30	
Supplies	31,184	
Repairs and Maint, Plant	68,020	
Storage		
Equipment Rent and Lease Expense	11,142	
Rail Car Rental		
Insurance, Property Tax and Other	25,775	
Depreciation	178,852	
Derivative (Gains) Losses		
Rail Incentives	(30,300)	
Inventory Adjustments		
Intercompany		
Total Cost of Goods Sold	**6,782,954**	
Gross Profit (Loss)	**(135,851)**	

Operating Expenses		
Payroll, Bonus and Benefits		
Hiring and Training	4,500	
Rent or Lease Expense		
Taxes, Permits and Fees	86	
Insurance		
Professional Fees	3,586	
Travel and Auto Expenses	4,265	
Office and Supplies	741	
Advertising and Promotion		
Network, Telephone and Computer		
Broker Commissions		
Bad Debt Expense		
Business Development		
Non-Cash Compensation Expense		
Depreciation and Amortization	1,140	
Plant Layup&Startup Costs		
Donations and Contributions		
Intercompany	90,286	
Total operating expenses	**104,603**	
Net operating income (loss)	(240,455)	
Reorganization Costs	172,107	
Other income (expense):		
Interest Income		
Interest Expense	(11,140)	
Interest Derivatives Gain (Loss)		
Bank Fees	(625)	
Income Tax Expense		
Other Income (Expense)		
Amortization of Deferred Finance Fees	(3,046)	
Total other income (expense)	**(14,812)**	
Non-Controlling Interest VIE		
Net Income (Loss)	**$ (427,373)**	
Net Income per GL	427,373	
Net Income does not equal gl		
ADJUSTED EBITDA CALCULATION		
Net Income (Loss)	$ (427,373)	
Interest Expense	11,140	
Interest Derivatives Gain (Loss)	-	
Income Tax Expense	-	
Depreciation and Amortization COGS	178,852	
Depreciation and Amortization SG&A	1,140	
Amortization of Deferred Finance Fees	3,046	Capitalized bank fees, etc.
Non-amortizing finance charges	625	Bank fees, etc.
Other lender related expenses	-	Professional and advisory fees, plan administration fees, etc.
LCM	-	
Reorganization Adjustments & Other	172,107	pre-petition, pre-confirmation expenses, other material non-cash (to be itemized), etc.
EBITDA (NOT For External Reporting)	**$ (60,463)**	

Exhibit B

Sample Performance Incentive Fee Calculation

If six-month EBITDA for plant with a 40 million gallon Operating Capacity is $5 million and the plant produced 20 million gallons of ethanol during such period, the incentive fee would be:

0.03 x ($0.25 - $0.20) x 20 million = $30,000

Exhibit C

Sample Sale Incentive Fee Calculation

Assume (i) a Facility with an Operating Capacity of 60 million gallons is sold generating Asset Sale Proceeds of $80 million, (ii) the aggregate Operating Capacity of all of the Facilities is 200 million gallons, and (iii) the aggregate outstanding Loans are $80 million.

Step 1. Compute Sale Price per Gallon of $0.933333 as follows: Asset Sale Proceeds of $80 million, less $24 million pro rata portion of the Loans allocated to the Facility (i.e. 60,000,000/200,000,000 x $80 million) = $56 million. Divide $56 million by 60 million.

Step 2. Calculate Incentive Fee for each "Tier" as the product of (i) the excess of the Sale Price per Gallon over applicable tier floor (not to exceed the Tier ceiling for Tiers II and III), (ii) the Operating Capacity of the Facility, and (iii) the applicable percentage for such Tier set forth in Section 8.2, as follows:

Tier	Excess over Tier Floor	Operating Capacity (Gallons)	Applicable Percentage	Incentive Fee
II - over $.60-$.70	$ 0.10	60,000,000	0.50%	$ 30,000
III - over $.70-$.80	$ 0.10	60,000,000	1.00%	$ 60,000
IV - over $.80	$ 0.13333	60,000,000	1.50%	$ 120,000
Step 3. Add fee for each tier to obtain total Incentive Fee:				**$ 210,000**

EXHIBIT 10.3

[FORM OF]
ETHANOL MARKETING AGREEMENT
([_____] PROJECT)

by and between

PACIFIC ETHANOL [_____], LLC

and

KINERGY MARKETING, LLC

Dated as of June 29, 2010

TABLE OF CONTENTS

This **ETHANOL MARKETING AGREEMENT** (as amended, amended and restated, supplemented or otherwise modified from time to time, this "Agreement") is entered into by and between PACIFIC ETHANOL [_____], LLC, a Delaware limited liability company ("Project Company"), and KINERGY MARKETING, LLC, an Oregon limited liability company ("Kinergy"), as of June 29, 2010. Project Company and Kinergy are each individually referred to herein as a "Party", and collectively are referred to herein as the "Parties".

RECITALS

A. Kinergy provides marketing services for denatured fuel ethanol production facilities owned by subsidiaries of Pacific Ethanol, Inc., a Delaware corporation ("PEI").

B. Project Company is the owner of an approximately [__] million gallons-per-year denatured fuel ethanol production facility in [_____], [_____] (the "Facility") and Project Company has requested that Kinergy provide denatured fuel ethanol marketing services for the Facility and maintain lines of credit available of not less than $5,000,000.

C. Kinergy desires to provide such marketing services in accordance with and subject to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and intending to be legally bound, the Parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS; INTERPRETATION

1.1 Definitions. The following terms shall have the meanings set forth below when used in this Agreement:

"Act of Insolvency" means, with respect to any Person, any of the following: (a) commencement by such Person of a voluntary proceeding under any jurisdiction's bankruptcy, insolvency or reorganization law; (b) the filing of an involuntary proceeding against such Person under any jurisdiction's bankruptcy, insolvency or reorganization law which is not vacated within 60 days after such filing; (c) the admission by such Person of the material allegations of any petition filed against it in any proceeding under any jurisdiction's bankruptcy, insolvency or reorganization law; (d) the adjudication of such Person as bankrupt or insolvent or the winding up or dissolution of such Person; (e) the making by such Person of a general assignment for the benefit of its creditors (assignments for a solvent financing excluded); (f) such Person fails or admits in writing its inability to pay its debts generally as they become due; (g) the appointment of a receiver or an administrator for all or a substantial portion of such Person's assets, which receiver or administrator, if appointed without the consent of such Person, is not discharged within 60 days after its appointment; or (h) the occurrence of any event analogous to any of the foregoing with respect to such Person occurring in any jurisdiction.

"Affiliate" of a specified Person means any corporation, partnership, sole proprietorship or other Person which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person specified. The term "control" means the ownership, either direct or indirect, of twenty-five percent (25%) or more of the voting securities (or comparable equity interests) or other ownership interests of a Person, or the possession, either direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or any other means whatsoever.

"Agreement" has the meaning given to such term in the preamble hereto.

"Asset Management Agreement" means the Asset Management Agreement, dated as of June 29, 2010 among Pacific Ethanol Holding Co. LLC, Pacific Ethanol Madera LLC, Project Company, Pacific Ethanol Stockton, LLC, and Pacific Ethanol [_____], LLC, as Owners, Pacific Holding, as Owner Agent and Pacific Ethanol, Inc., as Manager, as the same may be amended, supplemented or otherwise modified from time to time.

"Bilateral Transaction" means a transaction entered into by Kinergy with one or more Third Parties consisting of one or more forward sales of Ethanol, with respect to which Ethanol produced at the Facility by Project Company is sold to such Third Party or Third Parties.

"Business Day" means any day other than a Saturday, Sunday or a day on which commercial banks in Sacramento, California or New York, New York are required or authorized to be closed.

"Change of Control" has the meaning ascribed thereto in the Credit Agreement.

"Credit Agreement" means the Credit Agreement, dated as of June 25, 2010, by and among Pacific Ethanol Holding Co. LLC, Pacific Ethanol Madera LLC, Project Company, Pacific Ethanol Stockton, LLC, and Pacific Ethanol [_____], LLC, as Borrowers, Pacific Ethanol Holding Co. LLC, as Borrowers' Agent, WestLB AG, New York Branch, as the administrative agent and the collateral agent, and the lenders parties thereto from time to time, as the same may be amended, supplemented or otherwise modified from time to time.

"Dispute" means a dispute, controversy or claim.

"Ethanol" means denatured fuel ethanol produced by the Facility satisfying the American Society for Testing and Materials (ASTM) D4806 specifications for denatured fuel ethanol.

"Expert" means an expert having sufficient technical expertise to address the matter subject to a Dispute.

"Facility" has the meaning given to such term in the recitals hereto.

"Financing Documents" means any and all loan agreements, credit agreements (including the Credit Agreement), reimbursement agreements, notes, indentures, bonds, security agreements, pledge agreements, mortgages, guarantee documents, intercreditor agreements, subscription agreements, equity contribution agreements and other agreements and instruments relating to the financing (or refinancing) of the ownership, operation and maintenance of the Facility.

"Financing Parties" means the banks, lenders, noteholders and/or other financial institutions (or an agent or trustee thereof) party to the Financing Documents.

"Force Majeure Event" has the meaning set forth in Section 9.1.

"Good Industry Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the ethanol production or marketing (as the case may be) industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. "Good Industry Practice" is not limited to a single, optimum practice, method or act to the exclusion of others, but rather is intended to include acceptable practices, methods or acts generally accepted in the region.

"Governmental Authority" means any United States federal, state, municipal, local, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial or administrative body.

"Incentive Fee" means, for each Bilateral Transaction, the product of 1.0% *multiplied by* the aggregate amount of the Purchase Price for such Bilateral Transaction.

"Incentive Fee (Estimated)" means, for each Bilateral Transaction, the product of 1.0% *multiplied by* the aggregate amount of the Purchase Price (Estimated) for such Bilateral Transaction.

"Kinergy" has the meaning given to such term in the preamble hereto.

"Kinergy Indemnified Person" has the meaning given to such term in Section 7.2.

"Law" means any law, statute, act, legislation, bill, enactment, policy, treaty, international agreement, ordinance, judgment, injunction, award, decree, rule, regulation, interpretation, determination, requirement, writ or order of any Governmental Authority.

"Liabilities" has the meaning given to such term in Section 7.1.

"Minimum Rating Criteria", with respect to any Person, means such Person has a senior unsecured debt rating of at least "Baa2" by Moody's or "BBB" by S&P or an equivalent rating from another nationally recognized rating agency, provided that each Person set forth on Exhibit C hereto shall be deemed to satisfy the Minimum Rating Criteria.

"Monthly Date" means the last Business Day of each calendar month.

"Moody's" means Moody's Investors Service Inc., and any successor thereto that is a nationally recognized rating agency.

"NewCo" means New PE Holdco LLC, a Delaware limited liability company and the indirect owner on the date hereof of all the equity interests in Project Company.

"Party" or "Parties" has the meaning given to such term in the preamble hereto.

"Payment Adjustment Date" has the meaning given to such term in Section 3.1 (b).

"PEI" has the meaning given to such term in the recitals hereto.

"Person" means and includes natural persons, corporations, limited liability companies, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies and other organizations, whether or not legal entities, Governmental Authorities and any other entity.

"Prime Rate" means the rate per annum listed as the "Prime Rate" in the "Money Rates" section of The Wall Street Journal from time to time.

"Project Company" has the meaning given to such term in the preamble hereto.

"Project Company Indemnified Person" has the meaning given to such term in Section 7.1.

"Purchase Price" means, subject to Section 3.1 (a), (a) for each Bilateral Transaction that is part of a "pooling" arrangement by Kinergy among Affiliate Persons that are "Borrowers" under and as defined in the Credit Agreement, the product of (i) the weighted average delivered price of denatured fuel ethanol attributable to sales of denatured fuel ethanol which were brokered by Kinergy for such Persons during the applicable calendar month *multiplied by* (ii) the amount (expressed in gallons) of Ethanol delivered by Project Company to Kinergy hereunder during such calendar month in respect of such Bilateral Transactions or (b) for each Bilateral Transaction that is not part of any such arrangement, the aggregate gross payments received by Kinergy (or, if the applicable Third Party defaults in its payment obligations to Kinergy in respect of such Bilateral Transaction, the aggregate amount of gross payments which Kinergy was entitled to receive) for such Bilateral Transaction from the applicable Third Party; *provided* that, in any event, Kinergy shall elect, in its sole discretion at the time of entering into any Bilateral Transaction (and by notice to Project Company), whether such Bilateral Transaction is part of any such "pooling" arrangement.

"Purchase Price (Estimated)" means, with respect to each Bilateral Transaction, the anticipated aggregate payments of Purchase Price with respect to such Bilateral Transaction (as reasonably determined by Kinergy).

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto that is a nationally recognized rating agency.

"Third Party" means any Person (other than PEI or a subsidiary thereof) that enters into a Bilateral Transaction with Kinergy.

"Transportation Costs" means, for each Bilateral Transaction, all actual, out-of-pocket and documented costs and other expenses incurred by or on behalf of Kinergy in connection with the transportation of Ethanol to the applicable Third Party, including truck, rail, barge and/or terminal costs.

"Transportation Costs (Estimated)" means, for each Bilateral Transaction, the aggregate amount of Transportation Costs anticipated to be incurred by Kinergy in connection with such Bilateral Transaction (as reasonably determined by Kinergy).

1.2 Interpretation. The following interpretations and rules of construction shall apply to this Agreement: (a) titles and headings are for convenience only and will not be deemed part of this Agreement for purposes of interpretation; (b) unless otherwise stated, references in this Agreement to "Sections" or "Articles" refer, respectively, to Sections or Articles of this Agreement; (c) "including" means "including, but not limited to", and "include" or "includes" means "include, without limitation" or "includes, without limitation"; (d) "hereunder", "herein", "hereto" and "hereof", when used in this Agreement, refer to this Agreement as a whole and not to a particular Section or clause of this Agreement; (e) in the case of defined terms, the singular includes the plural and vice versa; (f) unless otherwise indicated, each reference to a particular Law is a reference to such Law as it may be amended, modified, extended, restated or supplemented from time to time, as well as to any successor Law thereto; (g) unless otherwise indicated, references to agreements shall be deemed to include all subsequent amendments, supplements and other modifications thereto; and (h) unless otherwise indicated, each reference to any Person shall include such Person's successors and permitted assigns.

ARTICLE II

MARKETING ACTIVITIES

2.1 Bilateral Transactions.

(a) Subject to the terms hereof, Project Company hereby grants Kinergy the exclusive right to market, purchase and sell all of Project Company's Ethanol, *provided*, that during the continuance of any default by Kinergy that would allow Project Company to terminate this Agreement pursuant to Section 4.3 or during the 30-day cure period provided in Section 4.3(c) (notwithstanding such cure period), if Kinergy is not performing its obligations with respect to marketing Project Company's Ethanol or during the continuance of any Force Majeure Event (including the effects thereof) that renders Kinergy unable to perform its obligations under this Agreement, then Project Company shall have the right to engage any other Person to market, purchase and sell Project Company's Ethanol and Kinergy shall not be entitled to any compensation (including Incentive Fees) with respect to any replacement services provided by such Person. Kinergy shall use its reasonable commercial efforts to solicit, negotiate and enter into, and Kinergy shall perform, Bilateral Transactions with Third Parties. Kinergy shall have absolute discretion in the solicitation, negotiation, administration (including the collection of payments), enforcement and execution of Bilateral Transactions and all sales of Ethanol produced by the Facility shall be effectuated by Bilateral Transactions. Kinergy shall not enter into any transaction in respect of Project Company's Ethanol that is not a Bilateral Transaction or with a counterparty that does not satisfy the Minimum Rating Criteria, in each case without the consent of Project Company, which consent may be withheld by Project Company in its discretion. Project Company hereby grants Kinergy the power and authority necessary to perform its obligations and exercise its rights hereunder.

(b) As further described in Sections 2.3, 2.4 and 2.6 below and except as otherwise provided herein, Project Company shall provide Ethanol to Kinergy free and clear of all liens and encumbrances.

(c) Kinergy shall perform its obligations hereunder and under Bilateral Transactions in accordance with this Agreement, applicable Laws and Good Industry Practice and shall use commercially reasonable efforts to maximize the proceeds generated from the sale of Ethanol.

(d) Kinergy shall at all times maintain available lines of credit of not less than $5,000,000.

2.2 Storage. Kinergy acknowledges that Project Company has only limited storage capacity and Kinergy agrees that it shall take any Ethanol requested by Kinergy within seven days (or such longer period of time as may reasonably be agreed by Project Company) of the time that Project Company has made such Ethanol available to Kinergy.

