UNITED STATES
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): **December 20, 2019**

PACIFIC ETHANOL, INC.
(Exact Name of Registrant as Specified in 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, California	**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 communication 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 communication pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Stock, $0.001 par value	PEIX	The Nasdaq Stock Market LLC (Nasdaq Capital Market)

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2). Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01. Entry into a Material Definitive Agreement.

Amendment No. 1 to Credit Agreement and Waiver

On December 20, 2019, Illinois Corn Processing, LLC ("ICP"), an indirect wholly-owned subsidiary of Pacific Ethanol, Inc. (the "Company"), Compeer Financial, PCA ("Lender") and CoBank, ACB ("CoBank", and together with Lender, the "Lender Parties") entered into Amendment No. 1 to Credit Agreement and Waiver ("Amendment No. 1") dated as of December 20, 2019, amending that certain Credit Agreement dated as of September 15, 2017 by and among ICP, 1 st Farm Credit Services, PCA, as lender, and CoBank (the "ICP Credit Agreement").

Under Amendment No. 1, the ICP Lenders granted waivers for certain ICP covenant defaults and replaced those covenants with new earnings before interest, taxes, depreciation and amortization ("EBITDA") and production volume covenants. The ICP Lenders also imposed cross-default terms such that, until the Lender Parties receive the Paydown Amount (as defined below), a default under the Pekin Credit Agreement would constitute a default under the ICP Credit Agreement. ICP agreed to provide additional collateral security to support its obligations under the ICP Credit Agreement, including second lien positions in the Company's western plants, which will terminate and be released upon the Lender Parties' receipt of the Paydown Amount.

ICP's prior scheduled principal payment of $1.5 million, originally due on December 20, 2019, was deferred to the maturity date of September 20, 2021. Scheduled quarterly principal payments of $1.5 million will resume March 20, 2020.

ICP, collectively with Pekin (as defined and further described below), agreed to pay the Lender Parties an aggregate of $40.0 million (the "Paydown Amount") on or before September 30, 2020 to reduce the outstanding balances of the term loans under the ICP Credit Agreement and the Pekin Credit Agreement (as defined below). The Paydown Amount is an aggregate amount payable to the Lender Parties, and allocated between them, and is not duplicated between Amendment No. 1 and Amendment No. 7 (as defined below). The Paydown Amount is to be funded through asset sales, proceeds of any award, judgment or settlement of litigation, or, at the election of the Company, from funds contributed to ICP by the Company. Following receipt by the lenders under the ICP Credit Agreement (the "ICP Lenders") and the Pekin Credit Agreement (the "Pekin Lenders"), collectively, of the Paydown Amount in full, and once any loans corresponding to the particular midwestern asset sold are repaid, any additional proceeds from a sale of the Company's midwestern plant assets will generally be allocated 33/34/33% among the ICP Lenders and Pekin Lenders, collectively, the Noteholders (as defined below), and the Company, respectively. Proceeds from the sale of any of the Company's western assets will generally be allocated as described below under the description of the Amended Notes (defined below).

On December 20, 2019, ICP entered into an Amended and Restated Revolving Term Note in the amount of $18.0 million having a maturity date of September 1, 2022, and an Amended and Restated Term Note in the amount of $12.0 million having a maturity date of September 20, 2021, each dated as of December 20, 2019 in favor of the Lender Parties, and each containing customary and other terms and conditions.

A description of the ICP Credit Agreement is set forth in the Company's Current Report on Form 8-K for September 15, 2017 filed with the Securities and Exchange Commission on September 21, 2017 and is incorporated herein by this reference.

Amendment No. 7 to Credit Agreement and Waiver

On December 20, 2019, Pacific Ethanol Pekin, LLC ("Pekin"), an indirect wholly-owned subsidiary of the Company, and the Lender Parties entered into an Amendment No. 7 to Credit Agreement and Waiver ("Amendment No. 7") dated as of December 20, 2019 by and among Pekin and the Lender Parties, further amending that certain Credit Agreement dated as of December 15, 2016 by and among Pekin, 1st Farm Credit Services, PCA, as lender, and CoBank (the "Pekin Credit Agreement").

Under Amendment No. 7, consistent with Amendment No. 1, the Lender Parties agreed to temporarily waive working capital covenant violations, debt service coverage ratio covenant violations, reporting covenant violations and certain other covenant violations that occurred under the Pekin Credit Agreement, and replaced those covenants with new EBITDA and production volume covenants. The Lender Parties also agreed to defer all scheduled principal installments payable under the term note on February 20, 2019, May 20, 2019 and November 20, 2019 until August 20, 2021. In addition, Pekin is not required to make its prior scheduled quarterly principal payments of $3.5 million until September 30, 2020, at which time $3.5 million will be due, with the same amount due quarterly thereafter until maturity.

Pekin, collectively with ICP (as described above), agreed to pay the Lender Parties the Paydown Amount on or before September 30, 2020 to reduce the outstanding balances of the term loans under the Pekin Credit Agreement and the ICP Credit Agreement. The Paydown Amount is an aggregate amount payable to the Lender Parties, and allocated between them, and is not duplicated between Amendment No. 1 and Amendment No. 7. The Paydown Amount is to be funded through asset sales, proceeds of any award, judgment or settlement of litigation, or, at the election of the Company, from funds contributed to Pekin by the Company. Following receipt by the Pekin Lenders and the ICP Lenders, collectively, of the Paydown Amount in full, and once any loans corresponding to the particular midwestern asset sold are repaid, additional proceeds from the sale of any of the Company's midwestern plant assets will generally be allocated 33/34/33% among the Pekin Lenders and ICP Lenders, collectively, the Noteholders, and the Company, respectively. Proceeds from the sale of any of the Company's western assets will generally be allocated as described below under the description of the Amended Notes.

The Pekin Lenders also imposed cross-default terms such that, until the Lender Parties' receive the Paydown Amount, a default under the ICP Credit Agreement would constitute a default under the Pekin Credit Agreement. Pekin agreed to provide additional collateral security to support its obligations under the Pekin Credit Agreement, including second lien positions in the Company's western plants, which will terminate and be released upon the Lender Parties' receipt of the Paydown Amount.

On December 20, 2019, Pekin entered into a Third Amended and Restated Revolving Term Note in the amount of $32.0 million having a maturity date of February 1, 2022, and a Fourth Amended and Restated Term Note in the amount of $39.5 million having a maturity date of August 20, 2021, each dated as of December 20, 2019 in favor of the Lender Parties, containing customary and other terms and conditions.

Descriptions of the Pekin Credit Agreement are set forth in the Company's Current Reports on Forms 8-K for December 15, 2016, August 7, 2017, March 30, 2018, March 21, 2019, July 15, 2019, November 15, 2019 and December 16, 2019 filed with the Securities and Exchange Commission on December 20, 2016, August 11, 2017, April 5, 2018, March 27, 2019, July 19, 2019, November 19, 2019 and December 24, 2019, respectively, and are incorporated herein by this reference.

Senior Secured Note Amendment Agreement

On December 22, 2019, the Company entered into a Senior Secured Note Amendment Agreement (the "Note Amendment Agreement") dated as of December 22, 2019 with the noteholders named therein (the "Noteholders"), amending and restating those certain Senior Secured Notes (the "Existing Notes") originally issued by the Company pursuant to either (i) that certain Note Purchase Agreement dated December 12, 2016 by and among the Company and the noteholders named therein (the "Initial Purchase Agreement", and the Notes issued pursuant to the Initial Purchase Agreement, the "2016 Notes"), (ii) that certain Note Purchase Agreement dated June 26, 2017 by and among the Company and the noteholders named therein (the "Additional Purchase Agreement", and the Notes issued pursuant to the Additional Purchase Agreement, the "2017 Notes"), or (iii) that certain Senior Secured Note Amendment Agreement No. 1 dated as of December 16, 2019 by and among the Company and the noteholders named therein (the "Amendment Agreement No. 1", and the Notes issued pursuant to the Amendment Agreement No. 1, the "PIK Notes"). Under the terms of the Note Amendment Agreement, the Company and the noteholders agreed to amend and restate the Existing Notes in the form of the Amended and Restated Senior Secured Note dated as of December 22, 2019 by the Company in favor of the noteholder named therein (the "Amended Notes") as described below under this Item 1.01.

The Company paid an aggregate amendment fee of $1,264,000 to the Noteholders, allocated among them on a pro rata basis and paid in kind through an increase in the principal amount of the Amended Notes.

As additional consideration for entering into the Note Amendment Agreement, the Company also issued to the Noteholders (i) an aggregate of 5,530,718 shares (the "Shares") of its voting common stock, par value $0.001 per share ("Common Stock"), and (ii) warrants (the "Warrants") to acquire up to an aggregate of 5,500,000 shares of Common Stock (the "Warrant Shares") as described below under this Item 1.01. The Shares and the Warrants were allocated pro rata among the Noteholders. The Shares are subject to anti-dilution rights in favor of the Noteholders for certain dilutive issuances through March 31, 2020 based on a weighted-average anti-dilution formula.

The Note Amendment Agreement also contains customary representations, warranties and covenants, and other terms and conditions.

A description of the Initial Purchase Agreement is set forth in the Company's Current Report on Form 8-K for December 12, 2016 filed with the Securities and Exchange Commission on December 12, 2016 and is incorporated herein by this reference. A description of the Additional Purchase Agreement is set forth in the Company's Current Report on Form 8-K for June 26, 2017 filed with the Securities and Exchange Commission on June 27, 2017 and is incorporated herein by this reference. A description of Amendment Agreement No. 1 is set forth in the Company's Current Report on Form 8-K for December 16, 2019 filed with the Securities and Exchange Commission on December 24, 2019 and is incorporated herein by this reference.

The description of the Note Amendment Agreement does not purport to be complete and is qualified in its entirety by reference to the Note Amendment Agreement, which is filed as Exhibit 10.1 to this report and is incorporated herein by this reference.

Form of Amended and Restated Senior Secured Note

The Amended Notes amended the aggregate principal amount of the Existing Notes from approximately $64.4 million to $65.6 million to account for the aggregate amendment fee, as noted above. The Amended Notes extended the maturity date of the Existing Notes to December 15, 2021. Interest on the Amended Notes accrues at a rate of 15% per annum, payable quarterly. The Company is obligated to make $5.0 million quarterly amortization payments beginning on September 30, 2020 and must prepay a portion of the principal amount after the closing of asset sales. Following receipt by the Noteholders, collectively, of $20.0 million, any additional proceeds from the sale of any of the Company's western assets will generally be allocated 33/34/33% among the Pekin Lenders and ICP Lenders, collectively, the Noteholders, and the Company, respectively. Proceeds from the sale of any of the Company's midwestern assets will generally be allocated as described above under the descriptions of Amendment No. 1 and Amendment No. 7.

The Company may, at its option, prepay the Amended Notes at a price equal to 102% of the outstanding principal amount. The Amended Notes require the granting of additional collateral security and the completion of related documentation within 30 days. The Amended Notes contain a variety of customary and other covenants and events of default.

A description of the 2016 Notes is set forth in the Company's Current Report on Form 8-K for December 15, 2016 filed with the Securities and Exchange Commission on December 20, 2016 and is incorporated herein by this reference. A description of the 2017 Notes is set forth in the Company's Current Report on Form 8-K for June 30, 2017 filed with the Securities and Exchange Commission on July 5, 2017 and is incorporated herein by this reference. The PIK Notes were in forms substantially similar to the 2016 Notes and the 2017 Notes.

The description of the Amended Notes does not purport to be complete and is qualified in its entirety by reference to the form of Amended Note, which is filed as Exhibit 10.2 to this report and is incorporated herein by this reference.

Form of Warrant

On December 22, 2019, the Company issued Warrants under the Note Amendment Agreement to acquire up to an aggregate of 5,500,000 Warrant Shares. The Warrants have an exercise price of $1.00 per Warrant Share and are exercisable on or after six (6) months after December 22, 2019 (the "Exercisability Date"), with cash proceeds first used to prepay any outstanding principal amount due under the Amended Notes. The Warrants are mandatorily exercisable if at any time on or after the Exercisability Date the dollar volume-weighted average price of the Company's Common Stock for the trailing five (5) trading day period is at least $1.50. The Warrants expire three (3) years after issuance and contain customary and other terms and conditions.

The description of the Warrants does not purport to be complete and is qualified in its entirety by reference to the form of Warrant, which is filed as Exhibit 10.3 to this report and is incorporated herein by this reference.

Registration Rights Agreement

On December 22, 2019, the Company entered into a Registration Rights Agreement dated as of December 22, 2019 by and among the Company and the holders named therein (the "Registration Rights Agreement"). The Registration Rights Agreement requires that the Company file a registration statement with the Securities and Exchange Commission within 30 days of December 22, 2019 for the resale of the 5,530,718 shares of Common Stock issued under the Note Amendment Agreement and the 5,500,000 Warrant Shares that may be issued upon exercise of the Warrants. The Registration Rights Agreement also contains customary representations, warranties and covenants, and other terms and conditions.

The description of the Registration Rights Agreement does not purport to be complete and is qualified in its entirety by reference to the Registration Rights Agreement, which is filed as Exhibit 10.4 to this report and is incorporated herein by this reference.

Second Amendment to Security Agreement

On December 22, 2019, the Company entered into a Second Amendment to Security Agreement effective as of December 22, 2019 by and among the Company, the holders named therein and Cortland Capital Market Services LLC (the "Second Amendment"), further amending that certain Security Agreement dated as of December 15, 2016 by and among the Company, each holder named therein and Cortland Capital Market Services LLC (as amended, the "Security Agreement"), to extend the terms of the Security Agreement to the Company's obligations arising under the Note Amendment Agreement, the Amended Notes and the other transaction documents related thereto.

Descriptions of the Security Agreement are set forth in the Company's Current Reports on Forms 8-K for December 15, 2016 and June 30, 2017 filed with the Securities and Exchange Commission on December 20, 2016 and July 5, 2017, respectively, and are incorporated herein by this reference.

The description of the Second Amendment does not purport to be complete and is qualified in its entirety by reference to the Second Amendment, which is filed as Exhibit 10.5 to this report and is incorporated herein by this reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On December 20, 2019, ICP and the Lender Parties entered into Amendment No. 1 and the Notes in connection therewith, as described under Item 1.01 above and incorporated herein by this reference.

On December 20, 2019, Pekin and the Lender Parties entered into Amendment No. 7 and the Notes in connection therewith, as described under Item 1.01 above and incorporated herein by this reference.

On December 22, 2019, the Company entered into the Note Amendment Agreement, the Amended Notes, the Warrants, the Registration Rights Agreement and the Second Amendment with the Noteholders, and as to the Second Amendment, with the agent thereunder, as described under Item 1.01 above and incorporated herein by this reference.

Item 3.02 Unregistered Sales of Equity Securities.

On December 22, 2019, the Company entered into the Note Amendment Agreement pursuant to which the Company issued to the Noteholders an aggregate of 5,530,718 shares of Common Stock and Warrants to purchase up to 5,500,000 shares of Common Stock. Descriptions of the Note Amendment Agreement, the Warrants and related documentation under Item 1.01 above are incorporated herein by this reference.

The Shares of Common Stock and Warrants were issued in reliance upon the exemption from registration provided by Section 4(a)(2) of the Securities Act of 1933, as amended (the "1933 Act"), and Rule 506 of Regulation D as promulgated by the Securities and Exchange Commission under the 1933 Act.

This Current Report on Form 8-K does not constitute an offer to sell or the solicitation of an offer to buy the Shares, Warrants or Warrant Shares.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Number	Description
10.1	Senior Secured Note Amendment Agreement dated as of December 22, 2019 among Pacific Ethanol, Inc. and the noteholders named therein (*)
10.2	Form of Amended and Restated Senior Secured Note for an aggregate principal amount of $65,649,177.91 issued on December 22, 2019 pursuant to the Senior Secured Note Amendment Agreement dated December 22, 2019 among Pacific Ethanol, Inc. and the noteholders named therein (*)
10.3	Form of Warrant to Purchase Common Stock for an aggregate of up to 5,500,000 shares issued on December 22, 2019 pursuant to the Senior Secured Note Amendment Agreement dated December 22, 2019 among Pacific Ethanol, Inc. and the noteholders named therein (*)
10.4	Registration Rights Agreement dated as of December 22, 2019 among Pacific Ethanol, Inc. and the holders named therein (*)
10.5	Second Amendment to Security Agreement dated as of December 22, 2019 among Pacific Ethanol, Inc., the holders named therein and Cortland Capital Market Services LLC (*)

(*) Filed herewith. The agreement filed as an exhibit to this report contains representations and warranties made by the parties thereto. The assertions embodied in such representations and warranties are not necessarily assertions of fact, but a mechanism for the parties to allocate risk. Accordingly, investors should not rely on the representations and warranties as characterizations of the actual state of facts or for any other purpose at the time they were made or otherwise.

SIGNATURE

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.

Date: December 24, 2019

PACIFIC ETHANOL, INC.

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

Exhibit 10.1

Execution Version

SENIOR SECURED NOTE AMENDMENT AGREEMENT

THIS SENIOR SECURED NOTE AMENDMENT AGREEMENT (the "**Agreement**"), dated as of December 22, 2019, is made by and among Pacific Ethanol, Inc., a Delaware corporation with headquarters located at 400 Capitol Mall, Suite 2060, Sacramento, CA 95814 (the "**Company**"), and the noteholders listed on the signature page hereto (each, a "**Noteholder**" and collectively, the "**Noteholders**").

RECITALS

A. The Company and each Noteholder are executing and delivering this Agreement in reliance upon the exemption from registration afforded by Section 4(a)(2) of the Securities Act of 1933, as amended (the "**1933 Act**"), and Rule 506 of Regulation D ("**Regulation D**") as promulgated by the United States Securities and Exchange Commission (the "**SEC**") under the 1933 Act.

B. The Noteholders are holders of the Company's Senior Secured Notes (the "**Existing Notes**") that were originally issued by the Company pursuant to either the Initial Purchase Agreement (as defined below), the Additional Purchase Agreement (as defined below), or the Senior Secured Note Amendment Agreement No. 1 (as defined below).

C. Each Noteholder is the beneficial owner of the principal amount of Existing Notes set forth opposite such Noteholder's name under the heading "Aggregate Principal Amount of Existing Notes" on the Schedule of Noteholders attached hereto as Exhibit A.

D. Pursuant to Section 6 of the Existing Notes, all Existing Notes may be amended with the written consent of all holders of Existing Notes.

E. The Company and the Noteholders desire to enter into this Agreement in order to amend and restate in their entirety, as of the date hereof, all Existing Notes outstanding as of the date hereof (the "**Amendment**"), with each Existing Note, as so amended and restated, to be in substantially in the form attached hereto as Exhibit B (the "**Amended Notes**").

F. As additional consideration for entering into the Amendment, the Company has agreed with each Noteholder to issue, (i) that aggregate number of shares of the voting Common Stock, par value $0.001 per share, of the Company (the "**Common Stock**"), set forth opposite such Noteholder's name on Exhibit A hereto under the heading "Shares" (which aggregate amount for all Noteholders together shall be 5,530,718 Shares (as defined below) and shall collectively be referred to herein as the "**Common Shares**") and (ii) a warrant, in substantially the form attached hereto as Exhibit C (each, a "**Warrant**" and collectively, the "**Warrants**") to acquire up to that number of additional shares of Common Stock set forth opposite such Noteholder's name on Exhibit A hereto under the heading "Warrant Shares" (which aggregate amount for all Noteholders together shall be 5,500,000 Shares issuable upon exercise of or otherwise pursuant to the Warrants, and shall collectively be referred to herein as the "**Warrant Shares**").

G. At the Closing (as defined below), the parties hereto shall execute and deliver a Registration Rights Agreement, in the form attached hereto as Exhibit D (the "**Registration Rights Agreement**"), pursuant to which the Company has agreed to provide certain registration rights with respect to the Registrable Securities (as defined in the Registration Rights Agreement), under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws.

H. The Amended Notes, Common Shares, the Warrants and the Warrant Shares issued pursuant to this Agreement are collectively are referred to herein as the "**Securities**."

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Noteholders agree as follows:

ARTICLE I
DEFINITIONS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms have the meanings indicated:

"**Additional Common Shares**" has the meaning set forth in Section 4.5.

"**Additional Purchase Agreement**" means the Note Purchase Agreement, dated as of June 26, 2017, by and among the Company and the "Investors" (as defined therein) as amended, restated or otherwise modified from time to time.

"**Affiliate**" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 144 under the 1933 Act.

"**Agent**" has the meaning set forth in the Security Agreement.

"**Aggregate Value**" means $8,296,077.

"**Board of Directors**" means the Company's board of directors.

"**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.

"**Buy-In Price**" has the meaning set forth in Section 4.1(d).

"**Cash Amendment Fee**" means $632,000.

"**Closing**" means the closing of the of the transactions contemplated by this Agreement pursuant to Section 2.1.

"**Closing Date**" means the date hereof.

"**Closing Price**" means, for any date, the closing price per share of the Common Stock for such date (or the nearest preceding date) on the primary Eligible Market or exchange or quotation system on which the Common Stock is then listed or quoted.

"**CoBank Debt Documents**" means all loan, security, and guarantee documents entered into among the Company and its Subsidiaries and CoBank, ACB pursuant to (i) that certain Credit Agreement dated as of September 15, 2017 between Illinois Corn Processing, LLC, Compeer Financial, PCA, as lender, and CoBank, ACB as cash management provider and agent (the "**CoBank ICP Credit Agreement**"); and (ii) that certain Credit Agreement dated as of December 15, 2016 among Pacific Ethanol Pekin, LLC, as the borrower, Compeer Financial, PCA, as the lender, and CoBank, ACB, as the agent, each such document as further amended, restated or modified in its entirety and in effect on the date hereof.

"**Company's Counsel**" means Troutman Sanders LLP.

"**Contingent Obligation**" has the meaning set forth in Section 3.1(x).

"**Convertible Securities**" means any stock or securities (other than Options) convertible into or exercisable or exchangeable for Common Stock.

"**Credit Agreements**" means, collectively, (i) the Credit Agreement by and among Pacific Aurora, LLC, Pacific Ethanol Aurora West, LLC, Pacific Ethanol Aurora East, LLC and CoBank, ACB and (ii) the Credit Agreement by and among Pacific Ethanol Pekin, Inc., 1st Farm Credit Services, PCA and CoBank, ACB.

"**Disclosure Materials**" has the meaning set forth in Section 3.1(g).

"**DTC**" has the meaning set forth in Section 4.1(c).

"**8-K Filing**" has the meaning set forth in Section 4.4.

"**Eligible Market**" means any of The New York Stock Exchange, The NYSE American, The Nasdaq Global Market, The Nasdaq Global Select Market or the Principal Market.

"**Environmental Laws**" has the meaning set forth in Section 3.1(aa).

"Excluded Securities" means the issuance of (a) shares of Common Stock or options to employees, officers or directors of the Company, or consultants to the Company, in their capacity as such pursuant to any stock or option plan or employment agreement duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose, (b) securities upon the exercise or exchange of or conversion of the securities issued hereunder or pursuant to the Warrants and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities, and (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities.

"**Floor Price**" means $1.50.

"**GAAP**" has the meaning set forth in Section 3.1(g).

"**Hazardous Materials**" has the meaning set forth in Section 3.1(aa).

"**Indebtedness**" has the meaning set forth in Section 3.1(x).

"**Initial Purchase Agreement**" means the Note Purchase Agreement, dated as of December 12, 2016, by and among the Company and each "Investor" (as defined therein) as amended, restated or otherwise modified from time to time.

"**Insolvent**" has the meaning set forth in Section 3.1(h).

"**Intellectual Property Rights**" has the meaning set forth in Section 3.1(q).

"**Lien**" means any lien, charge, claim, security interest, encumbrance, right of first refusal or other restriction.

"**Material Adverse Effect**" means (i) a material adverse effect on the results of operations, assets, business or financial condition of the Company and its Subsidiaries, taken as a whole on a consolidated basis or (ii) materially and adversely impair the Company's ability to perform its obligations under any of the Transaction Documents; *provided*, *however*, that none of the following alone shall be deemed, in and of itself, to constitute a Material Adverse Effect: (i) a change in the market price or trading volume of the Common Stock or (ii) changes in general economic conditions or changes affecting the industry in which the Company operates generally (as opposed to Company-specific changes) so long as such changes do not have a disproportionate effect on the Company and its Subsidiaries taken as a whole.

"**Material Permits**" has the meaning set forth in Section 3.1(s).

"**Material Subsidiaries**" means all of the Subsidiaries of the Company other than Kinergy Marketing LLC, Pacific Ag. Products, LLC, Pacific Ethanol Development, LLC, Pacific Ethanol Central, LLC, Pacific Ethanol Pekin, LLC, Pacific Ethanol Canton, LLC, Pacific Ethanol Aurora West, LLC, Pacific Ethanol Aurora East, LLC, Pacific Aurora, LLC and each of their respective direct and indirect subsidiaries.

"**Non-Public Information**" means material, non-public information relating to the Company.

"**Options**" means any outstanding rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities.

"**Payment in Kind Amendment Fee**" means $1,264,000.

"**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.

"**PIK Notes**" means those certain Senior Secured Notes originally issued by the Company pursuant to Senior Secured Note Amendment Agreement No. 1.

"**Principal Market**" means The NASDAQ Capital Market.

"**Required Holders**" means the holders of Amended Notes representing at least 66 2/3% of the aggregate principal amount of the Amended Notes then outstanding (excluding Amended Notes held by the Company or any of its Subsidiaries).

"**Rule 144**" and "**Rule 424**" means Rule 144 and Rule 424, respectively, promulgated by the SEC pursuant to the 1933 Act, as such Rules may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same effect as such Rule.

"**SEC**" means the Securities and Exchange Commission.

"**SEC Reports**" has the meaning set forth in Section 3.1(g).

"**Security Agreement**" means, collectively, (i) the Security Agreement dated as of December 15, 2016 by and among the Company, the holders identified therein and the Agent identified therein, as amended by the First Amendment to Security Agreement dated June 30, 2017 by and among the Company, holders identified therein and the Agent identified therein, and by the Security Agreement Amendment, and as may be further amended, restated, or otherwise modified from time to time.

"**Security Agreement Amendment**" means that certain Second Amendment to Security Agreement dated as of the date hereof by and among the Company, the holders identified therein and the Agent identified therein.

"**Senior Secured Note Amendment Agreement No. 1**" means the Senior Secured Note Amendment Agreement No. 1, dated as of December 16, 2019, by and among the Company and each "Noteholder" (as defined therein) as amended, restated or otherwise modified from time to time.

"**Share Delivery Date**" has the meaning set forth in Section 4.1(a).

"**Shares**" means shares of the Company's Common Stock.

"**Subsequent Placement**" means the issuance of any shares of Common Stock other than Excluded Securities.

"**Subsidiary**" means, with respect to any Person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at any time directly or indirectly owned by such Person.

"**Trading Day**" means (a) any day on which the Common Stock is listed or quoted and traded on its primary Trading Market, (b) if the Common Stock is not then listed or quoted and traded on any Eligible Market, then a day on which trading occurs on The NASDAQ Capital Market (or any successor thereto), or (c) if trading ceases to occur on The NASDAQ Capital Market (or any successor thereto), any Business Day.

"**Trading Market**" means the Principal Market or any other Eligible Market, or any national securities exchange, market or trading or quotation facility on which the Common Stock is then listed or quoted.

"**Transaction Documents**" means this Agreement, the schedules and exhibits attached hereto, the Amended Notes, the Warrants, the Registration Rights Agreement, the Transfer Agent Instructions and the Security Agreement.

"**Transfer Agent**" means American Stock Transfer & Co, LLC, or any successor transfer agent for the Company.

"**Transfer Agent Instructions**" means, with respect to the Company, the Irrevocable Transfer Agent Instructions, in the form of Exhibit E, executed by the Company and delivered to and acknowledged in writing by the Transfer Agent.

ARTICLE II
ISSUANCE OF SECURITIES

2.1 Closing. Subject to the terms and conditions set forth in this Agreement, at the Closing, or at such other time after the Closing as noted below or as may be requested in writing by a Noteholder, the Company shall issue to each Noteholder, and each Noteholder shall, severally and not jointly, acquire from the Company, (i) an Amended Note in the principal amount set forth opposite such Noteholder's name on Exhibit A hereto under the heading "Principal Amount of Amended Note," (ii) such number of Common Shares set forth opposite such Noteholder's name on Exhibit A hereto under the heading "Shares", and (iii) a Warrant representing that number of Warrant Shares set forth opposite such Noteholder's name on Exhibit A hereto under the heading "Warrant Shares." The date and time of the Closing shall be 10:00 a.m., New York City time, on the Closing Date. The Closing shall take place at the offices of the Company's Counsel. The Company and the Noteholders hereby agree that effective as of the Closing, all the Existing Notes outstanding as of the Closing shall be amended, restated, exchanged, replaced and superseded in their entirety by the Amended Notes, and all Existing Notes shall be deemed cancelled in their entirety, to cease to exist and to be of no further force and effect.

2.2 Closing Deliveries.

(a) At the Closing, or at such other time after the Closing as may be requested in writing by a Noteholder or set forth below, the Company shall deliver or cause to be delivered to each Noteholder the following:

(i) a duly executed Amended Note, free and clear of all restrictive and other legends (except as set forth in the form of Amended Note attached hereto), issued in the name of such Noteholder (or in the name of its nominee), evidencing the aggregate principal amount of Amended Note set forth opposite such Noteholder's name on Exhibit A hereto under the heading "Principal Amount of Amended Note," registered in the name of such Noteholder;

(ii) the Security Agreement Amendment, duly executed and delivered by the Company, the holders identified therein, and the Agent identified therein;

(iii) certificate evidencing the formation and good standing of the Company issued by the Secretary of State of the State of Delaware, as of a date within ten (10) days of the Closing Date;

(iv) certificate evidencing the formation and good standing of each Material Subsidiary issued by the Secretary of State of such Subsidiary's state of incorporation or formation, as of a date within ten (10) days of the Closing Date;

(v) a certificate executed by the Secretary of the Company and dated as of the Closing Date, certifying as to (a) the resolutions adopted by the Board of Directors approving this Agreement, (b) the Certificate of Incorporation of the Company, and (c) the Company's bylaws, as amended, each as in effect at the Closing;

(vi) a certificate executed by the Chief Executive Officer of the Company, dated as of the Closing Date, certifying the accuracy of the representation set forth in Section 3.1 (except as to representations that speak as of a specified date, in which case such representations shall be true and correct as of such specified date) and the satisfaction of each of the conditions set forth in Section 5.1(a) (except that such certification shall only be required with respect to the Company and not any Noteholder);

(vii) within five (5) business days of a Noteholder's request, one or more stock certificates, free and clear of all restrictive and other legends (except as expressly provided in Section 4.1(b)), evidencing such number of Shares set forth opposite such Noteholder's name on Exhibit A hereto under the heading "Shares," registered in the name of such Noteholder; such Shares shall, until such Noteholder's request, be issued in "book entry" form with the Company's transfer agent;

(viii) a duly executed Warrant, issued in the name of such Noteholder, pursuant to which such Noteholder shall have the right to acquire such number of Warrant Shares set forth opposite such Noteholder's name on Exhibit A hereto under the heading "Warrant Shares";

(ix) delivery of executed CoBank Debt Documents;

(x) duly executed Transfer Agent Instructions acknowledged by the Company's transfer agent;

(xi) a duly executed Registration Rights Agreement;

(xii) approval by each applicable Trading Market of an additional shares listing application covering all of the Registrable Securities; and

(xiii) at the election of the Company, either (1) the Cash Amendment Fee payable in cash, by wire transfer of immediately available funds to an account designated by the Noteholder at least two (2) Business Days prior to the Closing Date, in an amount equal to (A) x [(B)/(C)] where (A) equals the Amendment Fee, (B) equals the principal amount of such Noteholder's Existing Notes (not including any PIK Notes) and (C) equals the aggregate principal amount of all Existing Notes (not including any PIK Notes), or (2) the Payment in Kind Amendment Fee payable through an increase in the principal amount of such Noteholder's Amended Note in an amount equal to (A) x [(B)/(C)] where (A) equals the Amendment Fee, (B) equals the principal amount of such Noteholder's Existing Notes (not including any PIK Notes) and (C) equals the aggregate principal amount of all Existing Notes (not including any PIK Notes).

(b) At the Closing, each Noteholder shall deliver or cause to be delivered to the Company the following:

(i) a duly executed Warrant;

(ii) a duly executed Security Agreement Amendment;

(iii) a duly executed Registration Rights Agreement; and

(iv) such Noteholder's Existing Notes marked canceled.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. The Company hereby represents and warrants to the Noteholders and the Agent as follows (which representations and warranties shall be deemed to apply, where appropriate, to each Subsidiary of the Company):

(a) Subsidiaries. The Company has no Subsidiaries other than those listed inSchedule 3.1(a) hereto. The Company, directly or indirectly, owns 100% of the outstanding equity interests of the Material Subsidiaries. There are no outstanding options or other rights to purchase or receive equity interests of a Material Subsidiary. Except as disclosed in Schedule 3.1(a) hereto, the Company owns, directly or indirectly, all of the capital stock or comparable equity interests of each Material Subsidiary free and clear of any Lien and all the issued and outstanding shares of capital stock or comparable equity interest of each Material Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights. Except as set forth in Schedule 3.1(a) hereto, no Material Subsidiary is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such Material Subsidiary's capital stock or similar ownership interest, from repaying to the Company any loans or advances to such Material Subsidiary from the Company, or from transferring any of such Material Subsidiary's properties or assets to the Company or any other Material Subsidiary.

(b) Organization and Qualification. Each of the Company and the Subsidiaries is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization (as applicable), with the requisite legal authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to do business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect.

(c) Authorization; Enforcement. The Company has the requisite corporate authority to enter into and to consummate the transactions contemplated by each of the Transaction Documents to which it is a party and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of each of the Transaction Documents to which it is a party by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further consent or action is required by the Company, its Board of Directors or its stockholders. Each of the Transaction Documents to which it is a party has been (or upon delivery will be) duly executed by the Company and is, or when delivered in accordance with the terms hereof, will constitute, the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as may be limited by (i) applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors rights generally, and (ii) the effect of rules of law governing the availability of specific performance and other equitable remedies.

(d) No Conflicts. The execution, delivery and performance of the Transaction Documents to which it is a party by the Company and the consummation by the Company of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Securities) do not, and will not, (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any material agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound, or affected, or (iii) result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including, assuming the accuracy of the representations and warranties of the Noteholders set forth in Section 3.2 hereof, federal and state securities laws and regulations and the rules and regulations of any self-regulatory organization to which the Company or its securities are subject), or by which any property or asset of the Company or a Subsidiary is bound or affected.

(e) No Consents. Neither the Company nor any of its Subsidiaries is required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with (other than the filing of a Form D with the SEC and any filings as may be required by any state securities agencies), any court, governmental agency or any regulatory or self-regulatory agency or any other Person in order for the Company to execute, deliver or perform any of its obligations under or contemplated by the Transaction Documents, in each case in accordance with the terms hereof or thereof, except to the extent already obtained, given or made or as contemplated therein to be obtained, give or made after the date hereof.

(f) The Securities. The Securities have been duly authorized for issuance by the Company and, when duly executed, issued and delivered in accordance with the Transaction Documents, will constitute valid and binding obligations of the Company, entitled to the benefits of the Transaction Documents and enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors or by general equitable principles. The Common Shares and the Warrant Shares are duly authorized and, when issued and paid for in accordance with the Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens and will not be subject to preemptive or similar rights of stockholders (other than those imposed by the Noteholders). The Company has reserved from its duly authorized capital stock the maximum number of shares of Common Stock issuable upon exercise of the Warrants. The offer and issuance of the Securities to the Noteholders pursuant to the Agreement is exempt from the registration requirements of the 1933 Act.

(g) SEC Reports; Financial Statements. Except as set forth in Schedule 3.1(g) hereto, the Company has filed all reports required to be filed by it under the Securities Exchange Act of 1934, as amended (the "**1934 Act**"), including pursuant to Section 13(a) or 15(d) of the 1934 Act, for the 12 months preceding the date hereof on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension and has filed all reports required to be filed by it under the 1934 Act, including pursuant to Section 13(a) or 15(d) of the 1934 Act, for the two years preceding the date hereof. Such reports required to be filed by the Company under the 1934 Act, including pursuant to Section 13(a) or 15(d) of the 1934 Act, together with any materials filed or furnished by the Company under the 1934 Act, whether or not any such reports were required to be filed being collectively referred to herein as the "**SEC Reports**" and, together with this Agreement and the Schedules to this Agreement, the "**Disclosure Materials**." There are no unresolved comment letters from the Staff of the SEC. As of their respective dates, the SEC Reports filed by the Company complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder, and none of the SEC Reports, when filed by the Company, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the SEC with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("**GAAP**"), except as may be otherwise specified in such financial statements, the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP or may be condensed or summary statements, and fairly present in all material respects the consolidated financial position of the Company and its consolidated subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, year-end audit adjustments. All material agreements to which the Company or any Subsidiary is a party or to which the property or assets of the Company or any Subsidiary are subject are included as part of or identified in the SEC Reports, to the extent such agreements are required to be included or identified pursuant to the rules and regulations of the SEC.

(h) Since the date of the latest audited financial statements included within the SEC Reports, except as disclosed in the SEC Reports or in Schedule 3.1(h) hereto, (i) there has been no event, occurrence or development that, individually or in the aggregate, has had or that would result in a Material Adverse Effect, (ii) the Company has not incurred any material liabilities other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or required to be disclosed in filings made with the SEC, (iii) the Company has not altered its method of accounting or the changed its auditors, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders, in their capacities as such, or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock (except for repurchases by the Company of shares of capital stock held by employees, officers, directors, or consultants pursuant to an option of the Company to repurchase such shares upon the termination of employment or services), and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock-based plans. The Company has not taken any steps to seek protection pursuant to any bankruptcy law nor does the Company have any knowledge or reason to believe that its creditors intend to initiate involuntary bankruptcy proceedings or any actual knowledge of any fact which would reasonably lead a creditor to do so. The Company is not as of the date hereof, and after giving effect to the transactions contemplated hereby to occur at the applicable Closing, will not be Insolvent (as defined below). For purposes of this Section 3.1(h), "**Insolvent**" means (i) the present fair saleable value of the Company's assets is less than the amount required to pay the Company's total Indebtedness (as defined in Section 3.1(x)), (ii) the Company is unable to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured, (iii) the Company intends to incur or believes that it will incur debts that would be beyond its ability to pay as such debts mature or (iv) the Company has unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted.