2.3 Obligations of Project Company.

a) Project Company shall provide Kinergy with all information reasonably requested by Kinergy, and Project Company shall assist Kinergy as reasonably requested in the solicitation, negotiation and performance of Bilateral Transactions.

(b) Notwithstanding anything to the contrary herein, Project Company shall not be responsible for the delivery of any Ethanol to Kinergy during any periods of scheduled Facility maintenance (unless and to the extent the applicable Ethanol is available to be delivered to Kinergy from Project Company's storage facilities); provided, that, at any time that PEI or one of its Affiliates is not the asset manager pursuant to the Asset Management Agreement (or any successor agreement), Kinergy shall have received at least ten Business Days prior notice of such scheduled maintenance (it being acknowledged and agreed that if Kinergy does not receive at least ten Business Days prior notice, then such maintenance activity shall be deemed to be a mechanical breakdown and covered by clause (c) below for purposes hereof).

(c) If on any day, Project Company is unable to perform its obligations to deliver Ethanol under this Agreement due to a mechanical breakdown (including a forced outage of the Facility) that is not a Force Majeure Event and such mechanical breakdown has continued for more than three consecutive days, Kinergy shall, at Project Company's option and at Project Company's expense, and provided that, at any time that PEI or one of its Affiliates is not the asset manager pursuant to the Asset Management Agreement (or any successor agreement), Project Company provides Kinergy with prompt notice of its intent to exercise such option, use commercially reasonable efforts to identify and procure replacement Ethanol to be delivered to the Third Party under the applicable Bilateral Transaction. In such event, if and only if the Parties reach agreement as to an alternative delivery point, Kinergy shall acquire and deliver replacement Ethanol in a quantity sufficient to meet the contract quantity of such Bilateral Transaction at such alternate point (and Project Company shall be responsible for all transportation costs associated therewith). In all other instances, Project Company shall be responsible for any damages incurred by Kinergy in connection with Kinergy's failure to perform under the applicable Bilateral Transaction as a result of such mechanical breakdown (it being acknowledged and agreed that Kinergy shall use commercially reasonable efforts to mitigate the effects of any such mechanical breakdown and Project Company's resulting inability to deliver Ethanol).

(d) At the request of Project Company, Kinergy will cause PEI to execute and deliver and maintain in full force and effect a guaranty in the form of Exhibit A hereto.

2.4 Back-to-Back Transactions. Each Bilateral Transaction undertaken by Kinergy shall immediately and automatically, without necessity of further documentation or any action whatsoever by any of the Parties, create and cause to be undertaken according to the terms of this Agreement an equivalent transaction in terms of the obligation to deliver Ethanol, the quantity of Ethanol sold and the timing for the delivery of such Ethanol by Project Company with Kinergy (as if Kinergy were the Third Party).

2.5 Netting. Netting of amounts due in respect of Bilateral Transactions between Kinergy and a Third Party may arise in circumstances in which Kinergy owes amounts to such Third Party in respect of Bilateral Transactions and, at the same time, such Third Party owes amounts to Kinergy in respect of Bilateral Transactions. In such circumstances, the party owing the greater amount may pay such amount to the other party as reduced by the amount owed to it and both parties will be deemed to have satisfied their obligations thereby. When such netting occurs, for purposes of this Agreement, for all Bilateral Transactions that have been subject to such netting arrangements, Kinergy shall be deemed to have paid amounts owed by it and to have received amounts owed to it.

2.6 Title; Delivery Point; Nominations; Measurement.

(a) Project Company shall deliver Ethanol to Kinergy in respect of Bilateral Transactions (or corresponding back-to-back transactions under Section 2.4) at the inlet flange of the applicable receiving truck, barge or railcar that will remove such Ethanol from the Facility. Title to, risk of loss with respect to and the obligation to transport such Ethanol shall pass from Project Company to Kinergy at such delivery point. The Parties acknowledge that the quality and quantity of Ethanol may degrade or shrink after such Ethanol is delivered by Project Company to Kinergy at such delivery point, and the Parties acknowledge that the risk of such degradation or shrinkage and all other risk of loss shall be borne by Kinergy.

(b) Kinergy and Project Company shall utilize the previously agreed upon operating protocol, with respect to the mechanics, timing and process for (i) Kinergy to communicate to Project Company its Ethanol requirements on a monthly, weekly and daily basis, (ii) determining the quantity of Ethanol to be stored by Project Company in its storage facilities, and (iii) implementing the Ethanol sales contemplated by this Agreement. A copy of such operating protocol is attached hereto as Exhibit B. By mutual agreement, such operating protocol shall be updated from time to time thereafter.

(c) Project Company agrees to collect samples of each shipment of Ethanol it delivers to Kinergy hereunder and keep such samples for 30 days. Project Company shall label each sample to include the customer order number and any other information reasonably necessary to identify such Ethanol and the applicable shipment. Kinergy shall have the right, upon reasonable notice and at reasonable times and at its expense, to test such samples to confirm that the Ethanol delivered to it hereunder meets the requirements of this Agreement. The Parties agree that the amount of Ethanol delivered hereunder (whether measured as net gallons, net liters or otherwise) shall be corrected to and correspondingly adjusted by a reference temperature of 60 degrees Fahrenheit or 15.56 degrees Celsius.

ARTICLE III
PAYMENTS

3.1 Fees and Payments.

(a) Within ten days after the date Project Company delivers Ethanol to Kinergy in accordance with Section 2.6(a), Kinergy shall pay to Project Company an amount equal to (i) the Purchase Price (Estimated) with respect to the Bilateral Transaction to which such delivery of Ethanol relates *minus* (ii) the aggregate amount of Transportation Costs (Estimated) with respect to such Bilateral Transaction *minus* (iii) the aggregate amount of the Incentive Fee (Estimated) with respect to such Bilateral Transaction (it being acknowledged that Kinergy shall retain for its own account the amount of such Transportation Costs (Estimated) and Incentive Fee (Estimated), and that such amount represents an estimate of the net amounts to be paid to Project Company in connection with such Bilateral Transaction). In connection with each such payment, Kinergy shall deliver to Project Company a statement detailing its calculations of the applicable Purchase Price (Estimated), the applicable Transportation Costs (Estimated) and the applicable Incentive Fee (Estimated).

(b) Within the first five Business Days of each calendar month (each such date, a "Payment Adjustment Date"), the Parties shall reconcile and "true-up" the actual Purchase Price, Transportation Costs and Incentive Fees for all Bilateral Transactions entered into since the previous Payment Adjustment Date, with the intent of the Parties being that Kinergy shall make up the difference of any "under estimations" and Project Company shall refund any "over estimations". For example, if there are "under estimations" then Kinergy shall pay to Project Company an amount equal to:

(i) (A) the Purchase Price with respect to such Bilateral Transaction *minus* (B) the Purchase Price (Estimated) with respect to such Bilateral Transaction (to the extent actually paid by Kinergy to Project Company pursuant to Section 3.1(a)), *minus*

(ii) (A) the Transportation Costs with respect to each such Bilateral Transaction *minus* (B) the Transportation Costs (Estimated) with respect to such Bilateral Transaction, *minus*

(iii) (A) the Incentive Fee with respect to each such Bilateral Transaction *minus* (B) the Incentive Fee (Estimated) with respect to such Bilateral Transaction.

Each such monthly reconciliation or "true-up" payment shall be paid by Kinergy or Project Company (as applicable) no later than five Business Days after the applicable Payment Adjustment Date. Each Party acknowledges that Kinergy (and not Project Company) bears the risk of non-payment by (a) a Third Party in connection with a Bilateral Transaction with respect to any Third Party (or an Affiliate thereof) that does not satisfy the Minimum Rating Criteria and (b) PEI or any Affiliate thereof that purchases Ethanol from Project Company; *provided* that Project Company and Kinergy acknowledge and agree that any risk of non-payment not borne by Kinergy shall be shared on a pro rata basis among Project Company and each other Person with respect to which sales are brokered by Kinergy (with such pro rata calculations based upon the amount (expressed in gallons) of Ethanol delivered by, or on behalf of, each such Person during the applicable period in respect of which nonpayment has occurred), all as reasonably determined by Kinergy.

(c) Notwithstanding anything to the contrary in clause (a) or (b) above, if Project Company defaults in its obligation to provide Ethanol to Kinergy in accordance with the terms of this Agreement (including, without limitation, as contemplated by Section 2.3(c)), then Kinergy shall be entitled to set-off and deduct from current and/or future payments owed to Kinergy by Project Company (including the estimated payments pursuant to clause (a) above and the reconciliation and "true-up" payments pursuant to clause (b) above) an amount equal to, as applicable (i) the amount of damage payments owed by Kinergy to the applicable Third Party for failure to provide such Ethanol or (ii) the cost of any replacement Ethanol procured by Kinergy to satisfy the requirements of any Bilateral Transaction, each as a result of Project Company's failure to perform hereunder net of any revenues received in respect of such Bilateral Transaction.

3.2 Overdue Payments; Billing Dispute. If Project Company or Kinergy, in good faith, disputes the amount of any payment received by it or to be paid by it or set-off pursuant to Section 3.1 above, the disputing Party shall immediately notify the other Party of the basis for the dispute. The Parties will then meet and use their best efforts to resolve any such dispute. If any amount is ultimately determined to be due to or permitted to be set-off by Project Company or Kinergy (as the case may be), to the extent not previously paid or set-off, (a) Kinergy (or Project Company, as the case may be) shall pay such amount to Project Company (or Kinergy, as the case may be) within five Business Days of such determination or (b) Kinergy (or Project Company, as the case may be) may then set-off such amount (as the case may be). If any Party shall fail to make any payment when due hereunder, such overdue payment shall accrue interest at the Prime Rate plus 2% from the date originally due until the date paid.

3.3 Audit. Notwithstanding the payment of any amount pursuant to this Article III, Project Company shall remain entitled (upon reasonable prior notice, at reasonable times and at Kinergy's corporate offices) and the administrative agent under the Credit Agreement (and its consultants, as directed by the administrative agent) shall be entitled (upon reasonable prior notice, not more than once per calendar quarter and at Kinergy's corporate offices) to conduct a subsequent audit and review of (a) all Bilateral Transactions and related records to verify the amount of gross payments, Incentive Fees, Transportation Costs and damage payments and (b) the determination and calculation of the Purchase Price, in each case for a period of two years from and after the applicable Payment Adjustment Date. If, pursuant to such audit and review, it is determined that any amount previously paid by Kinergy to Project Company did not constitute all of the amounts which should have been paid to Project Company, Project Company shall advise Kinergy indicating such amount and the reason the amount should have been paid to Project Company and, subject to the next two sentences, Kinergy shall pay such amount to Project Company within five Business Days of such request along with interest accrued at the Prime Rate plus 2% from the date originally due until the date paid. If the Parties do not agree with respect to any item so noted, the Parties will then meet and use their best efforts to resolve the dispute. If Parties are not able to resolve issues raised by such an audit and review, any disputed items will be resolved in accordance with the provisions of Article IX.

ARTICLE IV
TERM; TERMINATION

4.1 Term. This Agreement shall be effective on the date hereof and, unless earlier terminated in accordance with its terms, shall continue in effect until and including the twelve-month anniversary of the date of this Agreement, provided, that Project Company may extend this Agreement for additional twelve-month periods, in each case by written notice to Kinergy delivered not less than 90 days prior to the end of the original or renewal term.

4.2 Termination by Kinergy. Kinergy may terminate this Agreement by written notice to Project Company, upon the occurrence of any of the following events, provided, that no such notice shall be required for a termination pursuant to clause (b) of this Section 4.2:

(a) the failure by Project Company to make any payment, deposit or transfer required hereunder within 30 Business Days after the date such payment, deposit or transfer is required to be made;

(b) the occurrence of an Act of Insolvency with respect to Project Company; or

(c) the failure of Project Company to perform any of its material obligations under this Agreement and such failure continues for 30 days after receipt of written notice from Kinergy of such failure; provided, that such 30-day period shall be extended for up to an aggregate of 90 days so long as Project Company is diligently attempting to cure such failure.

4.3 Termination by Project Company. Project Company may terminate this Agreement by written notice to Kinergy, upon the occurrence of any of the following events, provided, that no such notice shall be required for a termination pursuant to clause (b) of this Section 4.3:

(a) the failure by Kinergy to make any payment, deposit or transfer required hereunder within fifteen Business Days after the date such payment, deposit or transfer is required to be made;

(b) the occurrence of an Act of Insolvency with respect to Kinergy; or

(c) the failure of Kinergy to perform any of its material obligations under this Agreement and such failure continues for 30 days after receipt of written notice from Project Company of such failure; provided, that such 30-day period shall be extended for up to an aggregate of 90 days so long as Kinergy is diligently attempting to cure such failure.

4.4 Change of Control.

(a) This Agreement shall terminate 45 days after the occurrence of (i) any Change of Control with respect to Project Company or any transfer, assignment, sale or other disposition of more than a majority of the membership interests in Kinergy to any Person which is not an Affiliate of PEI or (ii) any transfer, assignment, sale or other disposition of all or substantially all of the assets comprising the Facility, unless in each case the Parties mutually agree to the contrary.

(b) In the event that this Agreement (i) terminates pursuant to Section 4.4(a)(i) as a result of a Change of Control of Project Company or (ii) shall be terminated by Project Company pursuant to Section 4.3 above, Kinergy shall, if requested by Project Company, use its best efforts to assign its interests to Project Company in the rail car lease or leases (or the applicable portions thereof) to which Kinergy is a party and in respect of which are dedicated to the transportation of Ethanol purchased pursuant to this Agreement.

4.5 Effect of Termination. No termination under this Article IV shall release any of the Parties from any obligations arising hereunder prior to such termination, including payment and obligations under any Bilateral Transaction (or such Bilateral Transaction's corresponding back-to-back transaction arising under Section 2.4), that are not fully performed as of the date of such termination. The exercise of the right of a Party to terminate this Agreement, as provided herein, does not preclude such Party from exercising other remedies that are provided herein or are available at law or in equity; provided, however, that no Party shall have a right to terminate, revoke or treat this Agreement as repudiated other than in accordance with the other provisions of this Agreement; and provided, further, that the Parties' respective rights upon termination shall be subject to the liability limitations of Article V. Except as otherwise set forth in this Agreement, remedies are cumulative, and the exercise of, or the failure to exercise, one or more remedies by a Party shall not, to the extent provided by Law, limit or preclude the exercise of, or constitute a waiver of, other remedies by such Party.

ARTICLE V
INSURANCE

5.1 Kinergy Insurance. Without limiting any of the other obligations or liabilities of Kinergy under this Agreement, Kinergy shall at all times carry and maintain or cause to be carried and maintained, the minimum insurance coverage set forth in this Section:

(a) Kinergy shall maintain or cause to be maintained (i) Workers' Compensation insurance in compliance with the workers' compensation laws of the State of Oregon as extended by the Broad Form All States Endorsements, the United States Longshoreman's and Harbor Workers' Coverage Endorsements on an if-any-exposure basis and the Voluntary Compensation Coverage Endorsement, and (ii) Employer's Liability (including Occupational Disease) coverage with limits of not less than $1,000,000, which shall cover all of Kinergy's employees engaged in providing services hereunder.

(b) Kinergy shall maintain or cause to be maintained automobile liability insurance for owned (if any), non-owned and hired vehicles with combined single limits for bodily injury/property damage not less than $1,000,000 per occurrence and containing appropriate no-fault insurance provisions wherever applicable.

(c) Kinergy will maintain or cause to be maintained commercial general liability insurance with a limit for bodily injury/property damage of not less than $1,000,000 per occurrence and $2,000,000 in the annual aggregate. Such coverage shall include premises/operations, explosion, collapse and underground property damage, broad form contractual, independent contractors, products/completed operations (including operator errors and omissions), broad form property damage, personal injury and incidental professional liability (if not covered under product/completed operations and if commercially available).

(d) Kinergy shall maintain or cause to be maintained umbrella liability insurance providing coverage limits in excess of those set forth in Section (a), (b) and (c) above. The limits of this umbrella coverage shall not be less than $10,000,000 per occurrence and in the annual aggregate.

(e) Kinergy shall maintain or cause to be maintained pollution legal liability for sudden and accidental pollution for physical damage and bodily injury to third parties in an amount of $3,000,000 per occurrence and in the annual aggregate.

The terms and conditions of all insurance policies (including the amount, scope of coverage, deductibles, and self-insured retentions) shall be acceptable in all respects as of the effective date of this Agreement. All insurance carried pursuant to this Section shall conform to the relevant provisions of this Agreement and be with insurance companies which are rated "A-, X" or better by Best's Insurance Guide and Key Ratings, or other insurance companies of recognized responsibility satisfactory to Project Company. Project Company shall be furnished with satisfactory evidence that the foregoing insurance is in effect and Project Company shall be notified 30 calendar days prior to the cancellation or material change of any such coverage. Coverage for the insurance under Section (c) and (d) above shall be written on a claims made basis provided that if the policy is not renewed, Kinergy shall obtain for the benefit of Project Company an extended reporting period coverage or "tail" of at least three years past the final day of coverage of such policy. Kinergy shall provide Project Company with evidence that such extended reporting period coverage or "tail" has been obtained. Kinergy agrees to ensure that the insurance policies outlined in this Section require the insurer to waive subrogation against Project Company, the Financing Parties and their respective Affiliates together with their respective officers, directors, Affiliates and employees and all such Persons shall be an additional insured as their interests may appear with respect to all policies procured by Kinergy.

5.2 Kinergy Insurance Premiums and Deductibles. All premiums for insurance coverage procured by Kinergy pursuant to Section 5.1 shall be reimbursed by Project Company upon demand. Kinergy shall be liable for the payment of all deductibles on insurance policies obtained pursuant to Section 5.1, which amounts shall not be reimbursed by Project Company, provided that, to the extent that a claim under a policy described in Section 5.1 is attributable to Project Company's (including its employees' or agents') gross negligence or willful misconduct, Project Company shall be liable for the entire amount of such deductible. In no event shall any premiums, deductibles or any losses in excess of insurance coverage be reimbursed by Project Company hereunder.

ARTICLE VI
LIMITATIONS ON LIABILITY

6.1 No Consequential or Punitive Damages. In no event shall either Party be liable to any other Party by way of indemnity or by reason of any breach of contract or of statutory duty or by reason of tort (including negligence or strict liability) or otherwise for any loss of profits, loss of revenue, loss of use, loss of production, loss of contracts or for any incidental, indirect, special or consequential or punitive damages of any other kind or nature whatsoever that may be suffered by such other Party, including any losses for which such other Party has insurance to the extent proceeds of insurance have been recovered for such losses.

ARTICLE VII
INDEMNIFICATION

7.1 Project Company's Indemnity. Project Company shall defend, indemnify and hold harmless Kinergy and its Affiliates (and each officer, director, employee, shareholder, partner, member or agent of Kinergy and its Affiliates) (each, a "Project Company Indemnified Person") from and against any and all third party claims, actions, damages, expenses (including reasonable and documented attorneys' fees and expenses), losses, settlements or liabilities (collectively, "Liabilities") incurred or asserted against any Project Company Indemnified Person (a) as a result of any failure on the part of Project Company to perform Project Company's obligations under this Agreement (including with respect to any back-to-back transaction under Section 2.4), or (b) arising out of or in any way connected with the grossly negligent acts or omissions of Project Company or its Affiliates (other than Kinergy).

7.2 Kinergy's Indemnity. Kinergy shall defend, indemnify and hold harmless Project Company and its Affiliates (and each officer, director, employee, shareholder, partner, member or agent of Project Company and their Affiliates) (each, a "Kinergy Indemnified Person") from and against any and all third party Liabilities incurred or asserted against any Kinergy Indemnified Person (a) as a result of any failure on the part of Kinergy to perform its obligations under this Agreement (including with respect to any Bilateral Transaction), or (b) arising out of or in any way connected with the grossly negligent acts or omissions of Kinergy or its Affiliates (other than Project Company).

ARTICLE VIII
REPRESENTATIONS AND WARRANTIES

Each Party represents that (i) it is duly organized under its jurisdiction of formation and in good standing in each jurisdiction where its failure to so qualify could have a material adverse affect on its ability to perform its obligations hereunder, (ii) it has all necessary power and authority to enter into this Agreement, (iii) it has duly authorized, executed and delivered this Agreement and (iv) this Agreement constitutes a legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to bankruptcy, reorganization, moratorium or other similar laws affecting the enforcement of the rights of creditors generally and subject to general principles of equity.

ARTICLE IX
FORCE MAJEURE

9.1 Definition. As used herein, "Force Majeure Event" means any cause(s) which render(s) a Party wholly or partly unable to perform its obligations under this Agreement (other than obligations to make payments when due), and which are neither reasonably within the control of such Party nor the result of the fault or negligence of such Party, and which occur despite all reasonable attempts to avoid, mitigate or remedy, and shall include acts of God, war, riots, civil insurrections, cyclones, hurricanes, floods, fires, explosions, earthquakes, lightning, storms, chemical contamination, epidemics or plagues, acts or campaigns of terrorism or sabotage, blockades, embargoes, accidents or interruptions to transportation, trade restrictions, acts of any Governmental Authority after the date of this Agreement, strikes and other labor difficulties (other than with respect to its own employees), and other events or circumstances beyond the reasonable control of such Party. Mechanical breakdown (including a forced outage of the Facility) that continues for more than five consecutive days shall be deemed not to be "Force Majeure Event" unless such mechanical breakdown resulted from or was caused by a separate "Force Majeure Event."

9.2 Effect. A Party claiming relief as a result of a Force Majeure Event shall give the other Parties written notice within five Business Days of becoming aware of the occurrence of the Force Majeure Event, or as soon thereafter as practicable, describing the particulars of the Force Majeure Event, and will use reasonable efforts to remedy its inability to perform as soon as possible. If the Force Majeure Event (including the effects thereof) continues for fifteen consecutive days, the affected Party shall report to the other Parties the status of its efforts to resume performance and the estimated date thereof. If the Force Majeure Event (including the effects thereof) continues for 180 consecutive days, either Party may terminate this Agreement for convenience. If the affected Party was not able to resume performance prior to or at the time of the report to the other Party of the onset of the Force Majeure Event, then it will report in writing to the other Party when it is again able to perform. If a Party fails to give timely notice, the excuse for its non-performance shall not begin until notice is given.

9.3 Limitations. Any obligation(s) of a Party (other than an obligation to make payments when due) may be temporarily suspended during any period such Party is unable to perform such obligation(s) by reason of the occurrence of a Force Majeure Event, but only to the extent of such inability to perform, provided, that:

(a) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event; and

(b) the Party claiming the occurrence of the Force Majeure Event bears the burden of proof.

ARTICLE X
DISPUTE RESOLUTION

10.1 Attempts to Settle. In the event that a Dispute between the Parties arises under, out of or in relation to, this Agreement, the Parties shall attempt in good faith to settle such Dispute by mutual discussions within fifteen Business Days after the date that an aggrieved Party gives written notice of the Dispute to the other Party. In the event that a Dispute is not resolved by discussion in accordance with the preceding sentence within the time period set forth therein, the Parties shall refer the Dispute to their respective senior officers for further consideration and attempted resolution within fifteen Business Days after the Dispute has been referred to such individuals (or such longer period as the Parties may agree).

10.2 Resolution by Expert. If the Parties shall have failed to resolve the Dispute within fifteen Business Days after the date that the Parties referred the Dispute to their senior officers, then, provided the Parties shall so agree, the Dispute may be submitted for resolution by an Expert, such Expert to be appointed by the mutual agreement of the Parties. Proceedings before an Expert shall be held in Sacramento, California (or any other location agreed to by the Parties). The Expert shall apply to such proceedings the substantive law of the State of New York in effect at the time of such proceedings. The decision of the Expert shall be final and binding upon the Parties. In the event that (a) the Parties cannot agree on the appointment of an Expert within ten Business Days after the date that the Parties agreed to submit the Dispute for resolution by the Expert or (b) the Expert fails to resolve such Dispute within 60 days after the Parties have submitted such Dispute to the Expert, then any Party may file a demand for arbitration in writing in accordance with Section 10.3.

10.3 Arbitration. Any Dispute that has not been resolved following the procedures set forth in Section 10.1 or 10.2 shall be settled by binding arbitration in Sacramento, California (or any other location agreed to by the Parties) before a panel of three arbitrators. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date of execution of this Agreement. Such arbitration shall be governed by the laws of the State of New York. If arbitration proceedings have been initiated pursuant to this Section 10.3 and raise issues of fact or law which, in whole or in part, are substantially the same as issues of fact or law already pending in arbitration proceedings involving the applicable Parties, such issues shall be consolidated with the issues in the ongoing proceedings. THE PARTIES HEREBY AGREE THAT THE PROCEDURES SET FORTH IN THIS ARTICLE IX SHALL BE THE EXCLUSIVE DISPUTE RESOLUTION PROCEDURES APPLICABLE TO ANY DISPUTE, CONTROVERSY OR CLAIM UNDER THIS AGREEMENT AND, EXCEPT AS SET FORTH IN SECTION 10.5, THE PARTIES HEREBY WAIVE ALL RIGHTS TO A COURT TRIAL OR TRIAL BY JURY WITH RESPECT TO ANY DISPUTE, CONTROVERSY OR CLAIM UNDER THIS AGREEMENT.

10.4 Consequential and Punitive Damages. Awards of Experts and arbitral panels shall be subject to the provisions of Article VI.

10.5 Finality and Enforcement of Decision. Any decision or award of an Expert or a majority of an arbitral panel, as applicable, shall be final and binding upon the Parties. Each of the Parties agrees that the arbitral award may be enforced against it or its assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof.

10.6 Costs. The costs of submitting a Dispute to an Expert shall be shared equally among the Parties involved in the Dispute, unless the arbitral panel or the Expert determines otherwise. The costs of arbitration shall be paid in accordance with the decision of the arbitral panel pursuant to the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date of execution of this Agreement.

10.7 Continuing Performance Obligations. While a Dispute is pending, each Party shall continue to perform its obligations under this Agreement, unless such Party is otherwise entitled to suspend its performance hereunder or terminate this Agreement in accordance with the terms hereof.

ARTICLE XI
CONFIDENTIALITY

Each Party and its Affiliates shall treat as confidential the data and information in their possession regarding the Facility, the other Parties or any Affiliate of any other Party, unless: (a) the applicable other Party agrees in writing to the release of such data or information; (b) such data or information becomes publicly available other than through the wrongful actions of the disclosing Party or the disclosing Party's Affiliate; (c) such data or information was in the possession of the receiving Party or the receiving Party's Affiliate prior to receipt thereof from the disclosing Party with no corresponding confidentiality obligation; or (d) such data or information is required by Law to be disclosed. Notwithstanding the generality of the foregoing, any Party may disclose data and information to (i) the officers, directors, managers, partners, members, employees and Affiliates of such Party, (ii) any successors in interest and permitted assigns of such Party, (iii) any actual or potential Financing Parties or actual or potential lenders to PEI or any subsidiary thereof, and (iv) any potential equity investors in PEI or any acquirer of all or any of the equity interests in NewCo or any subsidiary thereof; provided, that any Person who receives confidential data and information pursuant to an exception contained in clauses (ii) - (iv) of this Article agrees to similar confidentiality provisions.

ARTICLE XII
ASSIGNMENT AND TRANSFER

No Party shall assign this Agreement or any of its rights or obligations hereunder without first obtaining the prior written consent of (a) in the case of Project Company, Kinergy, or (b) in the case of Kinergy, Project Company, provided, that any Party shall be entitled to assign its rights hereunder (as collateral security or otherwise) for financing purposes (including a collateral assignment to any Financing Parties) without the consent of any other Party.

ARTICLE XIII
MISCELLANEOUS

13.1 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, negotiations and understandings among the Parties with respect to such subject matter. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the Parties.

13.2 Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same agreement.

13.3 Survival. Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration or termination, including remedies, limitations on liability, promises of indemnity and payment, and confidentiality. Without limiting the generality of the foregoing, the following provisions of this Agreement shall survive: Articles III, VI, VII, X and XI, and Sections 13.3, 13.4, 13.5, 13.6, 13.8 and 13.9.

13.4 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic and practical effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

13.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereof.

13.6 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. This Agreement is not made for the benefit of any Person or entity not a party hereto, and nothing in this Agreement shall be construed as giving any Person or entity, other than the Parties and their respective successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

13.7 Notices. All notices or other communications which are required or permitted hereunder shall be in writing and shall be deemed sufficiently given (a) upon delivery, if delivered personally, (b) the day the notice is received, if it is delivered by overnight courier or certified or registered mail, postage prepaid, or (c) upon the effective receipt of electronic transmission, facsimile, telex or telegram (with effective receipt being deemed to occur upon the sender's receipt of confirmation of successful transmission of such notice or communication), to the addresses set forth below or such other address as the addressee may have specified in a notice duly given to sender as provided herein:

If to Kinergy:

Kinergy Marketing, LLC
400 Capitol Mall
Suite 2060
Sacramento, California 95814
Attention: Neil Koehler
Telephone: (530) 750-3017
Facsimile: (530) 309-4172

with a copy to:

Kinergy Marketing, LLC
c/o Pacific Ethanol, Inc.
400 Capital Mall
Suite 2060
Sacramento, CA 95814
Attn: General Counsel
Telephone: (916) 403-2130
Facsimile: (916) 446-3937

If to Project Company:

Pacific Ethanol [_____], LLC
c/o JT Miller Group LLC
777 Campus Commons Road #200
Sacramento, CA 95825
Attn: John Miller
Telephone: (916) 565-7422
Facsimile: (916) 565-7423

with a copy, so long as PEI is the "Manager" under the Asset Management Agreement, to:

Pacific Ethanol, Inc.
400 Capitol Mall, Suite 2060
Sacramento, CA 95814
Attention: General Counsel
Facsimile: (916) 446-3936

13.8 Amendment. No Party hereto shall be bound by any termination, amendment, supplement, waiver or modification of any term hereof unless such Party shall have consented thereto in writing.

13.9 No Implied Waiver. No delay or failure on the part of any Party in exercising any rights hereunder, and no partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights hereunder.

13.10 Lines of Credit. Kinergy shall promptly notify Project Company if at any time during the term of this Agreement it does not have lines of credit available to it in an amount of not less than $5,000,000 or if an event of default shall occur and be continuing under any agreement evidencing such lines of credit.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, this Ethanol Marketing Agreement has been duly executed by the Parties hereto as of the date first written above.

PACIFIC ETHANOL [_____], LLC

By: _____
Name:
Title:

KINERGY MARKETING, LLC

By: /s/ Neil Koehler
Name: Neil Koehler
Title: CEO

[Signature Page to Ethanol Marketing Agreement – Boardman]

EXHIBIT 10.4

[FORM OF]
CORN PROCUREMENT AND HANDLING AGREEMENT

by and between

PACIFIC ETHANOL [_____], LLC

and

PACIFIC AG. PRODUCTS, LLC

Dated as of June 29, 2010

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This **CORN PROCUREMENT AND HANDLING AGREEMENT** (this "Agreement") is made and entered into as of June 29, 2010 by and between Pacific Ethanol [_____], LLC, a Delaware limited liability company ("[Plant Owner]"), and Pacific Ag. Products, LLC, a California limited liability company ("PAP"). [Plant Owner] and PAP are each individually referred to herein as a "Party", and collectively are referred to herein as the "Parties".

RECITALS

A. PAP provides grain services for denatured fuel ethanol production facilities owned by subsidiaries of Pacific Ethanol, Inc., a Delaware corporation ("PEI").

B. [Plant Owner] owns an approximately [__] million gallons-per-year denatured fuel ethanol production facility in [_____], [_____] (the "Facility") and has requested that PAP procure corn for the Facility.

C. PAP desires to provide such procurement and handling services in accordance with and subject to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and intending to be legally bound, the Parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS

1.1 Definitions. The following terms shall have the meanings set forth below when used in this Agreement:

"Act of Insolvency" means, with respect to any Person, any of the following: (a) commencement by such Person of a voluntary proceeding under any jurisdiction's bankruptcy, insolvency or reorganization law; (b) the filing of an involuntary proceeding against such Person under any jurisdiction's bankruptcy, insolvency or reorganization law which is not vacated within 60 days after such filing; (c) the admission by such Person of the material allegations of any petition filed against it in any proceeding under any jurisdiction's bankruptcy, insolvency or reorganization law; (d) the adjudication of such Person as bankrupt or insolvent or the winding up or dissolution of such Person; (e) the making by such Person of a general assignment for the benefit of its creditors (assignments for a solvent financing excluded); (f) such Person fails or admits in writing its inability to pay its debts generally as they become due; (g) the appointment of a receiver or an administrator for all or a substantial portion of such Person's assets, which receiver or administrator, if appointed without the consent of such Person, is not discharged within 60 days after its appointment; or (h) the occurrence of any event analogous to any of the foregoing with respect to such Person occurring in any jurisdiction.