(i) Absence of Litigation. Except as set forth in the SEC Reports or on Schedule 3.1(i) hereto, there is no action, suit, claim, or proceeding, or, to the Company's knowledge, inquiry or investigation, before or by any court, public board, government agency, self-regulatory organization (including the Principal Market) or body pending or, to the knowledge of the Company, threatened against or affecting the Company or any of its Subsidiaries that could, individually or in the aggregate, have a Material Adverse Effect.

(j) Compliance. Neither the Company nor any Subsidiary, except in each case as would not, individually or in the aggregate, reasonably be expected to have or result in a Material Adverse Effect, (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received written notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any order of any court, arbitrator or governmental body, or (iii) is or has been in violation of any statute, rule or regulation of any governmental authority.

(k) Title to Assets. Except as set forth on Schedule 3.1(k) hereto, the Company and the Subsidiaries have good and marketable title to all real property owned by them that is material to the business of the Company and the Subsidiaries and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for Liens that do not, individually or in the aggregate, have or result in a Material Adverse Effect. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases of which the Company and the Subsidiaries are in material compliance.

(l) No General Solicitation; Financial Advisor Fees. Neither the Company, nor any of its affiliates, nor any Person acting on its or their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D promulgated under the 1933 Act) in connection with the transactions contemplated by this Agreement including the exchange of Existing Notes for Amended Notes and the issuance of the Common Shares and the Warrants. The Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, or brokers' commission (other than for persons engaged by any Noteholder or its investment advisor) relating to or arising out of the issuance of the Securities pursuant to this Agreement. The Company shall pay, and hold each Noteholder harmless against, any liability, loss or expense (including, without limitation, reasonable attorney's fees and out-of-pocket expenses) arising in connection with any such claim for fees arising out of the issuance of the Amended Notes pursuant to this Agreement. The Company has engaged Guggenheim Securities, LLC as its financial advisor in connection with the transactions contemplated by this Agreement and the Company shall be responsible for any and all fees payable to Guggenheim Securities, LLC in connection with the transactions contemplated by this Agreement.

(m) Private Placement. Neither the Company nor any of its Affiliates nor, any Person acting on the Company's behalf has, directly or indirectly, at any time within the past six months, made any offer or sale of any security or solicitation of any offer to buy any security under circumstances that would (i) eliminate the availability of the exemption from registration under Regulation D under the 1933 Act in connection with the offer and issuance by the Company of the Securities as contemplated hereby or (ii) cause the offering of the Securities pursuant to the Transaction Documents to be integrated with prior offerings by the Company for purposes of any applicable law, regulation or stockholder approval provisions, including, without limitation, under the rules and regulations of any Trading Market. The Company is not required to be registered as, and is not an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company is not required to be registered as, a United States real property holding corporation within the meaning of the Foreign Investment in Real Property Tax Act of 1980.

(n) Listing and Maintenance Requirements. Except as set forth on Schedule 3.1(n) hereto, the Company has not, in the twelve months preceding the date hereof, received notice (written or oral) from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. Except as set forth on Schedule 3.1(n) hereto, the Company is in compliance with all such listing and maintenance requirements. The Company intends to undertake commercially reasonable efforts to maintain such listing of its Common Stock on the Principal Market. The issuance by the Company of the Amended Notes shall not have the effect of delisting or suspending the Common Stock from the Principal Market.

(o) Disclosure. Except for this Agreement, the Schedules to this Agreement, and information previously disclosed to the Noteholders in connection with or pursuant to the modifications to the Credit Agreements (the "**Disclosed Information**"), the Company confirms that neither it nor any officers, directors or Affiliates, has provided any of the Noteholders or their agents or counsel with any information that constitutes or might constitute Non-Public Information. The Company understands and confirms that each of the Noteholders will rely on the foregoing representations in effecting purchases and sales of securities of the Company. All disclosure provided by the Company to the Noteholders regarding the Company, its business and the transactions contemplated hereby, including the Schedules to this Agreement, furnished by or on the behalf of the Company are true and correct in all material respects and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. To the Company's knowledge, except for the transactions contemplated by this Agreement, no event or circumstance has occurred or information exists with respect to the Company or any of its Subsidiaries or its or their business, properties, operations or financial conditions, which, under applicable law, rule or regulation, requires public disclosure or announcement by the Company but which has not been so publicly announced or disclosed. The Company acknowledges and agrees that no Noteholder makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those set forth in the Transaction Documents.

(p) Acknowledgment Regarding Noteholders' Acquisition of Securities. Based upon the assumption that the transactions contemplated by this Agreement are consummated in all material respects in conformity with the Transaction Documents, the Company acknowledges and agrees that each of the Noteholders is acting solely in the capacity of an arm's length investor with respect to the Transaction Documents and the transactions contemplated hereby. The Company further acknowledges that no Noteholder is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated hereby and any advice given by any Noteholder or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated hereby and thereby is merely incidental to the Noteholders' acquisition of the Securities. The Company further represents to each Noteholder that the Company's decision to enter into this Agreement has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(q) Patents and Trademarks. Except as set forth in the SEC Reports or on Schedule 3.1(q) hereto, the Company and its Subsidiaries own, or possess adequate rights or licenses to use, all trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licenses, approvals, governmental authorizations, trade secrets and other intellectual property rights ("**Intellectual Property Rights**") necessary to conduct their respective businesses now conducted. None of the Company's Intellectual Property Rights have expired or terminated, or are expected to expire or terminate, within three years from the date of this Agreement. Except as set forth in the SEC Reports or on Schedule 3.1(q) hereto, the Company does not have any knowledge of any infringement by the Company or its Subsidiaries of Intellectual Property Rights of others. Except as disclosed in the SEC Reports, there is no claim, action or proceeding being made or brought, or to the knowledge of the Company, being threatened, against the Company or its Subsidiaries regarding its Intellectual Property Rights.

(r) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses and location in which the Company and the Subsidiaries are engaged.

(s) Licenses and Permits. Except as disclosed on Schedule 3.1(s), the Company and the Subsidiaries possess all certificates, authorizations, approvals, licenses and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports ("**Material Permits**"), except where the failure to possess such permits does not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, all such Material Permits are valid and in full force and effect and, except as disclosed on Schedule 3.1(s), the Company and its Subsidiaries are in compliance with the terms and conditions of all such Material Permits and, except as disclosed on Schedule 3.1(s), neither the Company nor any Subsidiary has received any written notice of proceedings relating to the revocation or modification of any Material Permit.

(t) Transactions With Affiliates and Employees. Except as set forth or incorporated by reference in the Company's SEC Reports, none of the officers, directors, employees or Affiliates of the Company is presently a party to any transaction that would be required to be reported on Form 10-K with the Company or any of its subsidiaries (other than for ordinary course services as employees, officers or directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any such officer, director or employee or, to the Company's knowledge, any corporation, partnership, trust or other entity in which any such officer, director, employee or Affiliate has a substantial interest or is an officer, director, trustee or partner.

(u) Internal Accounting Controls. Except as set forth in the Company's SEC Reports, the Company and its consolidated subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(v) Sarbanes-Oxley Act. Except as set forth in the Company's SEC Reports, the Company is in compliance in all material respects with applicable requirements of the Sarbanes-Oxley Act of 2002 and applicable rules and regulations promulgated by the SEC thereunder, except where such noncompliance would not have, individually or in the aggregate, a Material Adverse Effect.

(w) Foreign Corrupt Practices. Neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or other Person acting on behalf of the Company or any of its Subsidiaries has, in the course of its actions for, or on behalf of, the Company (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

(x) Indebtedness. Except as disclosed in the SEC Reports and inSchedule 3.1(x), neither the Company nor any of its Subsidiaries (i) has any outstanding Indebtedness (as defined below), (ii) is in violation of any term of or in default under any contract, agreement or instrument relating to any Indebtedness, except where such violations and defaults would not result, individually or in the aggregate, in a Material Adverse Effect, or (iii) is a party to any contract, agreement or instrument relating to any Indebtedness, the performance of which, in the judgment of the Company's officers, has or is expected to have a Material Adverse Effect. Schedule 3.1(x) provides a description of the terms of any such outstanding Indebtedness. For purposes of this Agreement: (x) "**Indebtedness**" of any Person means, without duplication (A) all indebtedness for borrowed money, (B) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (other than trade payables entered into in the ordinary course of business), (C) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (D) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (E) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (F) all monetary obligations under any leasing or similar arrangement which, in connection with generally accepted accounting principles, consistently applied for the periods covered thereby, is classified as a capital lease, (G) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any equity interests in such Person or any other Person or any warrants, rights or options to acquire such equity interests, valued, in the case of redeemable preferred interests, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (H) all indebtedness referred to in clauses (A) through (G) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (I) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (A) through (H) above; and (y) "**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(y) Employee Relations. Except as set forth on Schedule 3.1(y) hereto, Neither Company nor any of its Subsidiaries is a party to any collective bargaining agreement or employs any member of a union. The Company believes that its relations with its employees are as disclosed in the SEC Reports. Except as disclosed in the SEC Reports, during the period covered by the SEC Reports, no executive officer of the Company or any of its Subsidiaries (as defined in Rule 501(f) of the 1933 Act) has notified the Company or any such Subsidiary that such officer intends to leave the Company or any such Subsidiary or otherwise terminate such officer's employment with the Company or any such Subsidiary. To the knowledge of the Company or any such Subsidiary, no executive officer of the Company or any of its Subsidiaries is in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant, and the continued employment of each such executive officer does not subject the Company or any such Subsidiary to any liability with respect to any of the foregoing matters.

(z) Labor Matters. The Company and its Subsidiaries are in compliance in all material respects with all federal, state, local and foreign laws and regulations respecting labor, employment and employment practices and benefits, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(aa) Environmental Laws. Except as set forth in the SEC Reports or on Schedule 3.1(aa) hereto, the Company and its Subsidiaries (i) are in compliance in all material respects with any and all Environmental Laws (as hereinafter defined), (ii) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) are in compliance in all material respects with all terms and conditions of any such permit, license or approval where, in each of the foregoing clauses (i), (ii) and (iii), the failure to so comply would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. The term "**Environmental Laws**" means all federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "**Hazardous Materials**") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder.

(bb) Subsidiary Rights. The Company or one of its Subsidiaries has the unrestricted right to vote, and (subject to limitations imposed by applicable law) to receive dividends and distributions on, all capital securities of its Subsidiaries as owned by the Company or such Subsidiary.

(cc) Tax Status. The Company and each of its Subsidiaries (i) has made or filed all foreign, federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and (iii) has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim.

(dd) Ranking of Amended Notes. No Indebtedness of the Company is senior to or ranks *pari passu* with the Amended Notes in right of payment, whether with respect of payment of redemptions, interest, damages or upon liquidation or dissolution or otherwise.

(ee) No "Bad Actor" Disqualification. The Company has exercised reasonable care, in accordance with SEC rules and guidance, and has conducted a factual inquiry, the nature and scope of which reflect reasonable care under the relevant facts and circumstances, to determine whether any Covered Person (as defined below) is subject to any of the "bad actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the 1933 Act ("**Disqualification Events**"). To the Company's knowledge, after conducting such sufficiently diligent factual inquiries, no Covered Person is subject to a Disqualification Event, except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3) under the 1933 Act. The Company has complied, to the extent applicable, with any disclosure obligations under Rule 506(e) under the 1933 Act. "**Covered Persons**" are those persons specified in Rule 506(d)(1) under the 1933 Act, including the Company; any predecessor or affiliate of the Company; any director, executive officer, other officer participating in the offering, general partner or managing member of the Company; any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power; any promoter (as defined in Rule 405 under the 1933 Act) connected with the Company in any capacity at the time of the issuance of the Amended Notes; and any person that has been or will be paid (directly or indirectly) remuneration in connection with the issuance of the Amended Notes (a "**Solicitor**"), any general partner or managing member of any Solicitor, and any director, executive officer or other officer participating in the offering of any Solicitor or general partner or managing member of any Solicitor..

3.2 Representations and Warranties of the Noteholders. Each Noteholder hereby, as to itself only and for no other Noteholder, represents and warrants to the Company as follows:

(a) Organization; Authority. Such Noteholder is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with the requisite corporate, partnership or other power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The acquisition by such Noteholder of the Securities hereunder has been duly authorized by all necessary action on the part of such Noteholder. This Agreement has been duly executed and delivered by such Noteholder and constitutes the valid and binding obligation of such Noteholder, enforceable against it in accordance with its terms, except as may be limited by (i) applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors rights generally, and (ii) the effect of rules of law governing the availability of specific performance and other equitable remedies.

(b) No Public Sale or Distribution. Such Noteholder is acquiring the Securities in the ordinary course of business for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof, except pursuant to sales registered under the 1933 Act or under an exemption from such registration and in compliance with applicable federal and state securities laws, and such Noteholder does not have a present arrangement to effect any distribution of the Securities to or through any person or entity; *provided*, *however*, that by making the representations herein, such Noteholder does not agree to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption under the 1933 Act.

(c) Noteholder Status. At the time such Noteholder was offered the Securities, it was, and at the date hereof it is, an "accredited investor" as defined in Rule 501(a) under the 1933 Act or a "qualified institutional buyer" as defined in Rule 144A(a) under the 1933 Act.

(d) Experience of Such Noteholder. Such Noteholder, either alone or together with its representatives has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Noteholder understands that it must bear the economic risk of this investment in the Securities, and is able to bear such risk and is able to afford a complete loss of such investment.

(e) Access to Information. Such Noteholder acknowledges that it has reviewed the Disclosure Materials and has been afforded: (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information (other than Non-Public Information) about the Company and the Subsidiaries and their respective financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. Neither such inquiries nor any other investigation conducted by or on behalf of such Noteholder or its representatives or counsel shall modify, amend or affect such Noteholder's right to rely on the truth, accuracy and completeness of the Disclosure Materials and the Company's representations and warranties contained in the Transaction Documents. Such Noteholder acknowledges receipt of copies of the SEC Reports.

(f) No Governmental Review. Such Noteholder understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities nor have such authorities passed upon or endorsed the merits of the offering of the Securities.

(g) No Conflicts. The execution, delivery and performance by such Noteholder of this Agreement and the consummation by such Noteholder of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of such Noteholder or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which such Noteholder is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to such Noteholder, except in the case of clauses (ii) and (iii) above, for such that are not material and do not otherwise affect the ability of such Noteholder to consummate the transactions contemplated hereby.

(h) Restricted Securities. The Noteholders understand that the Securities are characterized as "restricted securities" under the U.S. federal securities laws inasmuch as they are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such securities may be resold without registration under the 1933 Act only in certain limited circumstances.

(i) Legends. It is understood that, (i) except as provided in Section 4.1(b) of this Agreement, certificates evidencing Common Shares and Warrant Shares shall bear the legend set forth in Section 4.1(b), and (ii) the Amended Notes shall bear the legend set forth on the cover page of the Form of Amended Note attached hereto as Exhibit B.

(j) No "Bad Actor" Disqualification. Any Noteholder that is a Covered Person is not subject to any Disqualification Event.

(k) No Legal, Tax or Investment Advice. Such Noteholder understands that nothing in this Agreement or any other materials presented by or on behalf of the Company to the Noteholder in connection with the acquisition of the Securities constitutes legal, tax or investment advice. Such Noteholder has consulted such legal, tax and investment advisors as it, in its sole discretion, has deemed necessary or appropriate in connection with its acquisition of the Securities.

ARTICLE IV
OTHER AGREEMENTS OF THE PARTIES

4.1 Transfer Restrictions.

(a) The Noteholders covenant that the Securities will only be disposed of pursuant to an effective registration statement under, and in compliance with the requirements of, the 1933 Act or pursuant to an available exemption from the registration requirements of the 1933 Act, and in compliance with any applicable state securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or to the Company, the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration under the 1933 Act. Notwithstanding the foregoing, the Company hereby consents to and agrees to register on the books of the Company and with its transfer agent, without any such legal opinion, except to the extent that the transfer agent requests such legal opinion, any transfer of Securities by a Noteholder to an Affiliate of such Noteholder, provided that the transferee certifies to the Company that it is an "accredited investor" as defined in Rule 501(a) under the 1933 Act and provided that such Affiliate does not request any removal of any existing legends on any certificate evidencing the Securities.

(b) The Noteholders agree to (i) the imprinting of the legend set forth on the cover page of the Form of Amended Note attached hereto as Exhibit B, and (ii) the imprinting, so long as is required by this Section 4.1(b), of the following legend and/or other substantially similar legends on any certificate evidencing any of the Common Shares, the Warrant and the Warrant Shares:

[NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE [EXERCISABLE] HAVE BEEN][THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN] REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL TO THE HOLDER (IF REQUESTED BY THE COMPANY), IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD OR ELIGIBLE TO BE SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

(c) Certificates evidencing the Common Shares and/or the Warrant Shares shall not be required to contain the legend set forth in Section 4.1(b) above or any other legend (i) while a registration statement covering the resale of such Securities is effective under the 1933 Act, (ii) following any sale of such Securities pursuant to Rule 144 (assuming the transferor is not an affiliate of the Company), (iii) if such Securities (including the Securities underlying such Securities) are eligible to be sold, assigned or transferred without restriction (including, without limitation, volume limitations) pursuant to Rule 144 (taking account of any Staff position with respect to "affiliate" status) and without the need for current public information required by Rule 144(c)(1) (or Rule 144(i)(2), if applicable) (provided that a Noteholder provides the Company with reasonable assurances that such Securities are eligible for sale, assignment or transfer under Rule 144 which shall not include an opinion of counsel), (iv) in connection with a sale, assignment or other transfer (other than under Rule 144), provided that such Noteholder provides the Company with an opinion of counsel to such Noteholder, in a generally acceptable form, to the effect that such sale, assignment or transfer of the Securities may be made without registration under the applicable requirements of the 1933 Act or (v) if such legend is not required under applicable requirements of the 1933 Act (including, without limitation, controlling judicial interpretations and pronouncements issued by the SEC). If a legend is not required pursuant to the foregoing, the Company shall, at its own expense, no later than three (3) Trading Days following the delivery by a Noteholder to the Company or the Transfer Agent (with notice to the Company) of a legended certificate representing such Securities (endorsed or with stock powers attached, signatures guaranteed, and otherwise in form necessary to affect the reissuance and/or transfer, if applicable), together with any other deliveries from such Noteholder as may be required above in this Section 4.1(c), as directed by such Noteholder, either: (A) provided that the Company's transfer agent is participating in the Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program and such Securities are Warrant Shares, credit the aggregate number of shares of Common Stock to which such Noteholder shall be entitled to such Noteholder's or its designee's balance account with DTC through its Deposit Withdrawal at Custodian system or (B) if the Company's transfer agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to such Noteholder, a certificate representing such Securities that is free from all restrictive and other legends, registered in the name of such Noteholder or its designee (the date by which such credit is so required to be made to the balance account of such Noteholder's or such Noteholder's nominee with DTC or such certificate is required to be delivered to such Noteholder pursuant to the foregoing is referred to herein as the "**Share Delivery Date**").