"Affiliate" of a specified Person means any corporation, partnership, sole proprietorship or other Person which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person specified. The term "control" means the ownership, either direct or indirect, of twenty-five percent (25%) or more of the voting securities (or comparable equity interests) or other ownership interests of a Person, or the possession, either direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or any other means whatsoever.

"Agency Fee" means, as payment for the solicitation, proposal, negotiation and documentation of Bilateral Transactions, $0.50 per ton of corn delivered to [Plant Owner] pursuant to Bilateral Transactions.

"Agreement" means this Corn Procurement and Handling Agreement, including all Appendices, as the same may be modified, supplemented or amended from time to time in accordance with the provisions hereof.

"Bilateral Transaction" means, with respect to corn purchased by PAP for delivery to [Plant Owner], a transaction entered into by PAP with one or more Third Parties consisting of one or more forward sales of corn.

"[Plant Owner]" has the meaning assigned to such term in the Preamble.

"[Plant Owner] Indemnified Person" has the meaning assigned to such term in Section 9.1.

"[Plant Owner]'s Parties" means and includes, but is not limited to, employees, agents, contractors, subcontractors, invitees, and other Persons under [Plant Owner]'s Control or direction.

"Business Day" means any day other than a Saturday, Sunday or a day on which commercial banks in Sacramento, California or New York, New York are required or authorized to be closed.

"Change of Control" has the meaning ascribed thereto in the Credit Agreement.

"Control" means, when used with respect to any Person, the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership or voting securities, by contract or otherwise.

"Credit Agreement" means the Credit Agreement, dated as of June 25, 2010, by and among Pacific Ethanol Holding Co. LLC, Pacific Ethanol Madera LLC, [Plant Owner], Pacific Ethanol Stockton, LLC, and Pacific Ethanol [_____], LLC, as Borrowers, Pacific Ethanol Holding Co. LLC, as Borrowers' Agent, WestLB AG, New York Branch, as the administrative agent and the collateral agent, and the lenders parties thereto from time to time, as the same may be amended, supplemented or otherwise modified from time to time.

"Dispute" means a dispute, controversy or claim.

"Effective Date" means the date of execution of this Agreement.

"Environmental Law" means any statute, law, regulation, ordinance, rule, judgment, order, decree, legally binding directive or requirement, or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by a Governmental Authority, relating to the environment, health or safety as affected by the environment or any Hazardous Materials as now or hereinafter in effect.

"Expert" means an expert having sufficient technical expertise to address the matter subject to a Dispute.

"Financing Documents" means any and all loan agreements, credit agreements (including the Credit Agreement), reimbursement agreements, notes, indentures, bonds, security agreements, pledge agreements, mortgages, guarantee documents, intercreditor agreements, subscription agreements, equity contribution agreements and other agreements and instruments relating to the financing (or refinancing) of the operation, ownership and maintenance of the Facility.

"Financing Parties" means the banks, lenders, noteholders and/or other financial institutions (or an agent or trustee thereof) party to the Financing Documents.

"Force Majeure Event" has the meaning assigned to such term in Section 10.1.

"Good Industry Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the corn procurement and handling industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. "Good Industry Practice" is not limited to a single set of optimum practices, methods or acts to the exclusion of others, but rather is intended to include acceptable practices, methods or acts generally accepted in the region.

"Governmental Authority" means any United States federal, state, municipal, local, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial or administrative body.

"Grain Handling Fee" means, as payment for the Grain Handling Services, $1.50 per ton of corn delivered to the Facility pursuant to Bilateral Transactions.

"Grain Handling Services" means (a) receiving, unloading and conveying corn into the Storage Silos, (b) in the case of whole corn delivered to [Plant Owner], processing and hammering such whole corn and (c) conveying corn to the surge bin at the Facility.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or works of similar import, under the Environmental Laws, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.); the Hazardous Material Transportation Act, as amended (49 U.S.C. §1801 et seq.); the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.); the Toxic Substances Control Act, as amended (42 U.S.C. § 7401 et seq.); the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.); or in the regulations promulgated pursuant to said laws; or (c) any other chemical, material, substance or waste declared to be hazardous, toxic, or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the Prime Rate *plus* two percent (2%).

"Law" means any law (including any Environmental Law), statute, act, legislation, bill, enactment, policy, treaty, international agreement, ordinance, judgment, injunction, award, decree, rule, regulation, interpretation, determination, requirement, writ or order of any Governmental Authority.

"Liabilities" has the meaning assigned to such term in Section 7.1.

"Loading/Offloading Facilities" means the rail spurs, barge and/or truck docks located at the Facility, and all grain and grain products loading and unloading equipment, including, but not limited to, all conveyors, lifts and elevators used in connection with movement of grain and grain products in and out of the Storage Silos.

"Monthly Date" means the last Business Day of each calendar month.

"NewCo" means New PE Holdco LLC, a Delaware limited liability company and the indirect owner on the date hereof of all the equity interests in [Plant Owner].

"PAP" has the meaning assigned to such term in the Preamble.

"PAP Indemnified Person" has the meaning assigned to such term in Section 7.2.

"PAP's Parties" means and includes, but is not limited to, employees, agents, contractors, subcontractors, invitees, and other Persons under PAP's Control or direction.

"Party" and "Parties" have the meanings assigned to such terms in the Preamble.

"PEI" has the meaning assigned to such term in the Recitals.

"Permits" means all permits, authorizations, registrations, consents, approvals, waivers, exceptions, variances, orders, judgments, written interpretations, decrees, licenses, exemptions, publications, filings, notices to and declarations of or with, or required by, any Governmental Authority, or required by any Law, and shall include all environmental and operating permits and licenses that are required for the full use, occupancy, zoning and operation of the Facility.

"Person" means any individual, partnership, corporation, association, business, trust, government or political subdivision thereof, governmental agency or other entity.

"Prime Rate" means the rate per annum listed as the "Prime Rate" in the "Money Rates" section of the Wall Street Journal from time to time.

"Services" has the meaning assigned to such term in Section 2.1.

"Storage Silos" means the grain storage silos located at the Facility.

"Third Party" means any Person (other than PEI or a subsidiary thereof) that enters into a Bilateral Transaction with PAP.

1.2 Interpretation. The following interpretations and rules of construction shall apply to this Agreement: (a) titles and headings are for convenience only and will not be deemed part of this Agreement for purposes of interpretation; (b) unless otherwise stated, references in this Agreement to "Sections," "Appendices" or "Articles" refer, respectively, to Sections, Appendices or Articles of this Agreement; (c) "including" means "including, but not limited to", and "include" or "includes" means "include, without limitation" or "includes, without limitation"; (d) "hereunder", "herein", "hereto" and "hereof", when used in this Agreement, refer to this Agreement as a whole and not to a particular Section or clause of this Agreement; (e) in the case of defined terms, the singular includes the plural and vice versa; (f) unless otherwise indicated, all accounting terms not specifically defined shall be construed in accordance with generally accepted accounting practices in the United States; (g) unless otherwise indicated, each reference to a particular Law is a reference to such Law as it may be amended, modified, extended, restated or supplemented from time to time, as well as to any successor Law thereto; (h) unless otherwise indicated, references to agreements shall be deemed to include all subsequent amendments, supplements and other modifications thereto; and (i) unless otherwise indicated, each reference to any Person shall include such Person's successors and permitted assigns.

ARTICLE II
AGREEMENT

2.1 Agreement. [Plant Owner] has engaged PAP to (i) solicit, negotiate, enter into and administer, on behalf of [Plant Owner], corn supply arrangements necessary and sufficient to allow [Plant Owner] to procure corn necessary to operate the Facility and (ii) provide Grain Handling Services at the Facility as more specifically described herein (collectively, the "Services").

2.2 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, negotiations and understandings among the Parties with respect to such subject matter. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the Parties.

ARTICLE III
CORN PROCUREMENT

3.1 Appointment and Acceptance; Performance of Obligations.

(a) Upon the terms and subject to the conditions of this Agreement and in furtherance of PAP's obligation to perform the Services, [Plant Owner] hereby appoints PAP as its agent, with effect from and after the Effective Date, having such authority as may be necessary for it to perform the Services including the authority to take actions and execute documents in the name of [Plant Owner], and PAP accepts such appointment and agrees to perform its duties under this Agreement. On and after the Effective Date, [Plant Owner] shall have the right by notice to PAP to revoke or rescind all or any part of the authority granted to PAP hereunder or otherwise reduce or restrict the scope of the Services.

(b) PAP shall perform Services hereunder in all material respects in accordance with this Agreement, applicable Laws, applicable Permits and Good Industry Practice and with the intent to minimize the cost of corn to [Plant Owner].

3.2 Limitations on Authority.

(a) PAP shall solicit, negotiate and administer Bilateral Transactions on general terms and conditions that have been established pursuant to the operating protocol established pursuant to Section 3.5(b) and subject to the limitations contained in this Section 3.2. PAP shall communicate to prospective corn suppliers that all proposals for Bilateral Transactions are subject to the conditions set forth in clause (c) below and any other conditions agreed by the Parties in the operating protocol.

(b) PAP, as agent for [Plant Owner] or otherwise on behalf of [Plant Owner], shall not and shall cause each of its agents, employees and representatives not to: (i) enter into, execute, suspend or terminate (or accept any termination of), (ii) amend, modify or supplement, (iii) give or accept waivers with respect to or (iv) take any action or omit to take any action with respect to, any Bilateral Transaction between [Plant Owner] and a Third Party, that would result in a violation of or a default under any Financing Document, unless the consent of the necessary Financing Party or Financing Parties, as the case may be, has theretofore been obtained by [Plant Owner].

(c) Notwithstanding anything to the contrary herein, PAP shall not (i) solicit or propose any Bilateral Transaction with any Third Party that is the subject of an Act of Insolvency, (ii) solicit or propose any Bilateral Transaction which provides for the provision of corn in excess of the amount of corn required by [Plant Owner] (after giving effect to [Plant Owner]'s existing contractual obligations and the scheduling provisions set forth in Section 3.5(b) below), or (iii) enter into Bilateral Transactions in its name.

(d) In the event of a breach or default by a Third Party under any Bilateral Transaction, PAP shall promptly notify [Plant Owner] of any such breach and default and provide [Plant Owner] from time to time with reasonably detailed information in respect of the same (including copies of all written communications in respect thereof). In the event of any such breach or default, PAP shall use commercially reasonable efforts to procure replacement corn.

(e) [Plant Owner] and PAP expressly acknowledge and agree that: (i) this Agreement does not convey ownership or control over all or any part of the Facility from [Plant Owner] to PAP; and (ii) [Plant Owner] retains ultimate decision-making authority relating to the operation of the Facility, which authority may be exercised by [Plant Owner] in its discretion, *provided* that, except as otherwise specifically instructed by written direction from [Plant Owner] to PAP, PAP shall exercise its authority and fulfill its responsibility to perform the Services.

3.3 Obligations of [Plant Owner]. [Plant Owner] shall provide PAP with all information reasonably requested by PAP, and [Plant Owner] shall assist PAP as reasonably requested in connection with the Services provided hereunder. At the request of [Plant Owner], PAP will cause PEI to execute and deliver and maintain in full force and effect a guaranty in the form of Exhibit B hereto.

3.4 Transaction Reports. Within 30 days after each Monthly Date occurring after the Effective Date, PAP shall deliver to [Plant Owner] a written summary of the Bilateral Transactions which were entered into or performed, in whole or in part, during the month ending on such Monthly Date.

3.5 Delivery Point; Operating Protocol; Nominations; Measurement.

(a) PAP shall arrange for corn purchased pursuant to Bilateral Transactions to be delivered to [Plant Owner] at the truck, barge and/or rail receiving basin at the Facility specified in the operating protocol described in Section 3.5(b).

(b) PAP and [Plant Owner] shall use the agreed operating protocol with respect to the mechanics, timing and process for (i) determining how much corn is required to be purchased on any particular day from Third Parties, (ii) guidelines for the transmittal of solicitations or proposal of Bilateral Transactions and [Plant Owner]'s response to such solicitation or proposal, (iii) [Plant Owner] to communicate to PAP its corn requirements on a monthly, weekly and daily basis, (iv) determining the quantity of corn to be stored in the Storage Silos, and (v) administering the corn purchases contemplated by this Agreement. By mutual agreement, such operating protocol shall be updated from time to time thereafter. A copy of such protocol is attached hereto as Exhibit C.

(c) All corn supplied under this Agreement shall conform to the minimum specifications set forth on Exhibit A hereto. Notwithstanding anything to the contrary herein, if PAP supplies the Facility with corn that fails to meet the minimum specifications set forth on Exhibit A and such failure was not caused by PAP, such failure will not be a breach of this Agreement *provided* that (x) PAP shall pursue any and all damages, price reductions and price refunds from the applicable Third Party with respect to any such failure and pass on such damages, price reductions and price refunds to [Plant Owner], (y) in the event of any such failure, PAP shall use commercially reasonable efforts to procure replacement corn and (z) in any event, PAP will not enter into any Bilateral Transactions which provide for a baseline corn quality that is materially worse than the minimum specifications set forth on Exhibit A.

(d) On or before the date that is fifteen days prior to the end of a calendar month, [Plant Owner] shall provide PAP with a forecast of its projected monthly corn requirements for the following month.

(e) PAP agrees to use its commercially reasonable efforts to procure corn according to "first official grades" performed at time of loading, and PAP shall use its commercially reasonable efforts to ensure that the corn conforms to the standards of #2 Yellow Corn, as determined by the National Grain & Feed Association. PAP shall have the right to collect samples of each shipment of corn delivered to [Plant Owner] under Bilateral Transactions at the point of unloading. [Plant Owner] shall have the right, upon reasonable notice and at reasonable times and at its expense, to request copies of the "first official grades" documentation that accompanies every shipment to confirm that the corn delivered to it under Bilateral Transactions meets the requirements of such Bilateral Transactions and the requirements of Section 3.5(b).

ARTICLE IV
COMPENSATION AND PAYMENT

As compensation to PAP for the performance of its services hereunder, [Plant Owner] shall pay PAP, in the manner and at the times specified in this Article IV, the Agency Fee and the Grain Handling Fee, all as further described herein.

4.1 Fees and Payments.

(a) Following the last Business Day of each calendar month (each calendar month being referred to herein as a "Payment Period") and within 15 days following receipt of an invoice from PAP in respect of such Payment Period, [Plant Owner] shall pay to PAP an amount equal to the Agency Fee and the Grain Handling Fee for such Payment Period; *provided*, *however*, that [Plant Owner] shall not be required to make payments to PAP in respect of any Bilateral Transactions for which [Plant Owner] has not received corn from the corresponding Third Party. In connection with each such invoice, PAP shall deliver to [Plant Owner] a statement detailing its calculations of the applicable Agency Fee and the applicable Grain Handling Fee.

(b) If PAP defaults in its obligation to provide Services in accordance with the terms of this Agreement, then [Plant Owner] shall be entitled to set-off and deduct from current and/or future payments owed to PAP by [Plant Owner] an amount equal to the amount of any damage payments owed by PAP to [Plant Owner] as a result of PAP's failure to perform hereunder.

4.2 Overdue Payments; Indemnity Payments.

(a) If any Party shall fail to make any payment when due hereunder, such overdue payment shall accrue interest at the Late Payment Rate from the date originally due until the date paid.

(b) Any indemnification payments received by PAP from a Third Party in respect of a Bilateral Transaction shall be paid to [Plant Owner] on or before the next payment date as determined in accordance with Section 4.1.

4.3 Billing Dispute. If [Plant Owner] or PAP, in good faith, disputes the amount of any payment received by it or to be paid by it or set-off pursuant to Section 4.1 above, the disputing Party shall immediately notify the other Party of the basis for the dispute. The Parties will then meet and use their best efforts to resolve any such dispute. If any amount is ultimately determined to be due to or permitted to be set-off by [Plant Owner] or PAP (as the case may be), to the extent not previously paid or set-off, (a) PAP shall pay such amount to [Plant Owner] within five Business Days of such determination or (b) PAP may then set-off such amount (as the case may be).

4.4 Audit. Notwithstanding the payment of any amount pursuant to this Article IV, [Plant Owner] shall remain entitled (upon reasonable prior notice, at reasonable times and at PAP's corporate offices) and the administrative agent under the Credit Agreement (and its consultants, as directed by the administrative agent) shall be entitled (upon reasonable prior notice, not more than once per calendar quarter and at PAP's corporate offices) to conduct a subsequent audit and review of (a) all Bilateral Transactions and related records to verify the amount of gross payments and damage payments and (b) the determination and calculation of the Agency Fee and the Grain Handling Fee, in each case for a period of two years from and after the end of the applicable Payment Period. If, pursuant to such audit and review, it is determined that any amount previously paid by [Plant Owner] to PAP was in excess of the amounts which should have been paid to PAP, [Plant Owner] shall advise PAP indicating such amount and reason the amount should not have been paid by [Plant Owner] and, subject to the next two sentences, PAP shall pay such amount to [Plant Owner] within five Business Days of such request along with interest accrued at the Late Payment Rate from the date originally paid until the date repaid to [Plant Owner]. If the Parties do not agree with respect to any item so noted, the Parties will then meet and use their best efforts to resolve the dispute. If the Parties are not able to resolve issues raised by such an audit and review, any disputed items will be resolved in accordance with the provisions of Article XI.

ARTICLE V
TERM

5.1 Term. This Agreement shall be effective on the date hereof and, unless earlier terminated in accordance with its terms, shall continue in effect until and including the twelve-month anniversary of the date of this Agreement; provided, that [Plant Owner] may extend this Agreement for additional twelve-month periods, in each case by written notice to PAP delivered not less than 90 days prior to the end of the original or renewal term.

5.2 Termination by PAP. PAP may terminate this Agreement by written notice to [Plant Owner], upon the occurrence of any of the following events, provided, that no such notice shall be required for a termination pursuant to clause (c) of this Section 5.2:

(a) the failure by [Plant Owner] to make any payment, deposit or transfer required hereunder within 30 days after the date such payment, deposit or transfer is required to be made;

(b) the failure of any statement, representation or warranty made by [Plant Owner] in this Agreement to have been correct in any material respect when made if such failure could reasonably be expected to have a material adverse effect on [Plant Owner]'s ability to perform its obligations under this Agreement;

(c) the occurrence of an Act of Insolvency with respect to [Plant Owner]; or

(d) the failure of [Plant Owner] to perform any of its material obligations under this Agreement and such failure continues for 30 days after receipt of written notice from PAP of such failure; *provided*, that such 30-day period shall be extended for up to an aggregate of 90 days so long as [Plant Owner] is diligently attempting to cure such failure.

5.3 Termination by [Plant Owner]. [Plant Owner] may terminate this Agreement by written notice to PAP, upon the occurrence of any of the following events, provided, that no such notice shall be required for a termination pursuant to clause (c) of this Section 5.3:

(a) the failure by PAP to make any payment, deposit or transfer required hereunder within 30 days after the date such payment, deposit or transfer is required to be made;

(b) the failure of any statement, representation or warranty made by PAP in this Agreement to have been correct in any material respect when made if such failure could reasonably be expected to have a material adverse effect on PAP's ability to perform its obligations under this Agreement;

(c) the occurrence of an Act of Insolvency with respect to PAP; or

(d) the failure of PAP to perform any of its material obligations under this Agreement and such failure continues for 30 days after receipt of written notice from [Plant Owner] of such failure; *provided*, that such 30-day period shall be extended for up to an aggregate of 90 days so long as PAP is diligently attempting to cure such failure.

5.4 Change of Control. This Agreement shall terminate 45 days after the occurrence of (i) any Change of Control with respect to [Plant Owner] or any transfer, assignment, sale or other disposition of more than a majority of the membership interests in PAP to any Person that is not an Affiliate of PEI or (ii) any transfer, assignment, sale or other disposition of all or substantially all of the assets comprising the Facility, in each case unless the Parties mutually agree to the contrary.

5.5 Replacement. Notwithstanding any other provision of this Agreement, during the continuance of any default by PAP that would allow [Plant Owner] to terminate this Agreement pursuant to Section 5.3 or during the 30-day cure period provided in Section 5.3(d) (notwithstanding such cure period) if PAP fails to procure corn necessary to operate the Facility or during the continuance of any Force Majeure Event (including the effects thereof) that renders PAP unable to perform its obligations under this Agreement, then [Plant Owner] shall have the right to engage any other Person to provide the Services and PAP shall not be entitled to any compensation (including any Agency Fee or any Grain Handling Fee) with respect to any replacement services provided by such other Person.

ARTICLE VI
INSURANCE

6.1 PAP Insurance. Without limiting any of the other obligations or liabilities of PAP under this Agreement, PAP shall at all times carry and maintain or cause to be carried and maintained, the minimum insurance coverage set forth in this Section:

(a) PAP shall maintain or cause to be maintained (i) Workers' Compensation insurance in compliance with the workers' compensation laws of the states in which PAP provides Services as extended by the Broad Form All States Endorsements, the United States Longshoreman's and Harbor Workers' Coverage Endorsements on an if-any-exposure basis and the Voluntary Compensation Coverage Endorsement, and (ii) Employer's Liability (including Occupational Disease) coverage with limits of not less than $1,000,000, which shall cover all of PAP's employees engaged in providing services hereunder.

(b) PAP shall maintain or cause to be maintained automobile liability insurance for owned (if any), non-owned and hired vehicles with combined single limits for bodily injury/property damage not less than $1,000,000 per occurrence and containing appropriate no-fault insurance provisions wherever applicable.

(c) PAP will maintain or cause to be maintained commercial general liability insurance with a limit for bodily injury/property damage of not less than $1,000,000 per occurrence and $2,000,000 in the annual aggregate. Such coverage shall include premises/operations, explosion, collapse and underground property damage, broad form contractual, independent contractors, products/completed operations (including operator errors and omissions), broad form property damage, personal injury and incidental professional liability (if not covered under product/completed operations and if commercially available).

(d) PAP shall maintain or cause to be maintained umbrella liability insurance providing coverage limits in excess of those set forth in Section (a), (b) and (c) above. The limits of this umbrella coverage shall not be less than $10,000,000 per occurrence and in the annual aggregate.

(e) PAP shall maintain or cause to be maintained pollution legal liability for sudden and accidental pollution for physical damage and bodily injury to third parties in an amount of $3,000,000 per occurrence and in the annual aggregate.

The terms and conditions of all insurance policies (including the amount, scope of coverage, deductibles, and self-insured retentions) shall be acceptable in all respects as of the Effective Date. All insurance carried pursuant to this Section shall conform to the relevant provisions of this Agreement and be with insurance companies which are rated "A-, X" or better by Best's Insurance Guide and Key Ratings, or other insurance companies of recognized responsibility satisfactory to [Plant Owner]. [Plant Owner] shall be furnished with satisfactory evidence that the foregoing insurance is in effect and [Plant Owner] shall be notified 30 calendar days prior to the cancellation or material change of any such coverage. Coverage for the insurance under Section (c) and (d) above shall be written on a claims made basis provided that if the policy is not renewed, PAP shall obtain for the benefit of [Plant Owner] an extended reporting period coverage or "tail" of at least three years past the final day of coverage of such policy. PAP shall provide [Plant Owner] with evidence that such extended reporting period coverage or "tail" has been obtained. PAP agrees to ensure that the insurance policies outlined in this Section require the insurer to waive subrogation against [Plant Owner], the Financing Parties and their respective Affiliates together with their respective officers, directors, Affiliates and employees and all such Persons shall be an additional insured as their interests may appear with respect to all policies procured by PAP.

6.2 PAP Insurance Premiums and Deductibles. All premiums for insurance coverage procured by PAP pursuant to Section 6.1 shall be reimbursed by [Plant Owner] upon demand. PAP shall be liable for the payment of all deductibles on insurance policies obtained pursuant to Section 6.1, which amounts shall not be reimbursed by [Plant Owner], provided that, to the extent that a claim under a policy described in Section 6.1 is attributable to [Plant Owner]'s (including its employees' or agents') gross negligence or willful misconduct, [Plant Owner] shall be liable for the entire amount of such deductible. In no event shall any premiums, deductibles or any losses in excess of insurance coverage be a reimbursable cost hereunder.

ARTICLE VII
INDEMNIFICATION

7.1 [Plant Owner]'s Indemnity. [Plant Owner] shall defend, indemnify and hold harmless PAP and its Affiliates (and each officer, director, employee, shareholder, partner, member or agent of PAP and its Affiliates) (each, a "[Plant Owner] Indemnified Person") from and against any and all third party claims, actions, damages, expenses (including reasonable and documented attorneys' fees and expenses), losses, settlements or liabilities (collectively, "Liabilities") incurred or asserted against any [Plant Owner] Indemnified Person (a) as a result of any failure on the part of [Plant Owner] to perform [Plant Owner]' s obligations under this Agreement, or (b) arising out of or in any way connected with the grossly negligent acts or omissions of [Plant Owner] or its Affiliates.

7.2 PAP's Indemnity. PAP shall defend, indemnify and hold harmless [Plant Owner] and its Affiliates (and each officer, director, employee, shareholder, partner, member or agent of [Plant Owner] and their Affiliates) (each, a "PAP Indemnified Person") from and against any and all third party Liabilities incurred or asserted against any PAP Indemnified Person (a) as a result of any failure on the part of PAP to perform its obligations under this Agreement, or (b) arising out of or in any way connected with the grossly negligent acts or omissions of PAP or its Affiliates.

ARTICLE VIII
LIABILITIES OF THE PARTIES

8.1 No Consequential or Punitive Damages. In no event shall either Party be liable to any other Party by way of indemnity or by reason of any breach of contract or of statutory duty or by reason of tort (including negligence or strict liability) or otherwise for any loss of profits, loss of revenue, loss of use, loss of production, loss of contracts or for any incidental, indirect, special or consequential or punitive damages of any other kind or nature whatsoever that may be suffered by such other Party, including any losses for which such other Party has insurance to the extent proceeds of insurance have been recovered for such losses.

ARTICLE IX
CONFIDENTIALITY

Each Party and its Affiliates will treat as confidential the data and information (including, but not limited to data and information relating to this Agreement and other operating data and information) in their possession regarding the Facility, the other Party or any Affiliate of any other Party, unless: (a) the applicable other Party agrees in writing to the release of such data or information; (b) such data or information becomes publicly available other than through the wrongful actions of the disclosing Party or the disclosing Party's Affiliate; (c) such data or information was in the possession of the receiving Party or the receiving Party's Affiliate prior to receipt thereof from the disclosing Party with no corresponding confidentiality obligation; or (d) such data or information is required by Law to be disclosed. Notwithstanding the generality of the foregoing, any Party may disclose data and information to (i) the officers, directors, managers, partners, members, employees and Affiliates of such Party, (ii) any successors in interest and permitted assigns of such Party, (iii) any actual or potential Financing Parties or actual or potential lenders to PEI or any subsidiary thereof, and (iv) any potential equity investors in PEI or acquirer of all or any of the equity interests in NewCo or any subsidiary thereof; *provided*, that any Person who receives confidential data and information pursuant to an exception contained in clauses (ii)-(iv) of this Article agrees to similar confidentiality provisions.

ARTICLE X
FORCE MAJEURE

10.1 Events Constituting Force Majeure. As used herein, "Force Majeure Event" means any cause(s) which render(s) a Party wholly or partly unable to perform its obligations under this Agreement (other than obligations to make payments when due), and which are neither reasonably within the control of such Party nor the result of the fault or negligence of such Party, and which occur despite all reasonable attempts to avoid, mitigate or remedy, and shall include acts of God, war, riots, civil insurrections, cyclones, hurricanes, floods, fires, explosions, earthquakes, lightning, storms, chemical contamination, epidemics or plagues, acts or campaigns of terrorism or sabotage, blockades, embargoes, accidents or interruptions to transportation not caused by PAP, trade restrictions, acts of any Governmental Authority after the date of this Agreement, strikes and other labor difficulties (other than with respect to its own employees) not caused by PAP, mechanical breakdowns, and other events or circumstances beyond the reasonable control of such Party.

10.2 Effect. A Party claiming relief as a result of a Force Majeure Event shall give the other Party written notice within five Business Days of becoming aware of the occurrence of the Force Majeure Event, or as soon thereafter as practicable, describing the particulars of the Force Majeure Event, and will use reasonable efforts to remedy its inability to perform as soon as possible. If the Force Majeure Event (including the effects thereof) continues for fifteen consecutive days, the affected Party shall report to the other Party the status of its efforts to resume performance and the estimated date thereof. If the Force Majeure Event (including the effects thereof) continues for 180 consecutive days, either Party may terminate this Agreement for convenience. If the affected Party was not able to resume performance prior to or at the time of the report to the other Party of the onset of the Force Majeure Event, then it will report in writing to the other Party when it is again able to perform. If a Party fails to give timely notice, the excuse for its non-performance shall not begin until notice is given.

10.3 Limitations. Any obligation(s) of a Party (other than an obligation to make payments when due) may be temporarily suspended during any period such Party is unable to perform such obligation(s) by reason of the occurrence of a Force Majeure Event, but only to the extent of such inability to perform, *provided*, that:

(a) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event; and

(b) the Party claiming the occurrence of the Force Majeure Event bears the burden of proof.

ARTICLE XI
DISPUTE RESOLUTION

11.1 Attempts to Settle. In the event that a Dispute between the Parties arises under, out of or in relation to, this Agreement, the Parties shall attempt in good faith to settle such Dispute by mutual discussions within fifteen Business Days after the date that an aggrieved Party gives written notice of the Dispute to the other Party. In the event that a Dispute is not resolved by discussion in accordance with the preceding sentence within the time period set forth therein, the Parties shall refer the Dispute to their respective senior officers for further consideration and attempted resolution within fifteen Business Days after the Dispute has been referred to such individuals (or such longer period as the Parties may agree).

11.2 Resolution by Expert. If the Parties shall have failed to resolve the Dispute within fifteen Business Days after the date that the Parties referred the Dispute to their senior officers, then, provided the Parties shall so agree, the Dispute may be submitted for resolution by an Expert, such Expert to be appointed by the mutual agreement of the Parties. Proceedings before an Expert shall be held in Sacramento, California (or any other location agreed to by the Parties). The Expert shall apply to such proceedings the substantive law of the State of New York in effect at the time of such proceedings. The decision of the Expert shall be final and binding upon the Parties. In the event that (a) the Parties cannot agree on the appointment of an Expert within ten Business Days after the date that the Parties agreed to submit the Dispute for resolution by the Expert or (b) the Expert fails to resolve such Dispute within 60 days after the Parties have submitted such Dispute to the Expert, then any Party may file a demand for arbitration in writing in accordance with Section 11.3.

11.3 Arbitration. Any Dispute that has not been resolved following the procedures set forth in Section 11.1 or 11.2 shall be settled by binding arbitration in Sacramento, California (or any other location agreed to by the Parties) before a panel of three arbitrators. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date of execution of this Agreement. Such arbitration shall be governed by the laws of the State of New York. If arbitration proceedings have been initiated pursuant to this Section 11.3 and raise issues of fact or law which, in whole or in part, are substantially the same as issues of fact or law already pending in arbitration proceedings involving the applicable Parties, such issues shall be consolidated with the issues in the ongoing proceedings. THE PARTIES HEREBY AGREE THAT THE PROCEDURES SET FORTH IN THIS SECTION 11.3 SHALL BE THE EXCLUSIVE DISPUTE RESOLUTION PROCEDURES APPLICABLE TO ANY DISPUTE, CONTROVERSY OR CLAIM UNDER THIS AGREEMENT AND, EXCEPT AS SET FORTH IN SECTION 11.5, THE PARTIES HEREBY WAIVE ALL RIGHTS TO A COURT TRIAL OR TRIAL BY JURY WITH RESPECT TO ANY DISPUTE, CONTROVERSY OR CLAIM UNDER THIS AGREEMENT.

11.4 Consequential and Punitive Damages. Awards of Experts and arbitral panels shall be subject to the provisions of Article VIII.

11.5 Finality and Enforcement of Decision. Any decision or award of an Expert or a majority of an arbitral panel, as applicable, shall be final and binding upon the Parties. Each of the Parties agrees that the arbitral award may be enforced against it or its assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof.