(d) If the Company fails to so properly deliver such unlegended certificates or so properly credit the balance account of such Noteholder's or such Noteholder's nominee with DTC by the Share Delivery Date, and if on or after the Share Delivery Date such Noteholder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Noteholder of shares of Common Stock that such Noteholder anticipated receiving from the Company without any restrictive legend, then, in addition to all other remedies available to such Noteholder, the Company shall, within three (3) Trading Days after such Noteholder's request and in such Noteholder's sole discretion, either (i) pay cash to such Noteholder in an amount equal to such Noteholder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased (the "**Buy-In Price**"), at which point the Company's obligation to deliver such certificate or credit such Noteholder's balance account shall terminate, or (ii) promptly honor its obligation to deliver to such Noteholder a certificate or certificates or credit such Noteholder's DTC account representing such number of shares of Common Stock that would have been issued if the Company timely complied with its obligations hereunder and pay cash to such Noteholder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of Shares or Warrant Shares (as the case may be) that the Company was required to deliver to such Noteholder by the Share Delivery Date times (B) the Closing Price of the Common Stock on the Share Delivery Date.

(e) The Company will not object to and shall permit (except as prohibited by law) a Noteholder to pledge or grant a security interest in some or all of the Securities in connection with a bona fide margin agreement or other loan or financing arrangement secured by the Securities, and if required under the terms of such agreement, loan or arrangement, the Company will not object to and shall permit (except as prohibited by law) such Noteholder to transfer pledged or secured Securities to the pledges or secured parties. Except as required by law, such a pledge or transfer would not be subject to approval of the Company, no legal opinion of the pledgee, secured party or pledgor shall be required in connection therewith, and no notice shall be required of such pledge. Each Noteholder acknowledges that the Company shall not be responsible for any pledges relating to, or the grant of any security interest in, any of the Securities or for any agreement, understanding or arrangement between any Noteholder and its pledgee or secured party. At the appropriate Noteholder's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Securities may reasonably request in connection with a pledge or transfer of the Securities, including the preparation and filing of any required prospectus supplement under Rule 424(b)(3) of the 1933 Act or other applicable provision of the 1933 Act to appropriately amend the list of Selling Stockholders thereunder. Provided that the Company is in compliance with the terms of this Section 4.1(e), the Company's indemnification obligations pursuant to Section 6.4 shall not extend to any proceeding or losses arising out of or related to this Section 4.1(e).

4.2 Reporting Status. Until the date on which the Noteholders shall have sold all of the Registrable Securities, the Company shall timely file all reports required to be filed with the SEC pursuant to the 1933 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would no longer require or otherwise permit such termination.

4.3 Reservation of Securities. The Company shall maintain a reserve from its duly authorized shares of Common Stock for issuance pursuant to the Transaction Documents in such amount as may be required to fulfill its obligations to issue such Shares under the Transaction Documents. In the event that at any time the then authorized shares of Common Stock are insufficient for the Company to satisfy its obligations to issue such Shares under the Transaction Documents, the Company shall promptly take such actions as may be required to increase the number of authorized shares.

4.4 Securities Laws Disclosure; Publicity. On or before the second (2nd) Business Day following the date of this Agreement, the Company shall file a Current Report on Form 8-K disclosing (i)all the material terms of the transactions contemplated by the Transaction Documents and (ii) any of the Disclosed Information that would reasonably be deemed to constitute material non-public information in each case in the appropriate manner under the 1934 Act and attaching all the material Transaction Documents (including, without limitation, this Agreement (and all schedules to this Agreement), the Warrant Agreement and the Registration Rights Agreement (including all attachments, the "**8-K Filing**"). The Company shall not, and the Company shall cause each of its Subsidiaries and each of its and their respective officers, directors, employees and agents not to, except in compliance with the procedure set forth in Section 14 of the Amended Note, provide any Noteholder with any Non-Public Information regarding the Company or any of its Subsidiaries from and after the issuance of a press release without the express prior written consent of such Noteholder. In the event of a breach of any of the foregoing covenants or any of the covenants or agreements contained in the Transaction Documents by the Company, any of its Subsidiaries, or any of its or their respective officers, directors, employees and agents (as determined in the reasonable good faith judgment of such Noteholder), including without limitation the agreements contained in Section 14 of the Amended Notes, in addition to any other remedy provided herein or in the Transaction Documents, such Noteholder shall have the right to make a public disclosure, in the form of a press release, public advertisement or otherwise, of such breach or such Non-Public Information, as applicable, without the prior approval by the Company, any of its Subsidiaries, or any of its or their respective officers, directors, employees or agents. No Noteholder shall have any liability to the Company, any of its Subsidiaries, or any of its or their respective officers, directors, employees, stockholders or agents, for any such disclosure. Subject to the foregoing, neither the Company, its Subsidiaries nor any Noteholder shall issue any press releases or any other public statements with respect to the transactions contemplated hereby; *provided*, *however*, the Company shall be entitled, without the prior approval of any Noteholder, to make any press release or other public disclosure with respect to such transactions (i) in substantial conformity with the 8-K Filing and contemporaneously therewith and (ii) as is required by applicable law and regulations (provided that in the case of clause (i) each Noteholder shall be consulted by the Company in connection with any such press release or other public disclosure prior to its release). Without the prior written consent of the applicable Noteholder, the Company shall not (and shall cause each of its Subsidiaries and Affiliates to not) disclose the name of such Noteholder in any filing, announcement, release or otherwise; *provided*, *however*, that such Noteholder's name may be disclosed by the Company to the extent such disclosure is required in the 8-K Filing.

4.5 Anti-dilution Rights. In the event the Company shall at any time between the Closing Date and March 31, 2020, effect a Subsequent Placement for a consideration per share of Common Stock less than the Floor Price, then the Company shall issue to the Noteholders, concurrently with such Subsequent Placement, the number of shares of Common Stock as determined by dividing the Aggregate Value by the adjusted Floor Price determined in accordance with the following formula *less* 5,530,718 shares of Common Stock originally issued pursuant to this Agreement and any shares of Common Stock previously issued pursuant to this Section 4.5, rounded up to the nearest whole share (such additional shares of common stock, the "**Additional Common Shares**"):

$$PP_2 = PP_1 * (A + B) \div (A + C).$$

For purposes of the foregoing formula, the following definitions shall apply:

(a) "PP_2" shall mean the adjusted Floor Price in effect immediately after such Subsequent Placement;

(b) "PP_1" shall mean the Floor Price;

(c) "A" shall mean the number of shares of Common Stock outstanding immediately prior to such Subsequent Placement (treating for this purpose as outstanding all shares of Common Stock issuable upon exercise of Options and Convertible Securities outstanding immediately prior to such Subsequent Placement);

(d) "B" shall mean the number of shares of Common Stock that would have been issued if such Subsequent Placement had been issued at a price per share equal to PP_1 (determined by dividing the aggregate consideration received by the Company in respect of such Subsequent Placement by PP_1); and

(e) "C" shall mean the number of shares of Common Stock issued in such Subsequent Placement.

Any issuance of Additional Common Shares pursuant to this Section 4.5 shall be made the Noteholders pro rata in accordance with their respective original principal amounts of Amended Notes.

ARTICLE V
CONDITIONS

5.1 Conditions Precedent to the Obligations of the Noteholders. The obligation of each Noteholder to acquire the Securities at the Closing is subject to the satisfaction or waiver by such Noteholder, at or before the Closing, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Company contained herein shall be true and correct in all material respects as of the date when made and as of the Closing as though made on and as of such date.

(b) Performance. The Company and each other Noteholder shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by the Transaction Documents to be performed, satisfied or complied with by it at or prior to the Closing.

(c) Listing. The Common Shares and Warrant Shares (i) shall be designated for quotation or listed on the Trading Market, and (ii) shall not have been suspended, as of the Closing Date, by the SEC or the Trading Market from trading on the Trading Market.

(d) Consents and Approvals. The Company shall have obtained all governmental, regulatory or third party consents and approvals, if any, necessary for the issuance of the Securities (including, without limitation, the approval of the Trading Market with respect to the Common Shares and the Warrant Shares).

(e) No Material Adverse Effect. Between the execution of this Agreement and the Closing, no event or series of events (other than stock price fluctuations) shall have occurred which reasonably would be expected to have or result in a Material Adverse Effect.

(f) Closing Documents. Each Noteholder shall have received each document required to be delivered to such Noteholder pursuant to Section 2.2(a).

(g) Other Transactions. The conditions to the closing of the Credit Agreements shall have been satisfied or waived pursuant to the terms of each such Credit Agreement and the transactions contemplated to be consummated at the closing of such Credit Agreements shall be consummated at the Closing upon terms and conditions reasonably acceptable to the Noteholders.

5.2 Conditions Precedent to the Obligations of the Company. The obligation of the Company to issue the Securities at the Closing is subject to the satisfaction or waiver by the Company, at or before the Closing, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Noteholders contained herein shall be true and correct in all material respects as of the date when made and as of the Closing Date as though made on and as of such date.

(b) Performance. The Noteholders shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by the Transaction Documents to be performed, satisfied or complied with by the Noteholders at or prior to the Closing.

(c) Consents and Approvals. The Company shall have obtained all governmental, regulatory or third party consents and approvals, if any, necessary for the issuance of the Securities (including, without limitation, the approval of the Trading Market with respect to the Common Shares and the Warrant Shares).

(d) Closing Documents. Receipt by the Company of each document required to be delivered to it by the Noteholders pursuant to Section 2.2(b).

(e) Other Transactions. The conditions to the closing of the Credit Agreements shall have been satisfied or waived pursuant to the terms of each such Credit Agreement and the transactions contemplated to be consummated at the closing of such Credit Agreements shall be consummated at the Closing upon terms and conditions reasonably acceptable to the Noteholders.

ARTICLE VI
MISCELLANEOUS

6.1 [Intentionally Omitted]

6.2 Fees and Expenses. Except as expressly set forth in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement; *provided*, *however*, that, notwithstanding the foregoing, at the Closing, (i) the Company shall reimburse the Noteholders for reasonable fees and expenses paid by such Noteholders to counsel for the Noteholders in the amount not to exceed $100,000. The Company shall pay and reimburse its transfer agent for fees, stamp taxes and other taxes and duties levied in connection with the sale and issuance of their applicable Amended Notes.

6.3 Entire Agreement. The Transaction Documents, together with the Exhibits and Schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules. At or after the Closing, and without further consideration, the Company will execute and deliver to the Noteholders such further documents as may be reasonably requested in order to give practical effect to the intention of the parties under the Transaction Documents.

6.4 Indemnification. In consideration of each Noteholder's execution and delivery of the Transaction Documents and acquiring the Securities thereunder and in addition to all of the Company's other obligations under the Transaction Documents, the Company shall defend, protect, indemnify and hold harmless each Noteholder and all of their affiliates, stockholders, partners, members, officers, directors, employees and direct or indirect Noteholders and any of the foregoing Persons' agents or other representatives (including, without limitation, those retained in connection with the transactions contemplated by this Agreement) (collectively, the "**Indemnitees**") from and against any and all actions, causes of action, suits, claims, losses, costs, penalties, fees, liabilities and damages, and expenses in connection therewith (irrespective of whether any such Indemnitee is a party to the action for which indemnification hereunder is sought), and including reasonable attorneys' fees and disbursements (the "**Indemnified Liabilities**"), incurred by any Indemnitee as a result of, or arising out of, or relating to (a) any misrepresentation or breach of any representation or warranty made by the Company in the Transaction Documents or any other certificate, instrument or document contemplated hereby or thereby, (b) any breach of any covenant, agreement or obligation of the Company contained in the Transaction Documents or any other certificate, instrument or document contemplated hereby or thereby or (c) any cause of action, suit or claim brought or made against such Indemnitee by a third party (including for these purposes a derivative action brought on behalf of the Company) and arising out of or resulting from (i) the execution, delivery, performance or enforcement of the Transaction Documents or any other certificate, instrument or document contemplated hereby or thereby, or (ii) the status of such Noteholder as a Noteholder of the Company pursuant to the transactions contemplated by the Transaction Documents; *provided, however*, that no Noteholder will be entitled to indemnification hereunder for any Indemnified Liabilities resulting, as determined by a non-appealable judgement of a court of competent jurisdiction from (x) such Noteholder's material breach of applicable laws, rules or regulations, including, without limitation, any breach by such Noteholder of any federal or state securities laws, rules or regulations with respect to short sales or other hedging activities or (y) such Noteholder's material breach of any covenant, agreement or obligation of such Noteholder contained in the Transaction Documents or any other certificate, instrument or document contemplated hereby or thereby. To the extent that the foregoing undertaking by the Company may be unenforceable for any reason, the Company shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities that is permissible under applicable law.

6.5 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (a) the date of transmission, if such notice or communication is delivered via facsimile or email at the facsimile number or email address specified in this Section prior to 6:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile or email at the facsimile number or email address specified in this Section on a day that is not a Trading Day or later than 6:30 p.m. (New York City time) on any Trading Day, (c) the Trading Day following the date of deposit with a nationally recognized overnight courier service, or (d) upon actual receipt by the party to whom such notice is required to be given. The addresses, facsimile numbers and email addresses for such notices and communications are those set forth on the signature pages hereof, or such other address or facsimile number as may be designated in writing hereafter, in the same manner, by any such Person.

6.6 Amendments; Waivers. No provision of this Agreement may be amended or waived other than by an instrument in writing signed by the Company and the Required Holders, (and, in the case of Sections 2.2, 3.1, 3.2, 4.1 or 5.1, each affected Noteholder) provided that any party may give a waiver in writing as to itself. No consideration shall be offered or paid to any Noteholder to amend or consent to a waiver or modification of any provision of any of this Agreement unless the same consideration also is offered to all of the Noteholders.

6.7 Construction Headings. This Agreement shall be deemed to be jointly drafted by the Company and the Noteholders and shall not be construed against any Person as the drafter hereof. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement. Terms used in this Agreement and not defined herein but defined in the other Transaction Documents shall have the meanings ascribed to such terms on the Closing Date in such other Transaction Documents. Terms used in this Agreement in the singular have the same meaning in the plural, and vice-versa.

6.8 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Noteholders. Any Noteholder may assign its rights under this Agreement to any Person to whom such Noteholder assigns or transfers any Amended Notes, provided (i) such transferor agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company after such assignment, (ii) the Company is furnished with written notice of (x) the name and address of such transferee or assignee and (y) the Amended Notes with respect to which such registration rights are being transferred or assigned, (iii) following such transfer or assignment, the further disposition of such securities by the transferee or assignee is restricted under the 1933 Act and applicable state securities laws, (iv) such transferee agrees in writing to be bound, with respect to the transferred Amended Notes, by the provisions hereof that apply to the "Noteholders" and (v) such transfer shall have been made in accordance with the applicable requirements of this Agreement and with all laws applicable thereto.

6.9 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

6.10 Governing Law; Venue; Waiver of Jury Trial. This Agreement shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Agreement shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any such provision which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of this Agreement. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY**.

6.11 Survival. The representations and warranties, agreements and covenants contained herein shall survive the Closing until the Maturity Date (as defined in the Amended Notes). The provisions of Section 6.2 and 6.4 shall survive termination of this Agreement and repayment of the Amended Notes.

6.12 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that two or more parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or email attachment, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or email-attached signature page were an original thereof.

6.13 Severability. If any provision of this Agreement is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Agreement shall not in any way be affected or impaired thereby and the parties will attempt to agree upon a valid and enforceable provision that is a reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Agreement.

6.14 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) the Transaction Documents, whenever any Noteholder exercises a right, election, demand or option owed to such Noteholder by the Company under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then, prior to the performance by the Company of the Company's related obligation, such Noteholder may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights.

6.15 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and the execution by the holder thereof of a customary lost certificate affidavit of that fact and an agreement to indemnify and hold harmless the Company for any losses in connection therewith. The applicants for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs associated with the issuance of such replacement Amended Note.

6.16 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Noteholders and the Company will be entitled to seek specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations described in the foregoing sentence and hereby agrees to waive in any action for specific performance of any such obligation (other than in connection with any action for temporary restraining order) the defense that a remedy at law would be adequate.

6.17 Payment Set Aside. To the extent that the Company makes a payment or payments to any Noteholder hereunder or any Noteholder enforces or exercises its rights hereunder or thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company by a trustee, receiver or any other person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

6.18 Adjustments in Share Numbers and Prices. In the event of any stock split, subdivision, dividend or distribution payable in shares of Common Stock (or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly shares of Common Stock), combination or other similar recapitalization or event occurring after the date hereof and prior to the Closing, each reference in any Transaction Document to a number of shares or a price per share shall be amended to appropriately account for such event.

6.19 Independent Nature of Noteholders' Obligations and Rights. The obligations of each Noteholder under the Transaction Documents are several and not joint with the obligations of any other Noteholder, and no Noteholder shall be responsible in any way for the performance of the obligations of any other Noteholder under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Noteholder pursuant hereto or thereto, shall be deemed to constitute the Noteholders as, and the Company acknowledges that the Noteholders do not so constitute, a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Noteholders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by the Transaction Documents or any matters, and the Company acknowledges that the Noteholders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or the transactions contemplated by the Transaction Documents. The decision of each Noteholder to acquire Securities pursuant to the Transaction Documents has been made by such Noteholder independently of any other Noteholder. Each Noteholder acknowledges that no other Noteholder has acted as agent for such Noteholder in connection with such Noteholder making its investment hereunder and that no other Noteholder will be acting as agent of such Noteholder in connection with monitoring such Noteholder's investment in the Securities or enforcing its rights under the Transaction Documents. The Company and each Noteholder confirms that each Noteholder has independently participated with the Company in the negotiation of the transaction contemplated hereby with the advice of its own counsel and advisors. Each Noteholder shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of any other Transaction Documents, and it shall not be necessary for any other Noteholder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement to effectuate the acquisition of the Securities contemplated hereby was solely in the control of the Company, not the action or decision of any Noteholder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Noteholder. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Noteholder, solely, and not between the Company and the Noteholders collectively and not between and among the Noteholders.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Senior Secured Note Amendment Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

PACIFIC ETHANOL, INC.

By: /s/ Neil M. Koehler
Name: Neil M. Koehler
Title: President and Chief Executive Officer

Address for Notices:

400 Capitol Mall, Suite 2060
Sacramento, CA 95814
Facsimile No.: 916-403-2785
Telephone No.: 916-403-2130
Attn: Christopher W. Wright, Esq.

With a copy to:

Troutman Sanders LLP
5 Park Plaza, Suite 1400
Irvine, CA 92614-2545
Facsimile No.: 949-622-2739
Telephone No.: 949-622-2710
Attn: Larry A. Cerutti, Esq.