11.6 Costs. The costs of submitting a Dispute to an Expert shall be shared equally among the Parties, unless the arbitral panel or the Expert determines otherwise. The costs of arbitration shall be paid in accordance with the decision of the arbitral panel pursuant to the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date of execution of this Agreement.

11.7 Continuing Performance Obligations. While a Dispute is pending, each Party shall continue to perform its obligations under this Agreement, unless such Party is otherwise entitled to suspend its performance hereunder or terminate this Agreement in accordance with the terms hereof.

ARTICLE XII
MISCELLANEOUS PROVISIONS

12.1 Assignment. No Party shall assign this Agreement or any of its rights or obligations hereunder without first obtaining the prior written consent of (a) in the case of [Plant Owner], PAP, or (b) in the case of PAP, [Plant Owner], provided, that either Party shall be entitled to assign its rights hereunder (as collateral security or otherwise) for financing purposes (including a collateral assignment by [Plant Owner] to any Financing Parties) without the consent of the other Party.

12.2 Cooperation in Financing. PAP shall use its reasonable efforts to execute, acknowledge and deliver any and all further documents and instruments, and to take any other actions, which may be necessary to satisfy the reasonable requests of any Financing Party or prospective Financing Party in connection with the financing of the Facility.

12.3 Not for Benefit of Third Parties. Except as otherwise expressly provided in this Agreement, each and every provision hereof is for the exclusive benefit of the Parties hereto and is not for the benefit of any third party.

12.4 Amendments. No Party hereto shall be bound by any termination, amendment, supplement, waiver or modification of any term hereof unless such Party shall have consented thereto in writing.

12.5 Survival. Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration or termination, including remedies, limitations on liability, promises of payment, indemnity and confidentiality. Without limiting the generality of the foregoing, the following provisions of this Agreement shall survive: Articles IV, VII, VIII, IX, XI and XII.

12.6 No Waiver. No delay or failure on the part of any Party in exercising any rights hereunder, and no partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights hereunder.

12.7 Notices. All notices or other communications which are required or permitted hereunder shall be in writing and shall be deemed sufficiently given (a) upon delivery, if delivered personally, (b) the day the notice is received, if it is delivered by overnight courier or certified or registered mail, postage prepaid, or (c) upon the effective receipt of electronic transmission, facsimile, telex or telegram (with effective receipt being deemed to occur upon the sender's receipt of confirmation of successful transmission of such notice or communication), to the addresses set forth below or such other address as the addressee may have specified in a notice duly given to sender as provided herein:

If to PAP:

Pacific Ag. Products, LLC
31375 Great Western Dr.
Windsor, CO 80550

with a copy to:

Pacific Ag. Products, LLC
c/o Pacific Ethanol, Inc.
400 Capitol Mall
Suite 2060
Sacramento, California 95814
Attention: Neil Koehler
Telephone: (530) 750-3017
Facsimile: (530) 309-4172

If to [Plant Owner]:

Pacific Ethanol [_____], LLC
c/o JT Miller Group LLC
777 Campus Commons Road # 200
Sacramento, California, 95825
Attention: John Miller
Telephone: (916) 565-7422
Facsimile: (916) 565-7423

with a copy, so long as PEI is the "Manager" under the "Asset Management Agreement" as defined in the Credit Agreement, to:

Pacific Ethanol, Inc.
400 Capitol Mall, Suite 2060
Sacramento, CA 95814
Attention: General Counsel
Facsimile: (916) 446-3936

12.8 Representations and Warranties.

12.8.1 PAP's Representations and Warranties. PAP represents and warrants to [Plant Owner], as of the date hereof, as follows:

12.8.1.1 Due Formation. PAP (a) is a limited liability company duly formed and validly existing under the laws of the State of California, (b) has the requisite power and authority to own its properties and carryon its business as now being conducted and currently proposed to be conducted and to execute, deliver and perform its obligations under this Agreement, and (c) is qualified to do business in the State of Oregon and in every other jurisdiction in which failure so to qualify could be reasonably be expected to have a material adverse effect on PAP's ability to perform its obligations hereunder.

12.8.1.2 Authorization; Enforceability. PAP has taken all action necessary to authorize it to execute, deliver and perform its obligations under this Agreement. This Agreement constitutes a legal, valid and binding obligation of PAP enforceable in accordance with its terms, subject to bankruptcy, reorganization, moratorium or other similar laws affecting the enforcement of the rights of creditors generally and subject to general principles of equity.

12.8.1.3 No Conflict. The execution, delivery and performance by PAP of this Agreement does not and will not (a) violate any Law applicable to PAP, (b) result in any breach of PAP's constituent documents or (c) conflict with, violate or result in a breach of or constitute a default under any agreement or instrument to which PAP or any of its properties or assets is bound or result in the imposition or creation of any lien or security interest in or with respect to any of PAP's property or assets, other than in each case any such violations, conflicts, breaches or impositions which could not be reasonably be expected to have a material adverse effect on PAP's ability to perform its obligations hereunder.

12.8.1.4 No Authorization. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority (other than those which have been obtained) is required for the due execution, delivery and performance by PAP of this Agreement, other than any such authorizations, approvals or actions the failure of which to obtain could not be reasonably be expected to have a material adverse effect on PAP's ability to perform its obligations hereunder.

12.8.1.5 Litigation. PAP is not a party to any legal, administrative, arbitration or other proceeding, and, to PAP's knowledge, no such proceeding is threatened, which could be reasonably be expected to have a material adverse effect on PAP's ability to perform its obligations hereunder.

12.8.2 [Plant Owner]'s Representations and Warranties. [Plant Owner] represents and warrants to PAP, as of the date hereof, as follows:

12.8.2.1 Due Formation. [Plant Owner] (a) is a limited liability company duly formed and validly existing under the laws of the State of Delaware, (b) has the requisite power and authority to own its properties and carry on its business as now being conducted and currently proposed to be conducted and to execute, deliver and perform its obligations under this Agreement, and (c) is qualified to do business in the State of [_____] and in every other jurisdiction in which failure so to qualify could be reasonably be expected to have a material adverse effect on [Plant Owner]'s ability to perform its obligations hereunder.

12.8.2.2 Authorization; Enforceability. [Plant Owner] has taken all action necessary to authorize it to execute, deliver and perform its obligations under this Agreement. This Agreement constitutes a legal, valid and binding obligation of [Plant Owner] enforceable in accordance with its terms, subject to bankruptcy, reorganization, moratorium or other similar laws affecting the enforcement of the rights of creditors generally and subject to general principles of equity.

12.8.2.3 No Conflict. The execution, delivery and performance by [Plant Owner] of this Agreement does not and will not (a) violate any Law applicable to [Plant Owner], (b) result in any breach of [Plant Owner]' s constituent documents or (c) conflict with, violate or result in a breach of or constitute a default under any agreement or instrument to which [Plant Owner] or any of its properties or assets is bound or result in the imposition or creation of any lien or security interest in or with respect to any of [Plant Owner]'s property or assets, other than in each case any such violations, conflicts, breaches or impositions which could not be reasonably be expected to have a material adverse effect on [Plant Owner]'s ability to perform its obligations hereunder.

12.8.2.4 No Authorization. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority (other than those which have been obtained) is required for the due execution, delivery and performance by [Plant Owner] of this Agreement, other than any such authorizations, approvals or actions the failure of which to obtain could not be reasonably be expected to have a material adverse effect on [Plant Owner]'s ability to perform its obligations hereunder.

12.8.2.5 Litigation. [Plant Owner] is not a party to any legal, administrative, arbitration or other proceeding, and, to [Plant Owner]'s knowledge, no such proceeding is threatened, which could be reasonably be expected to have a material adverse effect on [Plant Owner]'s ability to perform its obligations hereunder.

12.9 Counterparts and Execution. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same agreement.

12.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereof.

12.11 Severability. In the event anyone or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic and practical effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

12.12 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

12.13 Captions; Appendices. Titles or captions of sections contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope of meaning of this Agreement or the intent of any provision hereof. All appendices attached hereto shall be considered a part hereof as though fully set forth herein.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, this Corn Procurement and Handling Agreement has been duly executed by the Parties hereto as of the date first written above.

PACIFIC ETHANOL [_____], LLC

By: _____
Name:
Title:

PACIFIC AG. PRODUCTS, LLC

By: /s/ Neil Koehler
Name: Neil Koehler
Title: CEO

[Signature Page to Corn Procurement Agreement – Boardman]

EXHIBIT 10.5

[FORM OF]
DISTILLERS GRAINS MARKETING AGREEMENT
([_____] PROJECT)

by and between

PACIFIC ETHANOL [_____], LLC

and

PACIFIC AG. PRODUCTS, LLC

Dated as of June 29, 2010

TABLE OF CONTENTS

This **DISTILLERS GRAINS MARKETING AGREEMENT** (as amended, amended and restated, supplemented or otherwise modified from time to time, this "Agreement") is entered into by and between PACIFIC ETHANOL [_____], LLC, a Delaware limited liability company ("Project Company"), and PACIFIC AG. PRODUCTS, LLC, a California limited liability company ("PAP"), as of June 29, 2010. Project Company and PAP are each individually referred to herein as a "Party", and collectively are referred to herein as the "Parties".

RECITALS

A. PAP provides marketing services for Distillers Grains (as defined below) from the denatured fuel ethanol production facilities owned by subsidiaries of Pacific Ethanol, Inc., a Delaware corporation ("PEI").

B. Project Company owns an approximately [__] million gallons-per-year denatured fuel ethanol production facility in [_____], [_____] (the "Facility") and Project Company has requested that PAP provide Distillers Grains marketing services for the Facility.

C. PAP desires to provide such marketing services in accordance with and subject to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and intending to be legally bound, the Parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

1.1 Definitions. The following terms shall have the meanings set forth below when used in this Agreement:

"Act of Insolvency" means, with respect to any Person, any of the following: (a) commencement by such Person of a voluntary proceeding under any jurisdiction's bankruptcy, insolvency or reorganization law; (b) the filing of an involuntary proceeding against such Person under any jurisdiction's bankruptcy, insolvency or reorganization law which is not vacated within 60 days after such filing; (c) the admission by such Person of the material allegations of any petition filed against it in any proceeding under any jurisdiction's bankruptcy, insolvency or reorganization law; (d) the adjudication of such Person as bankrupt or insolvent or the winding up or dissolution of such Person; (e) the making by such Person of a general assignment for the benefit of its creditors (assignments for a solvent financing excluded); (f) such Person fails or admits in writing its inability to pay its debts generally as they become due; (g) the appointment of a receiver or an administrator for all or a substantial portion of such Person's assets, which receiver or administrator, if appointed without the consent of such Person, is not discharged within 60 days after its appointment; or (h) the occurrence of any event analogous to any of the foregoing with respect to such Person occurring in any jurisdiction.

"Affiliate" of a specified Person means any corporation, partnership, sole proprietorship or other Person which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person specified. The term "control" means the ownership, either direct or indirect, of twenty-five percent (25%) or more of the voting securities (or comparable equity interests) or other ownership interests of a Person, or the possession, either direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or any other means whatsoever.

"Agreement" has the meaning given to such term in the preamble hereto.

"Asset Management Agreement" means the Asset Management Agreement, dated as of June 29, 2010 among Pacific Ethanol Holding Co. LLC, Pacific Ethanol Madera LLC, Project Company, Pacific Ethanol Stockton, LLC, and Pacific Ethanol [_____], LLC, as Owners, Pacific Holding as Owner Agent and Pacific Ethanol, Inc., as Manager, as the same may be amended, supplemented or otherwise modified from time to time.

"Bilateral Transaction" means, with respect to each sale of Distillers Grains produced at the Facility by Project Company, a transaction entered into by PAP with one or more Third Parties consisting of one or more forward sales of Distillers Grains.

"Business Day" means any day other than a Saturday, Sunday or a day on which commercial banks in Sacramento, California or New York, New York are required or authorized to be closed.

"Change of Control" has the meaning ascribed thereto in the Credit Agreement.

"Credit Agreement" means the Credit Agreement, dated as of June 25, 2010, by and among Pacific Ethanol Holding Co. LLC, Pacific Ethanol Madera LLC, Project Company, Pacific Ethanol Stockton, LLC, and Pacific Ethanol [_____], LLC, as Borrowers, Pacific Ethanol Holding Co. LLC, as Borrowers' Agent, WestLB AG, New York Branch, as the administrative agent and the collateral agent, and the lenders parties thereto from time to time, as the same may be amended, supplemented or otherwise modified from time to time.

"DDG" means dried distillers grains produced by Project Company at the Facility.

"Dispute" means a dispute, controversy or claim.

"Distillers Grains" means DDG, WDG and any other form of distillers grain products produced by Project Company at the Facility from time to time.

"Expert" means an expert having sufficient technical expertise to address the matter subject to a Dispute.

"Facility" has the meaning given to such term in the recitals hereto.

"Financing Documents" means any and all loan agreements, credit agreements (including the Credit Agreement), reimbursement agreements, notes, indentures, bonds, security agreements, pledge agreements, mortgages, guarantee documents, intercreditor agreements, subscription agreements, equity contribution agreements and other agreements and instruments relating to the financing (or refinancing) of the ownership, operation and maintenance of the Facility.

"Financing Parties" means the banks, lenders, noteholders and/or other financial institutions (or an agent or trustee thereof) party to the Financing Documents.

"Force Majeure Event" has the meaning set forth in Section 9.1.

"Good Industry Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the distillers grains production or marketing (as the case may be) industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. "Good Industry Practice" is not limited to a single, optimum practice, method or act to the exclusion of others, but rather is intended to include acceptable practices, methods or acts generally accepted in the regIOn.

"Governmental Authority" means any United States federal, state, municipal, local, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial or administrative body.

"Incentive Fee" means, for each Bilateral Transaction, the greater of (i) the product of 5.0% *multiplied by* the aggregate amount of the Purchase Price for such Bilateral Transaction, or (ii) the product of $2.00 *multiplied* by each ton of Distillers Grains sold in such Bilateral Transaction.

"Incentive Fee (Estimated)" means, for each Bilateral Transaction, the greater of (i) the product of 5.0% *multiplied by* the aggregate amount of the Purchase Price (Estimated) for such Bilateral Transaction, or (ii) the product of $2.00 *multiplied by* each ton of Distillers Grains sold in such Bilateral Transaction.

"Law" means any law, statute, act, legislation, bill, enactment, policy, treaty, international agreement, ordinance, judgment, injunction, award, decree, rule, regulation, interpretation, determination, requirement, writ or order of any Governmental Authority.

"Liabilities" has the meaning given to such term in Section 7.1.

"Monthly Date" means the last Business Day of each calendar month.

"NewCo" means New PE Holdco LLC, a Delaware limited liability company and the indirect owner on the date hereof of all the equity interests in Project Company.

"PAP" has the meaning given to such term in the preamble hereto.

"PAP Indemnified Person" has the meaning given to such term in Section 7.2.

"Party" or "Parties" has the meaning given to such term in the preamble hereto.

"Payment Adjustment Date" has the meaning given to such term in Section 3.1(b).

"PEI" has the meaning given to such term in the recitals hereto.

"Person" means and includes natural persons, corporations, limited liability companies, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies and other organizations, whether or not legal entities, Governmental Authorities and any other entity.

"Prime Rate" means the rate per annum listed as the "Prime Rate" in the "Money Rates" section of *The Wall Street Journal* from time to time.

"Project Company" has the meaning given to such term in the preamble hereto.

"Project Company Indemnified Person" has the meaning given to such term in Section 7.1.

"Purchase Price" means, with respect to each Bilateral Transaction, the aggregate gross payments received by PAP (or, if the applicable Third Party defaults in its payment obligations to PAP in respect of such Bilateral Transaction, the aggregate amount of gross payments which PAP was entitled to receive) for such Bilateral Transaction from the applicable Third Party.

"Purchase Price (Estimated)" means, with respect to each Bilateral Transaction, the aggregate amount of gross payments anticipated to be received by PAP for such Bilateral Transaction from the applicable Third Party (as reasonably determined by PAP).

"Tonnage Fees" means all documented fees or taxes payable to any Governmental Authority in connection with the tonnage of Distillers Grains or Syrup produced or marketed within a given jurisdiction.

"Tonnage Fees (Estimated)" means all estimated fees or taxes payable to any Governmental Authority in connection with the tonnage of Distillers Grains or Syrup produced or marketed within a given jurisdiction.

"Third Party" means any Person (other than PEI or a subsidiary thereof) that enters into a Bilateral Transaction with PAP.

"Transportation Costs" means, for each Bilateral Transaction, all actual, out-of-pocket and documented costs and other expenses incurred by or on behalf of PAP in connection with the transportation of Distillers Grains to the applicable Third Party, including truck, rail, barge and/or terminal costs.

"Transportation Costs (Estimated)" means, for each Bilateral Transaction, the aggregate amount of Transportation Costs anticipated to be incurred by PAP in connection with such Bilateral Transaction (as reasonably determined by PAP).

"Syrup" means corn condensed distiller's solubles produced by Project Company at the Facility.

"WDG" means wet distillers grains produced by Project Company at the Facility.

1.2 Interpretation. The following interpretations and rules of construction shall apply to this Agreement: (a) titles and headings are for convenience only and will not be deemed part of this Agreement for purposes of interpretation; (b) unless otherwise stated, references in this Agreement to "Sections" or "Articles" refer, respectively, to Sections or Articles of this Agreement; (c) "including" means "including, but not limited to", and "include" or "includes" means "include, without limitation" or "includes, without limitation"; (d) "hereunder", "herein", "hereto" and "hereof", when used in this Agreement, refer to this Agreement as a whole and not to a particular Section or clause of this Agreement; (e) in the case of defined terms, the singular includes the plural and vice versa; (f) unless otherwise indicated, each reference to a particular Law is a reference to such Law as it may be amended, modified, extended, restated or supplemented from time to time, as well as to any successor Law thereto; (g) unless otherwise indicated, references to agreements shall be deemed to include all subsequent amendments, supplements and other modifications thereto; and (h) unless otherwise indicated, each reference to any Person shall include such Person's successors and permitted assigns.

ARTICLE II
MARKETING ACTIVITIES

2.1 Bilateral Transactions.

(a) Subject to the terms hereof, Project Company hereby grants PAP the exclusive right to market, purchase and sell all of Project Company's Distillers Grains (which, as of the date hereof, is approximately [__],000 tons-per-year), *provided*, that during the continuance of any default by PAP that would allow Project Company to terminate this Agreement pursuant to Section 4.3 or during the 30-day cure period provided in Section 4.3(c) (notwithstanding such cure period), if PAP is not performing its obligations with respect to marketing the Project Company's Distillers Grains or during the continuance of any Force Majeure Event (including the effects thereof) that renders PAP unable to perform its obligations under this Agreement, then Project Company shall have the right to engage any other Person to market, purchase and sell the Project Company's Distillers Grains and PAP shall not be entitled to any compensation (including Incentive Fees) with respect to any replacement services provided by such Person. PAP shall use its reasonable commercial efforts to solicit, negotiate and enter into, and PAP shall perform, Bilateral Transactions with Third Parties. PAP shall have absolute discretion in the solicitation, negotiation, administration (including the collection of payments), enforcement and execution of Bilateral Transactions and all sales of Distillers Grains produced by the Facility shall be effectuated by Bilateral Transactions. PAP shall not enter into any transaction in respect of the Project Company's Distillers Grains that is not a Bilateral Transaction without the consent of the Project Company, which consent may be withheld by Project Company in its discretion. Project Company hereby grants PAP the power and authority necessary to perform its obligations and exercise its rights hereunder.

(b) As further described in Sections 2.3, 2.4 and 2.6 below and except as otherwise provided herein, Project Company shall provide Distillers Grains to PAP free and clear of all liens and encumbrances.

(c) PAP shall perform its obligations hereunder and under Bilateral Transactions in accordance with this Agreement, applicable Laws and Good Industry Practice and shall use commercially reasonable efforts to maximize the proceeds generated from the sale of Distillers Grains.

2.2 Storage. PAP acknowledges that Project Company has only limited storage capacity and PAP agrees that it shall take any Distillers Grains requested by PAP within two days (or such longer period of time as may reasonably be agreed by Project Company) of the time that Project Company has made such Distillers Grains available to PAP.

2.3 Obligations of Project Company.

(a) Project Company shall provide PAP with all information reasonably requested by PAP, and Project Company shall assist PAP as reasonably requested in the solicitation, negotiation and performance of Bilateral Transactions.

(b) Notwithstanding anything to the contrary herein, Project Company shall not be responsible for the delivery of any Distillers Grains to PAP during any periods of scheduled Facility maintenance (unless and to the extent the applicable Distillers Grains is available to be delivered to PAP from Project Company's storage facilities); provided, that, at any time that PEI or one of its Affiliates is not the asset manager pursuant to the Asset Management Agreement (or any successor agreement), PAP shall have received at least ten Business Days prior notice of such scheduled maintenance (it being acknowledged and agreed that if PAP does not receive at least ten Business Days prior notice, then such maintenance activity shall be deemed to be a mechanical breakdown and covered by clause (c) below for purposes hereof.

(c) If on any day Project Company is unable to perform its obligations to deliver Distillers Grains under this Agreement due to a mechanical breakdown (including a forced outage of the Facility) that is not a Force Majeure Event and such mechanical breakdown has continued for more than three consecutive days, PAP shall, at Project Company's option and at Project Company's expense, and provided that, at any time that PEI or one of its Affiliates is not the asset manager pursuant to the Asset Management Agreement (or any successor agreement), Project Company provides PAP with prompt notice of its intent to exercise such option, use commercially reasonable efforts to identify and procure replacement distillers grains to be delivered to the Third Party under the applicable Bilateral Transaction. In such event, if and only if the Parties reach agreement as to an alternative delivery point, PAP shall acquire and deliver replacement distillers grains in a quantity sufficient to meet the contract quantity of such Bilateral Transaction at such alternate point (and Project Company shall be responsible for all transportation costs associated therewith). In all other instances, Project Company shall be responsible for any damages incurred by PAP in connection with PAP's failure to perform under the applicable Bilateral Transaction as a result of such mechanical breakdown (it being acknowledged and agreed that PAP shall use commercially reasonable efforts to mitigate the effects of any such mechanical breakdown and Project Company's resulting inability to deliver Distillers Grains.

(d) At the request of the Project Company, PAP will cause PEI to execute and deliver and maintain in full force and effect a guaranty in the form of Exhibit A hereto.

2.4 Back-to-Back Transactions. Each Bilateral Transaction undertaken by PAP shall immediately and automatically, without necessity of further documentation or any action whatsoever by any of the Parties, create and cause to be undertaken according to the terms of this Agreement an equivalent transaction in terms of the obligation to deliver Distillers Grains, the quantity of Distillers Grains sold and the timing for the delivery of such Distillers Grains by Project Company with PAP (as if PAP were the Third Party).

2.5 Netting. Netting of amounts due in respect of Bilateral Transactions between PAP and a Third Party may arise in circumstances in which PAP owes amounts to such Third Party in respect of Bilateral Transactions and, at the same time, such Third Party owes amounts to PAP in respect of Bilateral Transactions. In such circumstances, the party owing the greater amount may pay such amount to the other party as reduced by the amount owed to it and both parties will be deemed to have satisfied their obligations thereby. When such netting occurs, for purposes of this Agreement, for all Bilateral Transactions that have been subject to such netting arrangements, PAP shall be deemed to have paid amounts owed by it and to have received amounts owed to it.

2.6 Title; Delivery Point; Nominations; Measurement.

(a) Project Company shall deliver Distillers Grains to PAP in respect of Bilateral Transactions (or corresponding back-to-back transactions under Section 2.4) via bucket-loader into a receiving truck that will remove such Distillers Grains from the Facility. Title to, risk of loss with respect to and the obligation to transport such Distillers Grains shall pass from Project Company to PAP at the point that such Distillers Grains drop into the applicable receiving truck. The Parties acknowledge that the quality and quantity of Distillers Grains may degrade or shrink after such Distillers Grains is delivered by Project Company to PAP at such delivery point, and the Parties acknowledge that the risk of such degradation or shrinkage and all other risk of loss shall be borne by PAP.

(b) PAP and Project Company shall use the previously agreed upon operating protocol with respect to the mechanics, timing and process for (i) PAP to communicate to Project Company its Distillers Grains requirements on a monthly, weekly and daily basis, (ii) determining the quantity of Distillers Grains to be stored by Project Company in its storage facilities, and (iii) implementing the Distillers Grains sales contemplated by this Agreement. By mutual agreement, such operating protocol shall be updated from time to time thereafter. A copy of such protocol is attached hereto as Exhibit B.

ARTICLE III
PAYMENTS

3.1 Fees and Payments.

(a) Within ten days after the date Project Company delivers Distillers Grains to PAP in accordance with Section 2.6(a), PAP shall pay to Project Company an amount equal to (i) the Purchase Price (Estimated) with respect to the Bilateral Transaction to which such delivery of Distillers Grains relates *minus* (ii) the aggregate amount of Transportation Costs (Estimated) with respect to such Bilateral Transaction *minus* (iii) the aggregate amount of the Incentive Fee (Estimated) with respect to such Bilateral Transaction *minus* Tonnage Fees (Estimated) with respect to such Bilateral Transaction (it being acknowledged that PAP shall retain for its own account the amount of such Transportation Costs (Estimated), Incentive Fee (Estimated) and Tonnage Fees (Estimated), and that such amount represents an estimate of the net amounts to be paid to Project Company in connection with such Bilateral Transaction). In connection with each such payment, PAP shall deliver to Project Company a statement detailing its calculations of the applicable Purchase Price (Estimated), the applicable Transportation Costs (Estimated), the applicable Incentive Fee (Estimated) and the applicable Tonnage Fees (Estimated).

(b) Within the first five Business Days of each calendar month (each such date, a "Payment Adjustment Date"), the Parties shall reconcile and "true-up" the actual Purchase Price, Transportation Costs, Incentive Fees and Tonnage Fees for all Bilateral Transactions entered into since the previous Payment Adjustment Date, with the intent of the Parties being that PAP shall make up the difference of any "under estimations" and Project Company shall refund any "over estimations". For example, if there are "under estimations" then PAP shall pay to Project Company an amount equal to:

(i) (A) the Purchase Price with respect to such Bilateral Transaction *minus* (B) the Purchase Price (Estimated) with respect to such Bilateral Transaction (to the extent actually paid by PAP to Project Company pursuant to Section 3.1(a)), *minus*

(ii) (A) the Transportation Costs with respect to each such Bilateral Transaction *minus* (B) the Transportation Costs (Estimated) with respect to such Bilateral Transaction, *minus*

(iii) (A) the Incentive Fee with respect to each such Bilateral Transaction *minus* (B) the Incentive Fee (Estimated) with respect to such Bilateral Transaction, *minus*

(iv) (A) the Tonnage Fees with respect to each such Bilateral Transaction *minus* (B) the Tonnage Fees (Estimated) with respect to such Bilateral Transaction.

Each such monthly reconciliation or "true-up" payment shall be paid by PAP or Project Company (as applicable) no later than five Business Days after the applicable Payment Adjustment Date. Each Party acknowledges that Project Company (and not PAP) bears the risk of non-payment by a Third Party in connection with a Bilateral Transaction.

(c) Notwithstanding anything to the contrary in clause (a) or (b) above, if Project Company defaults in its obligation to provide Distillers Grains to PAP in accordance with the terms of this Agreement (including, without limitation, as contemplated by Section 2.3(c)), then PAP shall be entitled to set-off and deduct from current and/or future payments owed to PAP by Project Company (including the estimated payments pursuant to clause (a) above and the reconciliation and "true-up" payments pursuant to clause (b) above) an amount equal to, as applicable, (i) the amount of damage payments owed by PAP to the applicable Third Party for failure to provide such Distillers Grains and (ii) the cost of any replacement Distillers Grains procured by PAP to satisfy the requirements of any Bilateral Transaction, each as a result of Project Company's failure to perform hereunder net of any revenue received in respect of such Bilateral Transaction.

3.2 Overdue Payments; Billing Dispute. If Project Company or PAP, in good faith, disputes the amount of any payment received by it or to be paid by it or set-off pursuant to Section 3.1 above, the disputing Party shall immediately notify the other Party of the basis for the dispute. The Parties will then meet and use their best efforts to resolve any such dispute. If any amount is ultimately determined to be due to or permitted to be set-off by Project Company or PAP (as the case may be), to the extent not previously paid or set-off, (a) PAP (or the Project Company as the case may be) shall pay such amount to Project Company within five Business Days of such determination or (b) PAP (or the Project Company as the case may be) may then set-off such amount (as the case may be). If any Party shall fail to make any payment when due hereunder, such overdue payment shall accrue interest at the Prime Rate *plus* 2% from the date originally due until the date paid.

3.3 Audit. Notwithstanding the payment of any amount pursuant to this Article III, Project Company shall remain entitled (upon reasonable prior notice, at reasonable times and at PAP's corporate offices) and the administrative agent under the Credit Agreement (and its consultants, as directed by the administrative agent) shall be entitled (upon reasonable prior notice, not more than once per calendar quarter and at PAP's corporate offices) to conduct a subsequent audit and review of (a) all Bilateral Transactions and related records to verify the amount of gross payments, Incentive Fees, Transportation Costs and damage payments and (b) the determination and calculation of the Purchase Price, in each case for a period of two years from and after the applicable Payment Adjustment Date. If, pursuant to such audit and review, it is determined that any amount previously paid by PAP to Project Company did not constitute all of the amounts which should have been paid to Project Company, Project Company shall advise PAP indicating such amount and reason the amount should have been paid to Project Company and, subject to the next two sentences, PAP shall pay such amount to Project Company within five Business Days of such request along with interest accrued at the Prime Rate plus 5% from the date originally due until the date paid. If the Parties do not agree with respect to any item so noted, the Parties will then meet and use their best efforts to resolve the dispute. If Parties are not able to resolve issues raised by such an audit and review, any disputed items will be resolved in accordance with the provisions of Article IX.

ARTICLE IV
TERM; TERMINATION

4.1 Term. This Agreement shall be effective on the date hereof and, unless earlier terminated in accordance with its terms, shall continue in effect until and including the twelve-month anniversary of the date of this Agreement, provided, that Project Company may extend this Agreement for additional twelve-month periods, in each case by written notice to PAP delivered not less than 90 days prior to the end of the original or renewal term.

4.2 Termination by PAP. PAP may terminate this Agreement by written notice to Project Company, upon the occurrence of any of the following events, *provided*, that no such notice shall be required for a termination pursuant to clause (b) of this Section 4.2:

(a) the failure by Project Company to make any payment, deposit or transfer required hereunder within 30 Business Days after the date such payment, deposit or transfer is required to be made;

(b) the occurrence of an Act of Insolvency with respect to Project Company; or

(c) the failure of Project Company to perform any of its material obligations under this Agreement and such failure continues for 30 days after receipt of written notice from PAP of such failure; *provided*, that such 30-day period shall be extended for up to an aggregate of 90 days so long as Project Company is diligently attempting to cure such failure.

4.3 Termination by Project Company. Project Company may terminate this Agreement by written notice to PAP, upon the occurrence of any of the following events, provided, that no such notice shall be required for a termination pursuant to clause (b) of this Section 4.3:

(a) the failure by PAP to make any payment, deposit or transfer required hereunder within fifteen Business Days after the date such payment, deposit or transfer is required to be made;

(b) the occurrence of an Act of Insolvency with respect to PAP; or

(c) the failure of PAP to perform any of its material obligations under this Agreement and such failure continues for 30 days after receipt of written notice from Project Company of such failure; *provided*, that such 30-day period shall be extended for up to an aggregate of 90 days so long as PAP is diligently attempting to cure such failure.

4.4 Change of Control. This Agreement shall terminate 45 days after the occurrence of (i) any Change of Control with respect to Project Company or any transfer, assignment, sale or other disposition of more than a majority of the membership interests in PAP to any Person that is not an Affiliate of PEI or (ii) any transfer, assignment, sale or other disposition of all or substantially all of the assets comprising the Facility, unless in each case the Parties mutually agree to the contrary.

4.5 Effect of Termination. No termination under this Article IV shall release any of the Parties from any obligations arising hereunder prior to such termination, including payment and obligations under any Bilateral Transaction (or such Bilateral Transaction's corresponding back-to-back transaction arising under Section 2.4), that are not fully performed as of the date of such termination. The exercise of the right of a Party to terminate this Agreement, as provided herein, does not preclude such Party from exercising other remedies that are provided herein or are available at law or in equity; *provided*, *however*, that no Party shall have a right to terminate, revoke or treat this Agreement as repudiated other than in accordance with the other provisions of this Agreement; and *provided*, *further*, that the Parties' respective rights upon termination shall be subject to the liability limitations of Article V. Except as otherwise set forth in this Agreement, remedies are cumulative, and the exercise of, or the failure to exercise, one or more remedies by a Party shall not, to the extent provided by Law, limit or preclude the exercise of, or constitute a waiver of, other remedies by such Party.