NOTEHOLDERS:

CWD Summit, LLC,
acting for and on behalf of
Candlewood Renewable Energy Series I

By: /s/ David Koenig
Name: David Koenig
Title: Authorized Signatory

Address for Notices:
555 Theodore Fremd Ave.
Suite C303
Rye, NY 10580

CKP South LLC

By: /s/ [illegible]
Name:
Title:

Address for Notices:
400 South Ave.
New Canaan, CT 06840

Corrum Capital Alternative Income Fund LP

By: /s/ [illegible]
Name:
Title:

Address for Notices:

CIF-Income Partners (A), LLC

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Orange 2015 DisloCredit Fund, L.P.

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Sainsbury's Credit Opportunities Fund, Ltd.

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Co-Investment Income Fund, L.P. -
US Taxable Series

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Co-Investment Income Fund, L.P. -
US Tax-Exempt Series

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Exhibit A

Schedule of Noteholders

Noteholder	Aggregate Principal Amount of Existing Notes	Principal Amount of Amended Note(1)	Shares	Warrant Shares
CWD Summit, LLC - acting for and on behalf of Candlewood Renewable Energy Series I	$ 33,438,114.93	$ 34,094,566.90	2,872,350	2,856,397
CKP South LLC	$ 1,528,129.21	$ 1,558,129.21	131,267	130,538
Corrum Capital Alternative Income Fund LP	$ 2,546,882.02	$ 2,596,882.02	218,778	217,563
Orange 2015 DisloCredit Fund, L.P.	$ 14,440,533.61	$ 14,724,027.97	1,240,449	1,233,559
CIF Income Partners (A) LLC	$ 9,302,736.19	$ 9,485,366.09	799,110	794,671
Sainsbury's Credit Opportunities Fund LTD	$ 1,203,378.03	$ 1,227,002.57	103,371	102,797
Co-Investment Income Fund, L.P. - US Taxable Series	$ 804,390.48	$ 820,182.15	69,097	68,714
Co-Investment Income Fund, L.P. - US Tax-Exempt Series	$ 1,121,013.44	$ 1,143,021.00	96,296	95,761
Total	**$ 64,385,177.91**	**$ 65,649,177.91**	**5,530,718**	**5,500,000**

(1) As adjusted pursuant to Section 2.2(a)(viii)(2).

Exhibit B

Form of Amended Note

[Attached]

Exhibit C

Form of Warrant Agreement

[Attached]

Exhibit D

Form of Registration Rights Agreement

[Attached]

Exhibit E

Form of Transfer Agent Instructions

[Attached]

[Company letterhead]

December 20, 2019

VIA E-MAIL

American Stock Transfer & Trust Co, LLC
6201 15th Avenue
Brooklyn, New York 11219
Attn: William Torre

Re: Transfer Agent Instructions

Dear Mr. Torre:

Reference is made to that certain Senior Secured Note Amendment Agreement, dated as of December 20, 2019 (the "**Agreement**"), by and among Pacific Ethanol, Inc., a Delaware corporation (the "**Company**"), and the noteholders named therein (collectively, the "**Noteholders**"), pursuant to which the Company is issuing to the Noteholders (i) shares of voting common stock of the Company, $0.001 par value per share (the "**Common Stock**"), and (ii) the Warrants (as defined in the Agreement), which are exercisable for shares of Common Stock. The transactions contemplated by the Agreement are scheduled to close on December 20, 2019 (the "**Closing**").

This letter shall serve as our irrevocable authorization and direction to you (provided that you are the transfer agent of the Company at such time):

(i) to issue an aggregate of 5,530,718 shares of Common Stock (collectively, the "**Common Shares**") to the Noteholders and deliver to each Noteholder within five (5) Business Days (as such term is defined in the Agreement) following the Closing one or more stock certificates evidencing such number of shares, and to deliver the same at such Noteholder's address, as set forth opposite such Noteholder's name listed on Exhibit A attached hereto; and

(ii) to issue shares of Common Stock upon the exercise of the Warrants (the "**Warrant Shares**") to or upon the order of a Noteholder or the Company (as the case may be) from time to time upon delivery to you of a fully completed and executed Exercise Notice or Mandatory Exercise Notice (as the case may be) in the forms attached hereto as Exhibit B and Exhibit C, respectively.

The certificates representing the Common Shares and Warrant Shares to be issued as described above shall bear the following restrictive legend, as the issuance of stock has not been registered and we have agreed to use this specific legend language:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL TO THE HOLDER (IF REQUESTED BY THE COMPANY), IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD OR ELIGIBLE TO BE SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

You acknowledge and agree that so long as you have previously received (a) written confirmation from the Company's legal counsel that either (i) a registration statement covering resales of the Common Shares or the Warrant Shares has been declared effective by the Securities and Exchange Commission (the "**SEC**") under the Securities Act of 1933, as amended (the "**1933 Act**"), or (ii) that sales of the Common Shares and the Warrant Shares may be made in conformity with Rule 144 under the 1933 Act, and (b) if applicable, a copy of such registration statement, then, as promptly as practicable, you shall issue the certificates representing the Common Shares and/or the Warrant Shares (as the case may be), and such certificates shall not bear any legend restricting transfer of the Common Shares or the Warrant Shares (as the case may be) thereby and should not be subject to any stop-transfer restriction.

A form of written confirmation from the Company's outside legal counsel that a registration statement covering resales of the Common Shares and the Warrant Shares has been declared effective by the SEC under the 1933 Act is attached hereto as Exhibit D.

Please execute this letter in the space indicated to acknowledge your agreement to act in accordance with these instructions. Should you have any questions concerning this matter, please contact me at (916) 403-2130.

Very truly yours,

Pacific Ethanol, Inc.

Christopher W. Wright
Vice President, General Counsel & Secretary

THE FOREGOING TRANSFER AGENT INSTRUCTIONS ARE ACKNOWLEDGED AND AGREED TO ON

this 20th day of December, 2019

American Stock Transfer & Trust Co, LLC

By: _____

Name: _____

Title: _____

EXHIBIT A

Issuance of Common Shares

Noteholder	Address*	Common Shares
CWD Summit, LLC - acting for and on behalf of Candlewood Renewable Energy Series I		2,872,350
CKP South LLC		131,267
Corrum Capital Alternative Income Fund LP		218,778
Orange 2015 DisloCredit Fund, L.P.		1,240,449
CIF Income Partners (A) LLC		799,110
Sainsbury's Credit Opportunities Fund LTD		103,371
Co-Investment Income Fund, L.P. - US Taxable Series		69,097
Co-Investment Income Fund, L.P. - US Tax-Exempt Series		96,296
Total		**5,530,718**

* See separate transfer agent spreadsheet and uploaded information.

EXHIBIT B

EXERCISE NOTICE

TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS

WARRANT TO PURCHASE COMMON STOCK

PACIFIC ETHANOL, INC.

The undersigned holder (the "**Holder**") hereby exercises the right to purchase _____ shares of Common Stock ("**Warrant Shares**") of **PACIFIC ETHANOL, INC.**, a Delaware corporation (the "**Company**"), evidenced by the attached Warrant to Purchase Common Stock (the "**Warrant**"). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Payment of Exercise Price. The Holder shall pay the Aggregate Exercise Price in the sum of $_____ to the Company in accordance with the terms of the Warrant.

2. Delivery of Warrant Shares. The Company shall deliver to the Holder _____ Warrant Shares in accordance with the terms of the Warrant. Delivery shall be made to the Holder, or for its benefit, to the following address:

_____

_____

Date: _____ __, _____

_____
Name of Registered Holder

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

The Company hereby acknowledges this Exercise Notice and hereby directs American Stock Transfer & Trust Co., LLC to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated _____, 20__ from the Company and acknowledged and agreed to by American Stock Transfer & Trust Co., LLC.

PACIFIC ETHANOL, INC

By: _____

Name: _____

Title: _____

EXHIBIT C

MANDATORY EXERCISE NOTICE

TO BE EXECUTED BY PACIFIC ETHANOL, INC. TO CAUSE THE EXERCISE OF THIS

WARRANT TO PURCHASE COMMON STOCK

Pacific Ethanol, Inc., a Delaware corporation (the "**Company**"), hereby exercises its right to require the below-named holder (the '**Holder**") to purchase _____ shares of Common Stock ("**Warrant Shares**") of the Company evidenced by the attached Warrant to Purchase Common Stock (the "**Warrant**"). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Payment of Exercise Price. The Holder shall pay the Aggregate Exercise Price in the sum of $_____ to the Company in accordance with the terms of the Warrant.

2. Delivery of Warrant Shares. The Company shall deliver to the Holder _____ Warrant Shares in accordance with the terms of the Warrant. Delivery shall be made to the Holder, or for its benefit, to the following address:

_____

_____

Date: _____ __, _____

_____
Name of Registered Holder

PACIFIC ETHANOL, INC.

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

The Company hereby acknowledges this Mandatory Exercise Notice and hereby directs American Stock Transfer & Trust Co., LLC to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated _____, 20__ from the Company and acknowledged and agreed to by American Stock Transfer & Trust Co., LLC.

PACIFIC ETHANOL, INC.

By: _____

Name: _____

Title: _____

EXHIBIT D

FORM OF NOTICE OF EFFECTIVENESS
OF REGISTRATION STATEMENT

_____
_____
_____
Attention: _____

Re: Pacific Ethanol, Inc.

Ladies and Gentlemen:

We are counsel to Pacific Ethanol, Inc., a Delaware corporation (the "**Company**"), and have represented the Company in connection with that certain Senior Secured Note Amendment Agreement (the "**Note Amendment Agreement**") entered into by and among the Company and the Holders named therein (collectively, the "**Holders**") pursuant to which the Company issued to the Holders certain shares ("**Shares**") of the Company's common stock, $0.001 par value per share (the "**Common Stock**") and warrants ("**Warrants**") exercisable for shares of Common Stock, and may issue additional shares of Common Stock ("**Additional Common Shares**"). Pursuant to the Note Amendment Agreement, the Company also has entered into a Registration Rights Agreement with the Holders (the "**Registration Rights Agreement**") pursuant to which the Company agreed, among other things, to register the Registrable Securities (as defined in the Registration Rights Agreement), including the shares of Common Stock issuable pursuant to the terms of the Warrants ("**Warrant Shares**"), under the Securities Act of 1933, as amended (the "**1933 Act**"). In connection with the Company's obligations under the Registration Rights Agreement, on _____ ___, 20__, the Company filed a Registration Statement on Form [S-1] (File No. 333-_____) (the "**Registration Statement**") with the Securities and Exchange Commission (the "**SEC**") relating to the Registrable Securities which names each of the Holders as a selling security holder thereunder.

The names of the Selling Stockholders to whom this opinion relates and the numbers of Shares that each Selling Stockholder may resell under the Registration Statement are set forth under the column "Shares to be Offered" in the section of the Registration Statement and Prospectus entitled "Selling Stockholders" in the column "Shares to be Offered Pursuant to the Registration Statement." For purposes of this opinion, we have reviewed a copy of the Registration Statement and Prospectus, and such other and further information and documents as we have deemed advisable.

In connection with the foregoing, we have examined copies of resolutions of the Board of Directors of the Company, the securities described in the Registration Statement and such other agreements, instruments and documents as we have deemed relevant or necessary as a basis for the opinions hereinafter set forth. In making such examination, we have assumed the genuineness of all signatures on all original documents and the conformity to original documents of all copies submitted to us as conformed, photostat or other copies. As to matters of fact material to such opinions, we have, when relevant facts were not independently established, relied upon statements and certificates furnished to us.

Based upon and subject to the foregoing, we render the following opinions:

1. The Registration Statement has become effective under the Act, and to the best of our knowledge, no stop order suspending the effectiveness of the Registration Statement has been issued, and no proceedings for that purpose have been instituted or threatened.

2. The Shares are, and upon due issuance of the Additional Common Shares in accordance with the terms of the Note Amendment Agreement, the Additional Common Shares will be, and upon due exercise of the Warrants in accordance with their terms including receipt of the consideration therefor, the Warrant Shares will be, duly and validly issued, fully paid and non-assessable, and not subject to the preemptive rights of any stockholder of the Company.

As with any selling stockholders' registration statement, the Shares, any Additional Common Shares and the Warrant Shares are restricted securities, but may be sold pursuant to the Registration Statement. The normal restrictive legend appearing thereto may be removed following the sale of such securities or the placement in street name of the selling broker in contemplation of imminent sale with the understanding that, if the sale is not consummated, the certificates will be returned to you for relegending.

Notwithstanding the foregoing, we may in the future advise you as to certain institutional type investors or foreign investors from whose shares the restrictive legend may be removed prior to placement into street name based on their status.

Our opinion shall not apply to resales occurring during any period that we or the Company may advise you in writing that the Registration Statement is not current. In such event, no resales of Shares, Additional Common Shares or Warrant Shares by Selling Stockholders shall be effected pursuant to our opinion until we confirm that our opinion may again be relied upon to effect resales by Selling Stockholders.

This opinion is rendered to American Stock Transfer & Trust Company and is not to be relied upon by any other person. We undertake no responsibility to update this information to reflect facts occurring after the date hereof.

Very truly yours,

[ISSUER'S COUNSEL]

By: _____

SCHEDULE 3.1(a)
to Senior Secured Note Amendment Agreement

Subsidiaries

Kinergy Marketing LLC, an Oregon limited liability company
Pacific Ag Products, LLC, a California limited liability company
Oregon Trail Logistics, LLC, a Delaware limited liability company
Pacific Ethanol Development, LLC, a Delaware limited liability company
Pacific Ethanol Central, LLC, a Delaware limited liability company
Pacific Aurora, LLC, a Delaware limited liability company*
Pacific Ethanol Aurora East, LLC, a Delaware limited liability company*
Pacific Ethanol Aurora West, LLC, a Delaware limited liability company*
Illinois Corn Processing, LLC, a Delaware limited liability company
Pacific Ethanol Pekin, LLC, a Delaware limited liability company
Pacific Ethanol Canton, LLC, a Delaware limited liability company
PE Op. Co., a Delaware corporation
Pacific Ethanol West, LLC, a Delaware limited liability company
Pacific Ethanol Columbia, LLC, a Delaware limited liability company
Pacific Ethanol Madera LLC, a Delaware limited liability company
Pacific Ethanol Magic Valley, LLC, a Delaware limited liability company
Pacific Ethanol Stockton LLC, a Delaware limited liability company

(*) Pacific Ethanol, Inc. indirectly holds a 73.93% ownership interest in Pacific Aurora, LLC, which owns Pacific Ethanol Aurora East, LLC and Pacific Ethanol Aurora West, LLC.

SCHEDULE 3.1(g)
to Senior Secured Note Amendment Agreement

SEC Reports; Financial Statements

The Company has not timely filed its Current Report on Form 8-K for December 16, 2019.

SCHEDULE 3.1(h)
to Senior Secured Note Amendment Agreement

No Changes

None.

SCHEDULE 3.1(i)
to Senior Secured Note Amendment Agreement

Absence of Litigation

Schedule 3.1(s) to the Senior Secured Note Amendment Agreement is incorporated herein by reference.

SCHEDULE 3.1(j)
to Senior Secured Note Amendment Agreement

Compliance

Schedule 3.1(s) to the Senior Secured Note Amendment Agreement is incorporated herein by reference.

SCHEDULE 3.1(k)
to Senior Secured Note Amendment Agreement

Title to Assets

An enhanced property tax assessment and certain restrictive covenants encumbering the property located at 31470 Avenue 12, Madera, CA 93638 for the benefit of CleanFund Commercial PACE Capital, Inc. ("CleanFund") to secure CleanFund's financing for Pacific Ethanol Madera LLC in the maximum amount of $10,000,000.

Kinergy Marketing LLC's and Pacific Ag Products, LLC's obligations under the Second Amended and Restated Loan and Security Agreement dated August 2, 2017 among Kinergy Marketing LLC, Pacific Ag. Products, LLC, the parties thereto from time to time as Lenders, Wells Fargo Bank, National Association and Wells Fargo Capital Finance, LLC, as amended, are secured by a first-priority security interest in all of their assets.

Pacific Ethanol Pekin, LLC's obligations under the Credit Agreement dated December 15, 2016 among Pacific Ethanol Pekin, Inc., 1st Farm Credit Services, PCA and CoBank, ACB, are secured by a first-priority security interest in all of its assets.

Illinois Corn Processing, LLC's obligations under the Credit Agreement dated September 15, 2017 among Illinois Corn Processing, LLC, Compeer Financial, PCA and CoBank, ACB, are secured by a first-priority security interest in all of its assets.

The Company's obligations under the Existing Notes are secured pursuant to a Security Agreement dated December 15, 2016 (as amended) among the Company, Cortland Capital Market Services LLC and the holders of the Existing Notes.

SCHEDULE 3.1(n)
to Senior Secured Note Amendment Agreement

Listing and Maintenance Requirements

On July 17, 2019, the Company received a letter from the Listing Qualifications Department of the Nasdaq Stock Market ("Nasdaq") indicating that the closing bid price of the Company's common stock for the last 30 consecutive business days did not meet the minimum bid price of $1.00 per share required for continued listing on The Nasdaq Capital Market pursuant to Nasdaq Listing Rule 5550(a)(2). The letter also indicated that the Company will be provided with a compliance period of 180 calendar days, or until January 13, 2020, in which to regain compliance pursuant to Nasdaq Listing Rule 5810(c)(3)(A). The letter further provided that if, at any time during the 180-day period, the closing bid price of the Company's common stock is at least $1.00 for a minimum of ten consecutive business days, Nasdaq will provide the Company with written confirmation that it has achieved compliance with the minimum bid price requirement. If the Company does not regain compliance by January 13, 2020, an additional 180 days may be granted to regain compliance if the Company (i) meets the continued listing requirement for market value of publicly held shares and all other initial listing standards for The Nasdaq Capital Market (except for the bid price requirement) and (ii) provides written notice of its intention to cure the deficiency during the second 180-day compliance period.

SCHEDULE 3.1(q)
to Senior Secured Note Amendment Agreement

Patents and Trademarks

On May 24, 2013, GS CleanTech Corporation ("GS CleanTech"), filed a suit in the United States District Court for the Eastern District of California, Sacramento Division (Case No.: 2:13-CV-01042-JAM-AC), naming the Company as a defendant. On August 29, 2013, the case was transferred to the United States District Court for the Southern District of Indiana and made part of the pre-existing multi-district litigation involving GS CleanTech and multiple defendants. The suit alleged infringement of a patent assigned to GS CleanTech by virtue of certain corn oil separation technology in use at one or more of the ethanol production facilities in which the Company has an interest, including Pacific Ethanol Stockton LLC ("PE Stockton"), located in Stockton, California. The complaint sought preliminary and permanent injunctions against the Company, prohibiting future infringement on the patent owned by GS CleanTech and damages in an unspecified amount adequate to compensate GS CleanTech for the alleged patent infringement, but in any event no less than a reasonable royalty for the use made of the inventions of the patent, plus attorneys' fees. The Company answered the complaint, counterclaimed that the patent claims at issue, as well as the claims in several related patents, are invalid and unenforceable and that the Company is not infringing. The Company does not itself use any corn oil separation technology and may seek a dismissal on those grounds.

On March 17 and March 18, 2014, GS CleanTech filed suit naming as defendants two Company subsidiaries: PE Stockton and Pacific Ethanol Magic Valley, LLC ("PE Magic Valley") as defendants. The claims were similar to those filed against the Company in May 2013. These two cases were transferred to the multi-district litigation division in United States District Court for the Southern District of Indiana, where the case against the Company was pending. Although PE Stockton and PE Magic Valley do separate and market corn oil, the Company, PE Stockton and PE Magic Valley strongly disagree that either of the subsidiaries use corn oil separation technology that infringes the patent owned by GS CleanTech. In a January 16, 2015 decision, the District Court for the Southern District of Indiana ruled in favor of a stipulated motion for partial summary judgment for the Company, PE Stockton and PE Magic Valley finding that all of the GS CleanTech patents in the suit are invalid and, therefore, not infringed. GS CleanTech has said it will appeal this decision when the remaining claim in the suit has been decided. The only remaining claim alleged that GS CleanTech inequitably conducted itself before the United States Patent and Trademark Office when obtaining the patents at issue.

A trial in the District Court for the Southern District of Indiana was conducted in October 2015 on that single issue as well as whether GS CleanTech's behavior during prosecution of the patents rendered this an "exceptional case" which would allow the District Court to award the defendants reimbursement of their attorneys' fees expended for defense of the case.

On September 15, 2016, the District Court issued an Order finding that GS CleanTech, the inventors and GS CleanTech's counsel committed inequitable conduct in the prosecution of the GS CleanTech patents before the United States Patent and Trademark Office. As a result, the District Court issued a Final Judgment on September 15, 2016 dismissing with prejudice all of GS CleanTech's cases against the defendants, including the Company, PE Stockton and PE Magic Valley. The District Court's ruling of inequitable conduct results in the unenforceability of the GS CleanTech patents against third parties, and also enables the defendants to pursue reimbursement of their costs and attorneys' fees from GS CleanTech and its counsel. GS CleanTech subsequently appealed the District Court's finding that all of the GS CleanTech patents were invalid and its finding that the inventors and GS CleanTech's counsel committed inequitable conduct. The appeal was heard by the Court of Appeals for the Federal Circuit on December 3, 2019, and the Court's decision is pending.

SCHEDULE 3.1(s)
to Senior Secured Note Amendment Agreement

Licenses and Permits

On October 11, 2016, Pacific Ethanol Pekin, LLC ("PE Pekin") received a notice from the Illinois EPA ("IEPA"), citing a number of air quality violations. The notice arises out of self-reported deviations at the Dry Mill at Pekin in early 2016, specifically emissions from the Thermal Oxidizer (NOx), the CO2 Scrubber (VOM, Acetaldehyde), and the methanator flare. The Dry Mill was shut down in April 2016 primarily to address these issues, and among other things a new burner control system was installed in the boiler. All of the cited issues have been resolved except NOx emissions. PE Pekin has submitted an application for a permit modification, within whose parameters the Dry Mill will be able to operate without violating NOx standards. IEPA has agreed that the NOx issues can be resolved through the permit modification, and has suspended its enforcement action, pending processing of the application.

On January 8, 2018, PE Pekin was sued by the State of Illinois at the request of the IEPA alleging certain violations of the Company's waste water discharge permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). PE Pekin had invited the suit in order to preempt a citizen suit being prepared by the Sierra Club and Prairie Rivers Network. The suit arises out of self-reported deviations from temperature, chlorine and ammonia limits in the Company's National Pollutant Discharge Elimination System (NPDES) Permit. The chlorine and ammonia exceedances were transitory in nature and are not expected to be a serious issue. The thermal exceedances, however, were frequent during the summer months. PE Pekin has since obtained the results of a thermal mixing study, which provides the basis for the company to seek a modification of the Permit relaxing the thermal limits. On August 20, 2018, an agreed interim order was signed which stays the lawsuit and lays out the pathway to a final settlement of the case. On October 19, 2018, PE Pekin filed an application for an amendment to its NPDES Permit proposing alternate thermal limits based on the mixing zone study (which was approved the Bureau of Water's Water Quality Standards Unit by letter dated January 5, 2018). On August 20, 2018, the court entered an agreed Interim Order which stayed the proceedings. The Interim Order required PE Pekin to submit a proposed amendment to the facility's NPDES permit which, if approved by the IEPA, will modify the thermal limits in the permit so as to allow the facility to operate in compliance with the permit requirements. The order also requires PE Pekin to undertake certain initial remedial actions. PE Pekin has submitted the proposed permit amendment, which is currently under review by the IEPA.

On March 13, 2018, the manager of environmental compliance at the Pekin facility discovered irregularities in the record keeping and reporting at the facility owned by Illinois Corn Processing, LLC ("ICP"). The discrepancies were discovered during a review of ICP's records undertaken by the Pekin environmental manager in connection with a new assignment, namely his taking over for the former environmental manager at ICP who had resigned the previous week. The irregularities discovered by the manager were reported that day to the Site Manager and to the General Counsel of the Company. They conferred with outside counsel at Troutman Sanders LLP ("Troutman") later that day. In consultation with counsel, the General Counsel decided that ICP should engage independent experts to investigate the history of record keeping and environmental compliance at ICP. Troutman subsequently retained Ramboll US Corporation on ICP's behalf to perform a comprehensive NPDES compliance audit of the ICP facility. Based upon Ramboll's findings and the observations of Company management, there appears to have been a pattern of inaccurate and untruthful reporting which could lead to the imposition of civil penalties, and, if the conduct is found to have been intentional, criminal sanctions. ICP reported what was known to the US EPA on April 2, 2018 pursuant to US EPA Audit Policy (April 2000) 65 FR 19,618 (04/11/00), formally titled "Incentives for Self- Policing: Discovery, Disclosure, Correction and Prevention of Violation." On July 26, ICP submitted letters stating that corrective measures had been complete regarding all violations reported on April 2. ICP also reported that the Ramboll assessment had been completed and that further violations had been identified, and that ICP would be reporting these shortly. On July 27, ICP self-reported additional violations, including 2 categories of potential criminal violations. On January 23, 2019, ICP submitted its final report on these matters and certified final remediation of the self-reported water permit violations. In the meanwhile, counsel for ICP has met with the US EPA investigators looking into the potential criminal matters, and were apprised of US EPA's plans for further investigation. After interviewing the former ICP employees who were implicated in the falsifying of reports, US EPA notified ICP on December 16, 2019, that they had closed the criminal investigation with no further action. The decision does not affect any review by US EPA Region V's civil enforcement program, although under the circumstances, our counsel expects that the potential for civil action is low.

On October 1 and 4, 2018, the ICP and Pekin plants, respectively, received violation notices from US EPA citing the plants for a number of Clean Air Act violations. These were not unexpected as US EPA had previously made Section 114 information requests of both plants. The following violations are alleged:

PE Pekin violations:
1. MON violation at 3 Fiber Driers
2. MON violation at 4 Germ Driers
3. MON violation at 2 Gluten Driers
4. Photochemically reactive VOM under 35 IAC 215.302
5. Scrubbant Flow at Wet Mill CO2 Scrubber
6. Failure to control emissions at Fermentation Tanks (PRVs)
7. Max outlet gas temp, min scrubbant flow, min NaHSO4 for CO2 Scrubber
8. Failure to establish differential pressure operating range for CO2 Scubber
9. Failure to provide scrubbant flow and gas temp for Yeast Plant Scrubber
10. Failure to demonstrate compliance for Yeast Plant Scrubber

ICP violations:
1. Failure to comply with the MON
2. Failure to include excursion and corrective action in semi-annual report
3. Failure to maintain corrective action records for temp excursions

"MON" = Miscellaneous Organic NESHAP
"NESHAP = National Emission Standards for Hazardous Air Pollutants

A tolling agreement was put in place to allow for PE Pekin, ICP and US EPA to negotiate a resolution of the alleged violations. PE Pekin and counsel have met with US EPA on a number of occasions to discuss the applicability of the MON regulations to the fiber, germ and gluten driers and the Pekin facility. It has become clear that Region 5 of US EPA is seeking to extend the applicability of the MON by implementing a new, aggressive interpretation of the MON rules. The thrust is to bring the driers within the MON regime, with the possible implication that PE Pekin may be required to put emissions controls on the driers, depending on the classification of the driers as emission sources. At a conference with US EPA on October 4, 2019, PE Pekin offered to perform updated stack testing to determine the classification of driers, and US EPA agreed to that approach. The tolling agreement has been extended to June 30, 2020, to allow for stack testing and further discussions.

Our counsel has given us an estimate of the financial exposure for fines and penalties in this matter ranging from a worst case of $1,250,000 to a best case of $387,000, with a most likely case of $537,000. This estimate is based on guidelines published by US EPA.

SCHEDULE 3.1(x)
to Senior Secured Note Amendment Agreement

Indebtedness

None.

SCHEDULE 3.1(y)
to Senior Secured Note Amendment Agreement

Employee Relations

Pacific Ethanol Pekin, LLC is party to an Agreement with the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industry and Service Workers International Union Loan on behalf of Local 7-662, dated November 1, 2018, expiring October 31, 2022, covering the production employees at its Pekin facility.

Illinois Corn Processing, LLC is party to an Agreement with the United Food & Commercial Workers International Union, affiliated with the AFL-CIO & CLC, Distillery, Wine and Allied Workers Division, Local #4D, dated October 31, 2016, expiring October 31, 2021, covering the production employees at its ICP facility.

SCHEDULE 3.1(aa)
to Senior Secured Note Amendment Agreement

Environmental Laws

Schedule 3.1(s) to the Senior Secured Note Amendment Agreement is incorporated herein by reference.

THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL TO THE HOLDER (IF REQUESTED BY THE COMPANY), IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD OR ELIGIBLE TO BE SOLD PURSUANT TO AN EXEMPTION. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES. ANY TRANSFEREE OF THIS NOTE SHOULD CAREFULLY REVIEW THE TERMS OF THIS NOTE, INCLUDING SECTION 8 HEREOF.

Pacific Ethanol, Inc.

Amended and Restated Senior Secured Note

Note No.: [●]

Issuance Date: December 22, 2019 $[●]

FOR VALUE RECEIVED, Pacific Ethanol, Inc., a Delaware corporation (the "**Company**"), hereby promises to pay to the order of [●] or its registered assigns ("**Holder**") the amount set out above (as reduced pursuant to the terms hereof pursuant to redemption or otherwise, the "**Principal**") when due, whether upon the Maturity Date, acceleration, redemption or otherwise (in each case in accordance with the terms hereof) and to pay interest ("**Interest**") on any outstanding Principal (as defined above) at the applicable Interest Rate (as defined below) from the date set out above as the Issuance Date (the "**Issuance Date**") until the same becomes due and payable, whether upon the Maturity Date, acceleration, redemption or otherwise (in each case in accordance with the terms hereof). This Amended and Restated Senior Secured Note (including all Amended and Restated Senior Secured Notes issued in exchange, transfer or replacement hereof, this "**Note**") is one of an issue of Amended and Restated Senior Secured Notes issued pursuant to that certain Note Amendment Agreement (as defined below) (collectively, the " **Notes**") which Notes amend and restate in their entirety the Company's Existing Notes (as defined below) as of the Amendment Date (as defined below). Certain capitalized terms used herein are defined in Section 19.

THE OBLIGATIONS DUE UNDER THIS NOTE ARE SECURED BY (a) A SECURITY AGREEMENT DATED AS OF DECEMBER 15, 2016 AND AMENDED ON JUNE 30, 2017 (AS FURTHER AMENDED FROM TIME TO TIME, THE "SECURITY AGREEMENT") AND EXECUTED BY THE COMPANY FOR THE BENEFIT OF THE HOLDER, AND (b) THE OTHER COLLATERAL DOCUMENTS. ADDITIONAL RIGHTS OF THE HOLDER ARE SET FORTH IN THE SECURITY AGREEMENT AND THE OTHER COLLATERAL DOCUMENTS.

1. PAYMENTS OF PRINCIPAL.

1.1 Scheduled Payments. On March 31, June 30, September 30 and December 31 of each calendar year, commencing September 30, 2020, the Company shall pay to the Holder an amount in cash equal to (A) x [(B)/(C)] where (A) equals $5,000,000, (B) equals the Principal amount of this Note and (C) equals the aggregate Principal amount of all Notes ("**Scheduled Principal Payments**").

1.2 Mandatory Prepayments. (a) The foregoing notwithstanding, the Company shall prepay the Principal to the Holder within five (5) Business Days after the closing of any Sale in the amounts and proportions contemplated in the Intercreditor Agreement, which shall reflect the preferences and allocations set forth in Section 2.8(a) of the CoBank ICP Credit Agreement (as in effect on the date hereof without giving effect to any subsequent amendment or supplement thereto); or on the same basis as the foregoing in the event a Sale occurs prior to the signing of the Intercreditor Agreement.

(b) The foregoing notwithstanding, the Company shall prepay the Principal to the Holder within five (5) Business Days after, by using excess proceeds from, the refinancing of (i) a portion of the CoBank Debt in the same manner as sales proceeds are treated under Section 1.2(a) above; and (ii) all of the CoBank Debt in an amount equal to fifty percent (50%) of any excess proceeds from such refinancing.

All mandatory prepayments so made shall be applied to the Scheduled Principal Payments in the direct order of maturity. Each mandatory prepayment shall be paid together with accrued and unpaid Interest on such Principal.

1.3 Voluntary Prepayments. The Company may, at its sole option, at any time prior to the Maturity Date, prepay this Note, in whole or in part, on one (1) Business Day's prior written notice to the Holder, at a prepayment price equal to 102% of the amount of outstanding Principal so to be prepaid, together with accrued and unpaid Interest on such Principal, if any, through the date of such prepayment (collectively, the "**Prepayment Premium**"). For the avoidance of doubt, neither the Scheduled Principal Payments nor any mandatory prepayment shall be subject to the Prepayment Premium.

1.4 Payment on Maturity Date. On the Maturity Date, the Company shall pay to the Holder an amount in cash representing all outstanding Principal, together with all accrued and unpaid Interest and accrued and all other unpaid amounts hereunder.

1.5 Pro Rata Application. Any principal payments made pursuant to this Section 1 shall be applied pro rata to all of the Notes in accordance with the respective Principal amounts thereof.

2. PAYMENTS OF INTEREST; INTEREST RATE . Interest on this Note shall accrue at the applicable Interest Rate and shall commence accruing on the Issuance Date and Interest shall be computed on the basis of a 360-day year and twelve 30-day months and shall be payable in cash to the record Holder in arrears on March 15, June 15, September 15 and December 15 of each calendar year and ending on the repayment of the Note. All Interest paid with the respect to Holder's Existing Note (which this Note amends and restates) prior to the Amendment Date shall be credited for purposes of determining the Interest due under this Note and all accrued and unpaid Interest outstanding under the Holder's Existing Note immediately prior to the Amendment Date shall be accrued and unpaid Interest outstanding under this Note as of the Amendment Date. From and after the occurrence and during the continuance of any Event of Default, the applicable Interest Rate shall automatically be increased by two percent (2%) per annum above the Interest Rate otherwise applicable in accordance with the terms hereof, and all such interest shall be payable on demand. In the event that such Event of Default is subsequently cured, the adjustment referred to in the preceding sentence shall cease to be effective as of the date of such cure, provided that the Interest as calculated and unpaid at such increased rate during the continuance of such Event of Default shall continue to apply to the extent relating to the days after the occurrence of such Event of Default through and including the date of such cure of such Event of Default. Any payments made pursuant to this Section 2 shall be applied pro rata to the Notes in accordance with the respective Principal amounts thereof.

3. RIGHTS UPON EVENT OF DEFAULT.

3.1 Event of Default. Each of the following events shall constitute an "**Event of Default**":

(a) (i) the Company's failure to pay to the Holder on the Maturity Date all amounts then due and owing under the Note, including the outstanding Principal, all accrued but unpaid Interest and any other amounts which are then due and owing in accordance herewith, or (ii) the Company's failure to pay to the Holder any amount of Principal, Interest and any other amounts required to be paid hereunder as and when due hereunder and such failure remains uncured for a period of five (5) days;

(b) bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings for the relief of debtors shall be instituted by or against the Company or any Subsidiary and, if instituted against the Company or any Subsidiary by a third party, shall not be dismissed within sixty (60) days of their initiation;

(c) the commencement by the Company or any Subsidiary of a voluntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree, order, judgment or other similar document in respect of the Company or any Subsidiary in an involuntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable federal, state or foreign law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any Subsidiary or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the execution of a composition of debts, or the occurrence of any other similar federal, state or foreign proceeding, or the admission by it in writing of its inability to pay its debts generally as they become due, the taking of corporate action by the Company or any Subsidiary in furtherance of any such action or the taking of any action by any Person to commence a UCC foreclosure sale or any other similar action under federal, state or foreign law or of any substantial part of the Company's property or any substantial part of any Subsidiary's property;

(d) the entry by a court of (i) a decree, order, judgment or other similar document in respect of the Company or any Subsidiary of a voluntary or involuntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law or (ii) a decree, order, judgment or other similar document adjudging the Company or any Subsidiary as bankrupt or insolvent, or approving as properly filed a petition seeking liquidation, reorganization, arrangement, adjustment or composition of or in respect of the Company or any Subsidiary under any applicable federal, state or foreign law or (iii) a decree, order, judgment or other similar document appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any Subsidiary or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree, order, judgment or other similar document or any such other decree, order, judgment or other similar document unstayed and in effect for a period of thirty (30) consecutive days;

(e) a final judgment, judgments, any arbitration or mediation award or any settlement of any litigation or any other satisfaction of any claim made by any Person pursuant to any litigation, as applicable, (each a "**Judgment**", and collectively, the "**Judgments**") with respect to the payment of cash, securities and/or other assets with an aggregate fair market value in excess of $2,000,000 are rendered against, agreed to or otherwise accepted by, the Company and/or any of its Subsidiaries and which Judgments are not, within thirty (30) days after the entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within thirty (30) days after the expiration of such stay; provided, however, that any Judgment which is covered by insurance or an indemnity from a credit worthy party shall not be included in calculating the $2,000,000 amount set forth above so long as the Company provides the Holder written evidence of such insurance coverage or indemnity (which evidence shall be reasonably satisfactory to the Holder) to the effect that such Judgment is covered by insurance or an indemnity and the Company or such Subsidiary (as the case may be) will receive the proceeds of such insurance or indemnity prior to the later of (i) thirty (30) days after the issuance of such Judgment or (ii) any requirement to pay such Judgment;

(f) the Company and/or any Subsidiary, individually or in the aggregate, fails to pay, when due, or within any applicable grace period, any payment with respect to any Indebtedness in excess of $2,000,000 due to any third party or is otherwise in breach or violation of any agreement for monies owed or owing in an amount in excess of $2,000,000, which breach or violation results in the acceleration of amounts due thereunder or permits the other party thereto to accelerate amounts due thereunder;

(g) (i) any breach or failure in any respect by the Company to comply with any provision of Section 5.14 of this Note, or (ii) any breach or failure in any respect by the Company to comply with any provision of this Note or any other Transaction Document for thirty (30) days after delivery to the Company of notice of such breach or failure by or on behalf of a Secured Party (as defined in the Security Agreement) or the Agent (as defined in the Security Agreement) or thirty (30) days after an officer of the Company has knowledge of such breach or failure, unless such default is capable of cure but cannot be cured within such time frame and the Company is using best efforts to cure the same in a timely manner;

(h) any Material Adverse Change occurs (other than any Excluded Event) and is not otherwise cured within thirty (30) days of written notice thereof by the Required Holders;

(i) any provision of any Transaction Document (shall at any time for any reason (other than pursuant to the express terms thereof) ceases to be valid and binding on or enforceable against the parties thereto, or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Transaction Document to which it is a party, or any Lien created by the Security Agreement ceases to be enforceable and of the same effect and priority purported to be created thereby, other than as expressly permitted thereunder or thereunder;

(j) any Fundamental Transaction occurs without the prior written consent of the Required Holders;

(k) any Event of Default (as defined in the Security Agreement) occurs with respect to the Security Agreement;

(l) any Event of Default (as defined in any of the other Notes) occurs;

(m) a Default (as defined in the Waiver Agreement) occurs under the Waiver Agreement;

(n) any representation, warranty, certification or other statement of fact made or deemed made by or on behalf of the Company herein or in any other Transaction Document proves to have been false or misleading in any material respect on or as of the date made or deemed made; or

(o) any Subordinated Indebtedness ceases for any reason to be validly subordinated to the Indebtedness evidenced by this Note, or the Company, any Subsidiary or any holder thereof (or its trustee or agent) so asserts.