ARTICLE V
INSURANCE

5.1 PAP Insurance. Without limiting any of the other obligations or liabilities of PAP under this Agreement, PAP shall at all times carry and maintain or cause to be carried and maintained, the minimum insurance coverage set forth in this Section:

(a) PAP shall maintain or cause to be maintained (i) Workers' Compensation insurance in compliance with the workers' compensation laws of the State of Oregon as extended by the Broad Form All States Endorsements, the United States Longshoreman's and Harbor Workers' Coverage Endorsements on an if-any-exposure basis and the Voluntary Compensation Coverage Endorsement, and (ii) Employer's Liability (including Occupational Disease) coverage with limits of not less than $1,000,000, which shall cover all of PAP's employees engaged in providing services hereunder.

(b) PAP shall maintain or cause to be maintained automobile liability insurance for owned (if any), non-owned and hired vehicles with combined single limits for bodily injury/property damage not less than $1,000,000 per occurrence and containing appropriate no-fault insurance provisions wherever applicable.

(c) PAP will maintain or cause to be maintained commercial general liability insurance with a limit for bodily injury/property damage of not less than $1,000,000 per occurrence and $2,000,000 in the annual aggregate. Such coverage shall include premises/operations, explosion, collapse and underground property damage, broad form contractual, independent contractors, products/completed operations (including operator errors and omissions), broad form property damage, personal injury and incidental professional liability (if not covered under product/completed operations and if commercially available).

(d) PAP shall maintain or cause to be maintained umbrella liability insurance providing coverage limits in excess of those set forth in Section (a), (b) and (c) above. The limits of this umbrella coverage shall not be less than $10,000,000 per occurrence and in the annual aggregate.

(e) PAP shall maintain or cause to be maintained pollution legal liability for sudden and accidental pollution for physical damage and bodily injury to third parties in an amount of $3,000,000 per occurrence and in the annual aggregate.

The terms and conditions of all insurance policies (including the amount, scope of coverage, deductibles, and self-insured retentions) shall be acceptable in all respects as of the effective date of this Agreement. All insurance carried pursuant to this Section shall conform to the relevant provisions of this Agreement and be with insurance companies which are rated "A-, X" or better by Best's Insurance Guide and Key Ratings, or other insurance companies of recognized responsibility satisfactory to Project Company. Project Company shall be furnished with satisfactory evidence that the foregoing insurance is in effect and Project Company shall be notified 30 calendar days prior to the cancellation or material change of any such coverage. Coverage for the insurance under Section (c) and (d) above shall be written on a claims made basis provided that if the policy is not renewed, PAP shall obtain for the benefit of Project Company an extended reporting period coverage or "tail" of at least three years past the final day of coverage of such policy. PAP shall provide Project Company with evidence that such extended reporting period coverage or "tail" has been obtained. PAP agrees to ensure that the insurance policies outlined in this Section require the insurer to waive subrogation against Project Company, the Financing Parties and their respective Affiliates together with their respective officers, directors, Affiliates and employees and all such Persons shall be an additional insured as their interests may appear with respect to all policies procured by PAP.

5.2 PAP Insurance Premiums and Deductibles. All premiums for insurance coverage procured by PAP pursuant to Section 5.1 shall be reimbursed by Project Company upon demand. PAP shall be liable for the payment of all deductibles on insurance policies obtained pursuant to Section 5.1, which amounts shall not be reimbursed by Project Company, provided that, to the extent that a claim under a policy described in Section 5.1 is attributable to Project Company's (including its employees' or agents') gross negligence or willful misconduct, Project Company shall be liable for the entire amount of such deductible. In no event shall any premiums, deductibles or any losses in excess of insurance coverage be reimbursed by Project Company hereunder.

ARTICLE VI
LIMITATIONS ON LIABILITY

6.1 No Consequential or Punitive Damages. In no event shall either Party be liable to any other Party by way of indemnity or by reason of any breach of contract or of statutory duty or by reason of tort (including negligence or strict liability) or otherwise for any loss of profits, loss of revenue, loss of use, loss of production, loss of contracts or for any incidental, indirect, special or consequential or punitive damages of any other kind or nature whatsoever that may be suffered by such other Party, including any losses for which such other Party has insurance to the extent proceeds of insurance have been recovered for such losses.

ARTICLE VII
INDEMNIFICATION

7.1 Project Company's Indemnity. Project Company shall defend, indemnify and hold harmless PAP and its Affiliates (and each officer, director, employee, shareholder, partner, member or agent of PAP and its Affiliates) (each, a "Project Company Indemnified Person") from and against any and all third party claims, actions, damages, expenses (including reasonable and documented attorneys' fees and expenses), losses, settlements or liabilities (collectively, "Liabilities") incurred or asserted against any Project Company Indemnified Person (a) as a result of any failure on the part of Project Company to perform Project Company's obligations under this Agreement (including with respect to any back-to-back transaction under Section 2.4), or (b) arising out of or in any way connected with the grossly negligent acts or omissions of Project Company or its Affiliates (other than PAP).

7.2 PAP's Indemnity. PAP shall defend, indemnify and hold harmless Project Company and its Affiliates (and each officer, director, employee, shareholder, partner, member or agent of Project Company and their Affiliates) (each, a "PAP Indemnified Person") from and against any and all third party Liabilities incurred or asserted against any PAP Indemnified Person (a) as a result of any failure on the part of PAP to perform its obligations under this Agreement (including with respect to any Bilateral Transaction), or (b) arising out of or in any way connected with the grossly negligent acts or omissions of PAP or its Affiliates (other than Project Company).

ARTICLE VIII
REPRESENTATIONS AND WARRANTIES

Each Party represents that (i) it is duly organized under its jurisdiction of formation and in good standing in each jurisdiction where its failure to so qualify could have a material adverse affect on its ability to perform its obligations hereunder, (ii) it has all necessary power and authority to enter into this Agreement, (iii) it has duly authorized, executed and delivered this Agreement and (iv) this Agreement constitutes a legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to bankruptcy, reorganization, moratorium or other similar laws affecting the enforcement of the rights of creditors generally and subject to general principles of equity.

ARTICLE IX
FORCE MAJEURE

9.1 Definition. As used herein, "Force Majeure Event" means any cause(s) which render(s) a Party wholly or partly unable to perform its obligations under this Agreement (other than obligations to make payments when due), and which are neither reasonably within the control of such Party nor the result of the fault or negligence of such Party, and which occur despite all reasonable attempts to avoid, mitigate or remedy, and shall include acts of God, war, riots, civil insurrections, cyclones, hurricanes, floods, fires, explosions, earthquakes, lightning, storms, chemical contamination, epidemics or plagues, acts or campaigns of terrorism or sabotage, blockades, embargoes, accidents or interruptions to transportation, trade restrictions, acts of any Governmental Authority after the date of this Agreement, strikes and other labor difficulties (other than with respect to its own employees), and other events or circumstances beyond the reasonable control of such Party. Mechanical breakdown (including a forced outage of the Facility) that continues for more than five consecutive days shall be deemed not to be "Force Majeure Event" unless such mechanical breakdown resulted from or was caused by a separate "Force Majeure Event."

9.2 Effect. A Party claiming relief as a result of a Force Majeure Event shall give the other Parties written notice within five Business Days of becoming aware of the occurrence of the Force Majeure Event, or as soon thereafter as practicable, describing the particulars of the Force Majeure Event, and will use reasonable efforts to remedy its inability to perform as soon as possible. If the Force Majeure Event (including the effects thereof) continues for fifteen consecutive days, the affected Party shall report to the other Parties the status of its efforts to resume performance and the estimated date thereof. If the Force Majeure Event (including the effects thereof) continues for 180 consecutive days, either Party may terminate this Agreement for convenience. If the affected Party was not able to resume performance prior to or at the time of the report to the other Party of the onset of the Force Majeure Event, then it will report in writing to the other Party when it is again able to perform. If a Party fails to give timely notice, the excuse for its non-performance shall not begin until notice is given.

9.3 Limitations. Any obligation(s) of a Party (other than an obligation to make payments when due) may be temporarily suspended during any period such Party is unable to perform such obligation(s) by reason of the occurrence of a Force Majeure Event, but only to the extent of such inability to perform, *provided*, that:

(a) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event; and

(b) the Party claiming the occurrence of the Force Majeure Event bears the burden of proof.

ARTICLE X
DISPUTE RESOLUTION

10.1 Attempts to Settle. In the event that a Dispute between the Parties arises under, out of or in relation to, this Agreement, the Parties shall attempt in good faith to settle such Dispute by mutual discussions within fifteen Business Days after the date that an aggrieved Party gives written notice of the Dispute to the other Parties. In the event that a Dispute is not resolved by discussion in accordance with the preceding sentence within the time period set forth therein, the Parties shall refer the Dispute to their respective senior officers for further consideration and attempted resolution within fifteen Business Days after the Dispute has been referred to such individuals (or such longer period as the Parties may agree).

10.2 Resolution by Expert. If the Parties shall have failed to resolve the Dispute within fifteen Business Days after the date that the Parties referred the Dispute to their senior officers, then, provided the Parties shall so agree, the Dispute may be submitted for resolution by an Expert, such Expert to be appointed by the mutual agreement of the Parties. Proceedings before an Expert shall be held in Sacramento, California (or any other location agreed to by the Parties). The Expert shall apply to such proceedings the substantive law of the State of New York in effect at the time of such proceedings. The decision of the Expert shall be final and binding upon the Parties. In the event that (a) the Parties cannot agree on the appointment of an Expert within ten Business Days after the date that the Parties agreed to submit the Dispute for resolution by the Expert or (b) the Expert fails to resolve such Dispute within 60 days after the Parties have submitted such Dispute to the Expert, then any Party may file a demand for arbitration in writing in accordance with Section 10.3.

10.3 Arbitration. Any Dispute that has not been resolved following the procedures set forth in Section 10.1 or 10.2 shall be settled by binding arbitration in Sacramento, California (or any other location agreed to by the Parties) before a panel of three arbitrators. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date of execution of this Agreement. Such arbitration shall be governed by the laws of the State of New York. If arbitration proceedings have been initiated pursuant to this Section 10.3 and raise issues of fact or law which, in whole or in part, are substantially the same as issues of fact or law already pending in arbitration proceedings involving the applicable Parties, such issues shall be consolidated with the issues in the ongoing proceedings. THE PARTIES HEREBY AGREE THAT THE PROCEDURES SET FORTH IN THIS ARTICLE IX SHALL BE THE EXCLUSIVE DISPUTE RESOLUTION PROCEDURES APPLICABLE TO ANY DISPUTE, CONTROVERSY OR CLAIM UNDER THIS AGREEMENT AND, EXCEPT AS SET FORTH IN SECTION 10.5, THE PARTIES HEREBY WAIVE ALL RIGHTS TO A COURT TRIAL OR TRIAL BY JURY WITH RESPECT TO ANY DISPUTE, CONTROVERSY OR CLAIM UNDER THIS AGREEMENT.

10.4 Consequential and Punitive Damages. Awards of Experts and arbitral panels shall be subject to the provisions of Article VI.

10.5 Finality and Enforcement of Decision. Any decision or award of an Expert or a majority of an arbitral panel, as applicable, shall be final and binding upon the Parties. Each of the Parties agrees that the arbitral award may be enforced against it or its assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof.

10.6 Costs. The costs of submitting a Dispute to an Expert shall be shared equally among the Parties involved in the Dispute, unless the arbitral panel or the Expert determines otherwise. The costs of arbitration shall be paid in accordance with the decision of the arbitral panel pursuant to the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date of execution of this Agreement.

10.7 Continuing Performance Obligations. While a Dispute is pending, each Party shall continue to perform its obligations under this Agreement, unless such Party is otherwise entitled to suspend its performance hereunder or terminate this Agreement in accordance with the terms hereof.

ARTICLE XI
CONFIDENTIALITY

Each Party and its Affiliates shall treat as confidential the data and information in their possession regarding the Facility, the other Parties or any Affiliate of any other Party, unless: (a) the applicable other Party agrees in writing to the release of such data or information; (b) such data or information becomes publicly available other than through the wrongful actions of the disclosing Party or the disclosing Party's Affiliate; (c) such data or information was in the possession of the receiving Party or the receiving Party's Affiliate prior to receipt thereof from the disclosing Party with no corresponding confidentiality obligation; or (d) such data or information is required by Law to be disclosed. Notwithstanding the generality of the foregoing, any Party may disclose data and information to (i) the officers, directors, managers, partners, members, employees and Affiliates of such Party, (ii) any successors in interest and permitted assigns of such Party, (iii) any actual or potential Financing Parties or actual or potential lenders to PEI or any subsidiary thereof, and (iv) any potential equity investors in PEI or acquirer of all or any of the equity interests in Newco or any subsidiary thereof; *provided*, that any Person who receives confidential data and information pursuant to an exception contained in clauses (ii) -(iv) of this Article agrees to similar confidentiality provisions.

ARTICLE XII
ASSIGNMENT AND TRANSFER

No Party shall assign this Agreement or any of its rights or obligations hereunder without first obtaining the prior written consent of (a) in the case of Project Company, PAP, or (b) in the case of PAP, Project Company, *provided*, that any Party shall be entitled to assign its rights hereunder (as collateral security or otherwise) for financing purposes (including a collateral assignment to any Financing Parties) without the consent of any other Party.

ARTICLE XIII
MISCELLANEOUS

13.1 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, negotiations and understandings among the Parties with respect to such subject matter. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the Parties.

13.2 Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same agreement.

13.3 Survival. Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration or termination, including remedies, limitations on liability, promises of indemnity and payment, and confidentiality. Without limiting the generality of the foregoing, the following provisions of this Agreement shall survive: Articles III, VI, VII, X and XI and Section 13.3, 13.4, 13.5, 13.6, 13.8 and 13.9.

13.4 Severability. In the event anyone or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic and practical effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

13.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the principles of conflicts of laws thereof.

13.6 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. This Agreement is not made for the benefit of any Person or entity not a party hereto, and nothing in this Agreement shall be construed as giving any Person or entity, other than the Parties and their respective successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.

13.7 Notices. All notices or other communications which are required or permitted hereunder shall be in writing and shall be deemed sufficiently given (a) upon delivery, if delivered personally, (b) the day the notice is received, if it is delivered by overnight courier or certified or registered mail, postage prepaid, or (c) upon the effective receipt of electronic transmission, facsimile, telex or telegram (with effective receipt being deemed to occur upon the sender's receipt of confirmation of successful transmission of such notice or communication), to the addresses set forth below or such other address as the addressee may have specified in a notice duly given to sender as provided herein:

If to PAP:

Pacific Ag. Products, LLC
31375 Great Western Dr.
Windsor, CO 80550

with a copy to:

Pacific Ag. Products, LLC
c/o Pacific Ethanol, Inc.
400 Capitol Mall
Suite 2060
Sacramento, California 95814
Attention: Neil Koehler
Telephone: (530) 750-3017
Facsimile: (530) 309-4172

If to Project Company:

Pacific Ethanol [_____], LLC
c/o JT Miller Group LLC
777 Campus Commons Road # 200
Sacramento, California 95825
Attn: John Miller
Telephone: (916) 565-7422
Facsimile: (916) 565-7423

with a copy, so long as PEI is the "Manager" under the Asset Management Agreement, to:

Pacific Ethanol, Inc.
400 Capitol Mall, Suite 2060
Sacramento, CA 95814
Attention: General Counsel
Facsimile: (916) 446-3936

13.8 Amendment. No Party hereto shall be bound by any termination, amendment, supplement, waiver or modification of any term hereof unless such Party shall have consented thereto in writing.

13.9 No Implied Waiver. No delay or failure on the part of any Party in exercising any rights hereunder, and no partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights hereunder.

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IN WITNESS WHEREOF, this Distillers Grains Marketing Agreement has been duly executed by the Parties hereto as of the date first written above.

PACIFIC ETHANOL [_____], LLC

By: _____
Name:
Title:

PACIFIC AG. PRODUCTS, LLC

By: /s/ Neil Koehler
Name: Neil Koehler
Title: CEO

[Signature Page to Distillers Grains Marketing Agreement – Boardman]