Upon the occurrence of an Event of Default with respect to any Note, the Company shall promptly deliver written notice thereof via facsimile, electronic mail and overnight courier (with next day delivery specified) (an "**Event of Default Notice**") to the Holder.

Notwithstanding anything to the contrary set forth above or elsewhere herein, the following Indebtedness and obligations, and any defaults with respect thereto, shall not constitute an Event of Default under Section 3.1(f) above: (i) any payments contested by the Company and/or such Subsidiary (as the case may be) in good faith by proper proceedings and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP and, with respect to any subsidiary, such default is otherwise resolved in a manner which does not result in a Material Adverse Change; and (ii) with respect to any Subsidiary, any default with respect to a non-recourse obligation and such default does not otherwise result in a Material Adverse Change.

3.2 If an Event of Default (other than an Event of Default specified in Section 3.1(b), (c) or (d) above) occurs, then the Holder may, by written notice to the Company, declare this Note to be forthwith due and payable, as to Principal, Interest, the Prepayment Premium and any other amounts due hereunder, whereupon this Note shall become forthwith due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Company. If any Event of Default specified in Section 3.1(b), (c) or (d) above occurs, the Principal of, accrued Interest, Prepayment Premium, and all other amounts on this Note and any other amounts due hereunder shall automatically forthwith become due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Company.

3.3 If any Event of Default occurs and is continuing, the Holder may pursue any available remedy to collect the payment of Principal, Interest, the Prepayment Premium, and any other amounts due under this Note or to enforce the performance of any provision of this Note. If an Event of Default occurs and is continuing, the holder of this Note may proceed to protect and enforce its rights by an action at law, suit in equity or other appropriate proceeding. No course of dealing and no delay on the part of the holder of this Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Note upon the holder hereof shall be exclusive of any other right, power or remedy referred to herein or now or hereafter available at law, in equity, by statute or otherwise.

3.4 Without limiting the generality of the foregoing, it is understood and agreed that, if the Notes are accelerated or otherwise become due prior to the Maturity Date, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), the Prepayment Premium shall constitute part of the obligations due with respect to this Note, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the Company and the Holder as to a reasonable calculation of the Holder's lost profits and damages as a result thereof. Any Prepayment Premium shall be presumed to be the liquidated damages sustained by the Holder as the result of the repayment, and the Company agrees that it is reasonable under the circumstances currently existing. The Prepayment Premium shall also be payable in the event this Note is satisfied or released by foreclosure (whether or not by power of judicial proceeding), deed in lieu of foreclosure, court order or by any other means. THE COMPANY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Company expressly agrees (to the fullest extent it may lawfully do so) that: (A) the Prepayment Premium is reasonable and is the product of an arm's-length transaction between sophisticated business people, ably represented by counsel; (B) the Prepayment Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) no portion of the Prepayment Premium represents unmatured interest within the meaning of 11 U.S.C. §502(b)(2); (D) there has been a course of conduct between the Holder and the Company giving specific consideration in this transaction for such agreement to pay the Prepayment Premium; and (E) the Company shall be estopped hereafter from claiming differently than as agreed to in this paragraph. The Company expressly acknowledges that its agreement to pay the Prepayment Premium to Holders as herein described is a material inducement to the Holder to enter into or otherwise accept this Note.

4. NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its certificate of incorporation, bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, and will at all times in good faith carry out all of the provisions of this Note and take all action as may be required to protect the rights of the Holder of this Note.

5. COVENANTS. Until all of the Notes have been redeemed or otherwise satisfied in accordance with their terms:

5.1 Rank. All payments due under this Note (a) shall rank *pari passu* with all other Notes and (b) shall be senior to all other Indebtedness of the Company (excluding any other Permitted Indebtedness of the Company).

5.2 Incurrence of Indebtedness. The Company shall not, and the Company shall cause each of its Subsidiaries and Excluded Subsidiaries to not, directly or indirectly, incur or guarantee, assume or suffer to exist any Indebtedness (other than (i) the Indebtedness evidenced by the Notes and (ii) Permitted Indebtedness).

5.3 Existence of Liens. The Company shall not, and the Company shall cause each of its Subsidiaries and Excluded Subsidiaries to not, directly or indirectly, allow or suffer to exist any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets owned by the Company or any of its Subsidiaries or Excluded Subsidiaries (collectively, "**Liens**") other than Permitted Liens.

5.4 Restricted Payments. The Company shall not, and the Company shall cause each of its Subsidiaries to not, directly or indirectly, redeem, defease, repurchase, repay or make any payments in respect of, by the payment of cash or cash equivalents (in whole or in part, whether by way of open market purchases, tender offers, private transactions or otherwise), all or any portion of any Indebtedness (other than Permitted Payments with respect to any Permitted Indebtedness), whether by way of payment in respect of principal of (or premium, if any) or interest on, such Indebtedness, if at the time such payment is due or is otherwise made or, after giving effect to such payment, (i) an event constituting an Event of Default has occurred and is continuing or (ii) an event that with the passage of time and without being cured would constitute an Event of Default has occurred and is continuing.

5.5 Restriction on Redemption and Dividends. Except for any Permitted Distributions, the Company shall not, and the Company shall cause each of its Subsidiaries to not, directly or indirectly, redeem, repurchase or pay any dividend or distribution of cash or other assets on any of its capital stock (excluding any Common Stock stock split applicable to all common stockholders) without the prior express written consent of the Required Holders.

5.6 Restriction on Transfer of Assets. The Company shall not, and the Company shall cause each of its Subsidiaries to not, directly or indirectly, sell, lease, license, assign, transfer, convey or otherwise dispose of any assets or rights of the Company or any Subsidiary owned or hereafter acquired whether in a single transaction or a series of related transactions, other than (i) sales, leases, licenses, assignments, transfers, conveyances and other dispositions of such assets or rights by the Company and its Subsidiaries that are in the ordinary course of their respective businesses and conducted as an arms-length, good faith transaction with a third party, and, after giving effect thereto, would not result in a Material Adverse Change, (ii) sales of product, inventory or receivables in the ordinary course of business and conducted as an arms-length, good faith transaction with a third party, (iii) Permitted Payments, or (iv) any Sale.

5.7 Change in Nature of Business. The Company shall not, and the Company shall cause each of its Subsidiaries to not, directly or indirectly, engage in any material line of business substantially different from those lines of business conducted by the Company and each of its Subsidiaries on the Issuance Date or any business substantially related or incidental thereto. The Company shall not, and the Company shall cause each of its Subsidiaries to not, directly or indirectly, modify its or their corporate structure or purpose in any material respect.

5.8 Preservation of Existence, Etc. The Company shall maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, its existence, rights and privileges, and become or remain, and cause each of its Subsidiaries to become or remain, duly qualified and in good standing in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary.

5.9 Maintenance of Properties, Etc. The Company shall maintain and preserve in all material respects, and cause each of its Subsidiaries to maintain and preserve in all material respects, all of its properties which are necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear excepted, and comply, and cause each of its Subsidiaries to comply, at all times with the provisions of all material leases to which it is a party as lessee or under which it occupies property, so as to prevent any material loss or forfeiture thereof or thereunder.

5.10 Maintenance of Insurance. The Company shall maintain, and cause each of its Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations (including, without limitation, comprehensive general liability, hazard, rent and business interruption insurance) with respect to its properties (including all real properties leased or owned by it) and business, in such amounts and covering such risks as is required by any governmental authority having jurisdiction with respect thereto or as is carried generally in accordance with sound business practice by companies in similar businesses similarly situated.

5.11 Investments in Subsidiaries. Except for any Permitted Investments, the Company shall not, and the Company shall cause each of its Subsidiaries to not, directly or indirectly, lend money or credit (by way of guarantee or otherwise) or make advances to any Excluded Subsidiary.

5.12 Delivery of Financial Statements; Information. If the Company is no longer required to file with the Securities and Exchange Commission (the "**SEC**") quarterly and annual reports, including financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K, so long as any Principal or Interest is outstanding under this Note, the Company shall furnish to the Holder such reports within the timeframe it would be required to file them with the SEC in substantially the form as would be required to be filed with the SEC if it were required to do so. The Company shall furnish such other information respecting the business, condition (financial or otherwise), operations, performance, properties or prospects of the Company and its subsidiaries as the Holder may reasonably request.

5.13 Transactions with Affiliates. The Company shall not, and the Company shall cause each of its Subsidiaries not to, directly or indirectly, enter into or be a party to any transaction, including any purchase, sale, lease, exchange or transfer of property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate unless such transaction is on fair and reasonable terms and conditions no less favorable to Company or the relevant Subsidiary, as the case may be, than those that would have been obtained in a comparable transaction on an arm's length basis from an unrelated Person.

5.14 Modification of Certain Documents; Organizational Form. The Company shall not permit (i)(a) the organizational documents of the Company, including the Certificate of Designations, to be amended or modified in any way (including, without limitation, permitting dividends or distributions with respect to the capital stock of the Company or conflicting with the terms of the Waiver Agreement), but excluding any forward or reverse Common Stock stock split applicable to all common stockholders, or (b) the Waiver Agreement to be amended or modified in any way.

5.15 Waiver Agreement. Use commercially reasonable efforts to have all holders of Series B Stock execute the Waiver Agreement which shall, in any event, be executed by the required holders of Series B Stock on or prior to December 31, 2019.

5.16 Post-Closing Obligations. Within 30 days after the Issuance Date, the Company shall deliver to the Holder the following documents, each in form and substance reasonably satisfactory to the Holder: (i) the Collateral Documents with respect to the Western Assets, in each case providing for a first-priority, secured and perfected Lien on all of the Western Assets in favor of the Holder; (ii) the Collateral Documents with respect to all other collateral of CoBank (as defined and described in the CoBank Debt Documents) in the assets of the Company and its Subsidiaries, (iii) the Intercreditor Agreement, and (iv) any related amendments required to the Notes or the other Transaction Documents as reasonably determined by the Holder.

5.17 Sales of Western Assets. Without the prior written consent of the Required Holders, the Company shall not, and shall not permit any Subsidiary to, effectuate a Sale of any Western Asset. Holder shall not unreasonably withhold, condition or delay its consent to any such Sale, and Holder hereby agrees to reasonably cooperate with the Company and its Subsidiaries and the proposed purchaser with respect to any Sale of any Western Asset.

6. AMENDING THE TERMS OF THIS NOTE. No provision of this Note may be modified or amended without the prior written consent of the Required Holders and the Company and upon such due modification or amendment, such modification or amendment shall apply to all of the Notes; provided, however, that (a) no such modification or amendment shall, without the consent of the Holder hereunder, change the stated maturity date of this Note, or reduce the principal amount hereof, or reduce the rate or extend the time of payment of any interest hereon, or reduce any amount payable on redemption or prepayment hereof, impair or affect the right of the Holder to receive payment of principal of, and interest on, the Notes or to institute suit for payment thereof, or impair or affect the right of the Holder to receive any other payment provided for under this Note, or change the definition of Required Holders, or change the pro rata sharing provisions of this Note and (b) the Holder hereunder may waive, reduce or excuse, or forbear from the exercise of any rights and remedies with respect to, any Event of Default under this Note without notice to or the consent of any holder of any of the Notes.

7. TRANSFER. This Note may be offered, sold, assigned or transferred by the Holder in whole or in part, subject only to the provisions of the restrictive legend set forth at the top of the first page of this Note; provided that, so long as no Event of Default has occurred and is continuing, any such sale, assignment or transfer shall be subject to the prior written consent of the Company, which consent shall not be unreasonably withheld, delayed or conditioned; provided, further, that any partial offer, sale, assignment or transfer of this Note shall be in a principal amount not less than $500,000.

8. REISSUANCE OF THIS NOTE.

8.1 Transfer. If this Note is to be transferred as permitted under Section 7 above, the Holder shall surrender this Note to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Note (in accordance with Section 8.3), registered as the Holder may request.

8.2 Lost, Stolen or Mutilated Note. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Note (as to which a written certification and the indemnification contemplated below shall suffice as such evidence), and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary and reasonable form and, in the case of mutilation, upon surrender and cancellation of this Note, the Company shall execute and deliver to the Holder a new Note (in accordance with Section 8.3) representing the outstanding Principal.

8.3 Issuance of New Notes. Whenever the Company is required to issue a new Note pursuant to the terms of this Note, such new Note (i) shall be of like tenor with this Note, (ii) shall represent, as indicated on the face of such new Note, the Principal remaining outstanding, (iii) shall have an issuance date, as indicated on the face of such new Note, which is the same as the Issuance Date of this Note, (iv) shall have the same rights and conditions as this Note, and (v) shall represent accrued and unpaid Interest on the Principal and Interest of this Note, from the Issuance Date.

9. REMEDIES, CHARACTERIZATIONS, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and the other Transaction Documents, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note or any other Transaction Document. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note (including, without limitation, compliance with Section 5).

10. PAYMENT OF COLLECTION, ENFORCEMENT AND OTHER COSTS. If (a) this Note is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or the Holder otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note or (b) there occurs any bankruptcy, reorganization, receivership of the Company or other proceedings affecting Company creditors' rights and involving a claim under this Note, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, without limitation, attorneys' fees and disbursements.

11. CONSTRUCTION; HEADINGS; RESTATEMENT.

11.1 Construction; Headings. This Note shall be deemed to be jointly drafted by the Company and the Holder and shall not be construed against any Person as the drafter hereof. The headings of this Note are for convenience of reference and shall not form part of, or affect the interpretation of, this Note. Terms used in this Note but defined in the other Transaction Documents shall have the meanings ascribed to such terms on the Issuance Date in such other Transaction Documents unless otherwise consented to in writing by the Holder.

11.2 Restatement. This Note amends, restates and supersedes the Existing Note(s) previously issued in favor of the Holder, with the obligations under the Existing Note(s) of the Holder being deemed continuing obligations amended and restated in their entirety by this Note. This Note shall not be deemed to be a novation of the obligations under any Existing Note.

12. FAILURE OR INDULGENCE NOT WAIVER. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.

13. NOTICES; CURRENCY; PAYMENTS.

13.1 Notices. Whenever notice is required to be given under this Note, unless otherwise provided herein, such notice shall be given in accordance with Section 6.5 of the Note Amendment Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Note, including in reasonable detail a description of such action and the reason therefore.

13.2 Currency. All principal, interest and other amounts owing under this Note that, in accordance with the terms hereof, are paid in cash shall be paid in U.S. dollars. All amounts denominated in other currencies shall be converted to the U.S. dollar equivalent amount in accordance with the Exchange Rate on the date of calculation. "**Exchange Rate**" means, in relation to any amount of currency to be converted into U.S. dollars pursuant to this Note, the U.S. dollar exchange rate as published in *The Wall Street Journal* on the relevant date of calculation (it being understood and agreed that where an amount is calculated with reference to, or over, a period of time, the date of calculation shall be the final date of such period of time).

13.3 Payments. Whenever any payment of cash is to be made by the Company to any Person pursuant to this Note, unless otherwise expressly set forth herein, such payment shall be made in lawful money of the United States of America by wire transfer of immediately available funds in accordance with the Holder's wire transfer instructions. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a Business Day, the same shall instead be due on the next succeeding day which is a Business Day, with interest accruing until paid.

14. DISCLOSURE.

14.1 In connection with information that is either required or permitted to be disclosed to the Holder in such Holder's capacity as the holder of this Note, on the date such information is to be disclosed, the Company may provide the Holder with such information; provided either that (i) such information does not contain Non-Public Information, or (ii) if such information does contain Non-Public Information, such information is Consented Information (as defined below).

14.2 If any such information to be disclosed contains Non-Public Information, the Company shall provide to the Holder a written notice (which notice shall, for the avoidance of doubt, not contain or constitute Non-Public Information), containing the following information: (A) a statement as to whether the information is required to be disclosed under the terms of this Note, (B) if the information is not so required to be disclosed, a statement that the Company or other applicable Person desires voluntarily to disclose such information, (C) a general description of such information (which description shall not include, and shall not constitute, Non-Public Information), (D) a statement as to whether the Holder is required or permitted to take some specific action as a lender under this Note, (E) a statement that such information contains Non-Public Information, and (F) a statement seeking the consent of the Holder to receive such Non-Public Information. Within two (2) Business Days of the date of the notice contemplated in the preceding sentence, the Holder shall advise the Company in writing whether it consents to the receipt of such Non-Public Information (any information for which such consent is provided, "**Consented Information**").

14.3 In the event any Non-Public Information is provided to the Holder by the Company, the Company shall promptly and in compliance with applicable law publicly disclose such Non-Public Information on a Current Report on Form 8-K or otherwise, within four (4) Business Days of (or such other period of time as may be expressly agreed to in writing by the Investor and the Company in connection with such disclosure) the disclosure thereof to the Holder (provided that the Company shall provide the Holder a draft of each such Form 8-K at least two (2) Business Days prior to filing thereof). If the Company fails to disclose any Non-Public Information in accordance with the immediately preceding sentence, the Holder may publicly disclose such information by issuing a press release containing such information, or otherwise, within one Business Day of providing Notice to the Company of such intended disclosure. The Holder shall have no liability to the Company, any of its Subsidiaries, or any of its or their respective officers, directors, employees, stockholders or agents, for any such disclosure.

14.4 In no event shall the Company intentionally provide the Holder with any Non-Public Information without the prior written consent of the Holder. In the absence of any written notice that information provided by the Company contains Non-Public Information, the Holder may presume that such information (including the notice of such information) does not constitute Non-Public Information.

15. CANCELLATION. After all Principal, accrued Interest and other amounts at any time owed on this Note have been paid in full (a) this Note shall automatically be deemed canceled without any action by or notice to Holder or Company and (b) the Holder shall promptly mark this Note as cancelled, shall promptly surrender this Note to the Company and this Note shall not be reissued.

16. WAIVER OF NOTICE. Except for the notices specifically required by this Note or any other Transaction Document, to the extent permitted by applicable law, the Company hereby irrevocably waives demand, notice, presentment, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note and the Additional Purchase Agreement.

17. GOVERNING LAW. This Note shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Note shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. In the event that any provision of this Note is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any such provision which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of this Note. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.**

18. MAXIMUM PAYMENTS. Nothing contained herein shall be deemed to establish or require the payment of a rate of interest or other charges in excess of the maximum permitted by applicable law. In the event that the rate of interest required to be paid or other charges hereunder exceed the maximum permitted by such law, any payments in excess of such maximum shall be credited against amounts owed by the Company to the Holder and thus refunded to the Company.

19. CERTAIN DEFINITIONS. For purposes of this Note, the following terms shall have the following meanings:

19.1 "**Additional Notes**" means those certain Senior Secured Notes in the aggregate original principal amount of $13,948,078 issued pursuant to the Additional Purchase Agreement on June 26, 2017, which Senior Secured Notes are being replaced by this Note and the other Notes.

19.2 "**Additional Purchase Agreement**" means the Note Purchase Agreement, dated as of June 30, 2017, by and among the Company and the "Investors" (as defined therein) as amended, restated or otherwise modified from time to time.

19.3 "**Amendment Date**" means the effective date of the Note Amendment Agreement.

19.4 "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.

19.5 "**Certificate of Designations**" means the Company's Certificate of Designations, Powers, Preferences, and Rights of the Series B Cumulative Convertible Preferred Stock.

19.6 "**CoBank**" means CoBank, ACB, a federally-chartered instrumentality of the United States.

19.7 "**CoBank Debt**" means all indebtedness for borrowed money and all obligations of the Company and its Subsidiaries, including for the payment of principal, interest, fees, expenses, indemnities, premium, and any other amounts due under (i) the CoBank ICP Credit Agreement (the "**ICP Debt**"), and (ii) the CoBank Pekin Credit Agreement (the "**Pekin Debt**").

19.8 "**CoBank Debt Documents**" means all loan, security, and guarantee documents entered into among the Company and its Subsidiaries and CoBank pursuant to (i) that certain Credit Agreement dated as of September 15, 2017 between Illinois Corn Processing, LLC, Compeer Financial, PCA, as lender, and CoBank, as cash management provider and agent (the "**CoBank ICP Credit Agreement**"); and (ii) that certain Credit Agreement dated as of December 15, 2016 among Pacific Ethanol Pekin, LLC, as the borrower, Compeer Financial, PCA, as the lender, and CoBank, ACB, as the agent, each such document as further amended, restated or modified in its entirety and in effect on the date hereof ("**CoBank Pekin Credit Agreement**").

19.9 "**Collateral Documents**" mean all documents, filings, certificates, and other agreements which grant the Holder, or its agent, a security interest to secure the obligations owing under this Note.

19.10 "**Common Stock**" means (i) the Company's shares of common stock, $0.001 par value per share, and (ii) any capital stock into which such common stock shall have been changed or any share capital resulting from a reclassification of such common stock.

19.11 "**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

19.12 "**Excluded Events**" means (i) changes in the national or world economy or financial markets as a whole, (ii) changes in general economic conditions taken as a whole that affect the industries in which the Company and its Subsidiaries conduct their business, (iii) acts of terrorism or war, including the engagement by the United States of America or any other country in hostilities, and whether or not pursuant to the declaration of a national emergency or war, or any earthquakes, hurricanes or other natural disasters, and (iv) any financial statement impact of the transactions contemplated by the Transaction Documents.

19.13 "**Excluded Subsidiaries**" means Kinergy Marketing LLC, Pacific Ag. Products, LLC, Pacific Ethanol Development, LLC, Pacific Ethanol Central, LLC, Pacific Ethanol Pekin, Inc., Pacific Ethanol Canton, LLC, Pacific Ethanol Aurora West, LLC, Pacific Ethanol Aurora East, LLC and Pacific Aurora, LLC and each of their respective direct and indirect subsidiaries.

19.14 "**Existing Notes**" means collectively, the Initial Notes, the Additional Notes and the PIK Notes previously issued and outstanding as of immediately prior to the restatement thereof by the issuance of the Notes.

19.15 "**Fundamental Transaction**" means that (A) excluding a Sale not prohibited by the Intercreditor Agreement, the Company or any of its Subsidiaries shall, directly or indirectly, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company or any of its Subsidiaries is the surviving corporation) another Person or Persons, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company or any of its Subsidiaries to another Person, or (iii) allow another Person to make a purchase, tender or exchange offer that is accepted by the holders of more than 50% of the outstanding shares of Voting Stock of the Company (not including any shares of Voting Stock of the Company held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (iv) consummate a securities purchase or business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than the 50% of the outstanding shares of Voting Stock of the Company (not including any shares of Voting Stock of the Company held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such securities purchase agreement or other business combination), or (v) reorganize, recapitalize or reclassify the Voting Stock of the Company or (B) any "person" or "group" (as these terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act) is or shall become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 50% of the aggregate Voting Stock of the Company.

19.16 "**GAAP**" means United States generally accepted accounting principles, consistently applied.

19.17 "**Indebtedness**" of any Person means, without duplication (A) all indebtedness for borrowed money, (B) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (including, without limitation, "capital leases" in accordance with generally accepted accounting principles) (other than trade payables entered into in the ordinary course of business), (C) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (D) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (E) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (F) all monetary obligations under any leasing or similar arrangement which, in connection with generally accepted accounting principles, consistently applied for the periods covered thereby, is classified as a capital lease, (G) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any equity interests in such Person or any other Person or any warrants, rights or options to acquire such equity interests, valued, in the case of redeemable preferred interests, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (H) all indebtedness referred to in clauses (A) through (G) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, claim, lien, tax, right of first refusal, encumbrance, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (I) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (A) through (H) above.

19.18 "**Initial Notes**" means those certain Senior Secured Notes in the aggregate original principal amount of $55,000,000 issued pursuant to the Initial Purchase Agreement on December 15, 2016.

19.19 "**Initial Purchase Agreement**" means the Note Purchase Agreement, dated as of December 12, 2016, by and among the Company and each "Investor" (as defined therein) as amended, restated or otherwise modified from time to time.

19.20 "**Intercreditor Agreement**" means that certain Intercreditor Agreement to be entered into among the Holder, other Noteholders as defined in the Note Amendment Agreement, CoBank, and acknowledged and agreed by the Company, as contemplated by Section 5.16.

19.21 "**Interest Rate**" means a rate per annum equal to 15%. The "Interest Rate" shall in all cases be subject to adjustment as set forth in Section 2.

19.22 "**Material Adverse Change**" means any set of circumstances or events which occur, arise or otherwise take place from and after the Issuance Date which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Note or any other Transaction Document, (b) is or could reasonably be expected to be material and adverse to the business properties, assets, financial condition, results of operations or prospects of the Company or the Company and any of Subsidiaries on a collective basis, (c) impairs materially or could reasonably be expected to impair materially the ability of the Company to duly and punctually pay or perform any its obligations under this Note or any other Transaction Document, or (d) materially impairs or could reasonably be expected to materially impair the ability of Holder or, in the case of the Security Agreement, the Agent (as defined therein), to the extent permitted, to enforce its legal rights and remedies pursuant to this Note or any other Transaction Document.

19.23 "**Maturity Date**" shall mean December 15, 2021.

19.24 "**Non-Public Information**" means material, non-public information relating to the Company.

19.25 "**Note Amendment Agreement**" means the Senior Secured Note Amendment Agreement, dated as of December 22, 2019, by and among the Company, the Holder and the other holders of Existing Notes, as amended, restated or otherwise modified from time to time.

19.26 "**Permitted Distributions**" means (a) dividends by Subsidiaries of the Company to the Company or other Subsidiaries of the Company, and (b) current quarterly dividends in an amount not to exceed the lesser of (i) fifteen percent (15%) of the amount otherwise required to be paid by the Company with respect to the Company's Series B Cumulative Convertible Preferred Stock (the "**Series B Stock**") pursuant to the Certificate of Designations and any other organizational documents of the Company in effect on the Issuance Date, or (ii) the amount required to be paid to all holders of the Series B Stock who did not execute the Waiver Agreement; provided, that Company may accrue, but not pay, current quarterly dividends with respect to the Series B Stock held by holders who executed the Waiver Agreement. For the avoidance of doubt, to the extent that payment thereof is in the form of Common Stock, payment of previously accrued and unpaid dividends with respect to the Company's Series B Cumulative Convertible Preferred Stock outstanding as of the Issuance Date shall be deemed to be "Permitted Distributions".

19.27 "**Permitted Indebtedness**" means (i) Indebtedness evidenced by this Note and the Other Notes; (ii) Indebtedness of any Excluded Subsidiary, (iii) any Indebtedness secured by a Permitted Lien (other than Indebtedness referred to in clause (iv) of the definition of "Permitted Lien"), (iv) Indebtedness incurred by the Company that is made expressly subordinate in right of payment to the Indebtedness evidenced by this Note, as reflected in a written agreement acceptable to the Holder and approved by the Holder in writing, and which Indebtedness does not provide at any time for (1) the payment, prepayment, repayment, repurchase or defeasance, directly or indirectly, of any principal or premium, if any, thereon until ninety-one (91) days after the Maturity Date or later and (2) total interest and fees at a rate in excess of ten percent (10%) per annum (collectively, the "**Subordinated Indebtedness**"); provided, that in the aggregate outstanding at any time, such Subordinated Indebtedness does not exceed $30,000,000, (v) Indebtedness of the Company or any of its Subsidiaries and Excluded Subsidiaries existing on the Issuance Date (including up to the full stated current amount that may be available under any revolving credit facility existing as of the Issuance Date), and (vi) such other trade and operating Indebtedness incurred in the ordinary course of business by the Company (including any of the Company's Subsidiaries and Excluded Subsidiaries), including without limitation, unsecured trade debt, financing with respect to the acquisition or lease of equipment and financing of insurance premiums; provided that in the aggregate outstanding at any time, such Indebtedness does not exceed the greater of $2,000,000 or three-quarters of one percent (0.75%) of total assets as reported in the Company's most recent publicly filed Form 10-K or 10-Q reports. Notwithstanding the foregoing, additional Indebtedness of any Excluded Subsidiary (excluding Kinergy Marketing, LLC, Pacific Ag. Products, LLC and Pacific Ethanol Development, LLC) incurred after the Issuance Date, except pursuant to an arms-length, good faith refinancing in full of either the ICP Debt or the Pekin Debt, or both, shall not constitute Permitted Indebtedness (except up to the full stated amount that may be available under any revolving credit facility existing as of the Issuance Date, which shall be Permitted Indebtedness).

19.28 "**Permitted Investments**" means (i) investments existing on the date hereof, and (ii) additional investments in the Excluded Subsidiaries that in the aggregate outstanding at any time do not exceed $20,000,000 to the extent the Company in good faith determines that such investments are necessary to ensure the Excluded Subsidiaries have sufficient funds to operate and pay their respective debts and obligations as and when due. Any reinvestment by the Company of any proceeds of any Sale (after payment of the applicable required mandatory prepayment with respect to such Sale) shall be permitted and included in the calculation of the foregoing investment limitation; provided, that (a) if an event constituting an Event of Default has occurred and is continuing or (B) an event that with the passage of time and without being cured would constitute an Event of Default has occurred and is continuing, the Company shall not be permitted to make such additional investments under clause (ii). For the avoidance of doubt, an investment of Sale proceeds in any Excluded Subsidiary necessary to effectuate the allocation of Sale proceeds contemplated in Section 1.2 shall be excluded from the calculation of the foregoing investment limitation.

19.29 "**Permitted Liens**" means (i) any Lien for taxes not yet due or delinquent or being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP, (ii) any statutory Lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet due or delinquent, (iii) any Lien created by operation of law, such as materialmen's liens, mechanics' liens and other similar liens, arising in the ordinary course of business with respect to a liability that is not yet due or delinquent or that are being contested in good faith by appropriate proceedings, (iv) Liens securing financing obtained in the ordinary course of the Company's operations, including financing with respect to the acquisition or lease of equipment and financing of insurance premiums; provided, that (A) such Liens are solely upon and confined solely to the equipment, unearned insurance premiums or other asset or assets being acquired by such financing and (B) in the aggregate, the Indebtedness secured by such liens does not exceed the greater of $2,000,000 or three-quarters of one percent (0.75%) of total assets as reported in the Company's most recent publicly filed Form 10-K or 10-Q reports, (v) Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clause (iv) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness being extended, renewed or refinanced does not increase, (vi) any existing Lien on the assets or properties of the Excluded Subsidiaries, (vii) any additional Lien on the assets or properties of any Excluded Subsidiary (excluding Kinergy Marketing, LLC, Pacific Ag. Products, LLC and Pacific Ethanol Development, LLC, which are covered below) pursuant to an arms-length, good faith refinancing in full of either the ICP Debt or the Pekin Debt, or both, (viii) any second-priority Lien of CoBank on the assets or properties of the Western Assets, subject to the terms of the Intercreditor Agreement; and (ix) any additional Lien on the assets or properties of Kinergy Marketing, LLC, Pacific Ag. Products, LLC or Pacific Ethanol Development, LLC.

19.30 "**Permitted Payments**" means any payments, distributions or transfers with respect to (i) any Permitted Indebtedness (in the case of Subordinated Indebtedness, to the extent permitted by the relevant subordination or intercreditor agreement) and (ii) any Permitted Distributions.

19.31 "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity or a government or any department or agency thereof.

19.32 "**PIK Notes**" means those certain Senior Secured Notes in the aggregate principal amount of $1,185,177.53 issued pursuant to the Senior Secured Note Amendment Agreement No. 1 on December 16, 2019.

19.33 "**Required Holders**" means the holders of Notes representing at least 66 2/3% of the aggregate principal amount of the Notes then outstanding (excluding any Notes held by the Company or any of its Subsidiaries).

19.34 "**Sale**" means (i) the sale of an ownership interest in or any assets of PEC (whether an ownership sale or an asset sale by any of its Subsidiaries, including Illinois Corn Processing, LLC, a Delaware limited liability company and Pacific Aurora, LLC, a Delaware limited liability company, and including any net cash proceeds from any seller carryback note in connection with any such sale); and (ii) any sale of the facilities owned directly or indirectly by PE Op Co., a Delaware corporation, and/or Pacific Ethanol West, LLC, a Delaware limited liability company (the "**Western Assets**") (including any ownership interests therein of the Company or any of its Subsidiaries).

19.35 "**Senior Secured Note Amendment Agreement No. 1**" means the Senior Secured Note Amendment Agreement No. 1, dated as of December 16, 2019, by and among the Company and each "Noteholder" (as defined therein) as amended, restated or otherwise modified from time to time.

19.36 "**Subsidiary**" means any Person in which the Company, directly or indirectly, (i) owns any of the outstanding capital stock or holds any equity or similar interest of such Person or (ii) controls or operates all or any part of the business, operations or administration of such Person; provided that, for purposes of this Note, the term "Subsidiary" shall expressly exclude the Excluded Subsidiaries.

19.37 "**Transaction Documents**" means the Notes, the Security Agreement, the Collateral Documents and the Note Amendment Agreement, together with any amendments, restatements, extensions or other modifications thereto.

19.38 "**Voting Stock**" means voting equity interests.

19.39 "**Waiver Agreement**" means that certain Letter Agreement to be entered into by and among certain holders of the Series B preferred stock and the Company on or prior to December 31, 2019 in a form reasonably satisfactory to Holder.

[signature page follows]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed as of the first date set forth above.

PACIFIC ETHANOL, INC.

By: _____

Name: Bryon T. McGregor
Title: Chief Financial Officer

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS WARRANT NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL TO THE HOLDER (IF REQUESTED BY THE COMPANY), IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD OR ELIGIBLE TO BE SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

PACIFIC ETHANOL, INC.

Warrant To Purchase Common Stock

Warrant No.: [●]
Number of Shares of Common Stock: [●]
Date of Issuance: December 22, 2019 ("**Issuance Date**")

Pacific Ethanol, Inc. a Delaware corporation (the "**Company**"), hereby certifies that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, [NOTEHOLDER], the registered holder hereof or its permitted assigns (the "**Holder**"), is entitled, subject to the terms set forth below, to purchase from the Company, at the Exercise Price (as defined below) then in effect, upon exercise of this Warrant to Purchase Common Stock (including any Warrants to Purchase Common Stock issued in exchange, transfer or replacement hereof, the "**Warrant**"), at any time or times on or after the date six (6) months after the date hereof (the "**Exercisability Date**"), but not after 11:59 p.m. New York time, on the Expiration Date (as defined below), [●] ([●]) fully paid nonassessable shares of Common Stock (as defined below) (the "**Warrant Shares**"). Except as otherwise defined herein, capitalized terms in this Warrant shall have the meanings set forth in Section 16. This Warrant is one of several Warrants to Purchase Common Stock (collectively, the "**Warrants**") issued pursuant to that certain Senior Secured Note Amendment Agreement, dated as of December 22, 2019, by and among the Company, the Holder and the other parties thereto, as amended, restated or otherwise modified from time to time (the "**Note Amendment Agreement**").

1. EXERCISE OF WARRANT.

(a) Mechanics of Exercise. Subject to the terms and conditions hereof, this Warrant may be exercised by the Holder on any day on or after the Exercisability Date, but before 11:59 p.m. New York time, on the Expiration Date, in whole or in part, by delivery of a written notice, in the form attached hereto as Exhibit A (the "**Exercise Notice**"), of the Holder's election to exercise this Warrant. Within two (2) days following the Exercise Notice, the Holder shall make payment to the Company of an amount equal to the applicable Exercise Price multiplied by the number of Warrant Shares as to which this Warrant is being exercised (the "**Aggregate Exercise Price**") in cash or by wire transfer of immediately available funds, which amount the Company shall first use to prepay any outstanding principal balance due under that certain Amended and Restated Senior Secured Note dated as set forth therein issued by the Company in favor of the original Holder of this Warrant (the "**Amended Note**"), provided that the Holder continues to hold the Amended Note, within two (2) Business Days following receipt of the Aggregate Exercise Price or, if such Amended Note is not then held by the Holder, then on a pro rata basis to the holders of the Amended Notes (as defined under the Amendment Agreement) under that certain Secured Note Amendment Agreement (the "**Amendment Agreement**") dated as set forth therein between the Company and the noteholders party thereto, until all amounts owing thereunder shall have been paid, and thereafter, for general corporate purposes. The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder, nor shall any ink-original signature or medallion guarantee (or other type of guarantee or notarization) with respect to any Exercise Notice be required. Execution and delivery of the Exercise Notice with respect to less than all of the Warrant Shares shall have the same effect as cancellation of the original Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Warrant Shares. On or before the first (1st) Business Day following the date on which the Company has received the Exercise Notice, the Company shall transmit by facsimile or electronic mail an acknowledgment of confirmation of receipt of the Exercise Notice to the Holder and the Company's transfer agent (the "**Transfer Agent**"). On or before the third (3rd) Trading Day following the date on which the Company has received the Exercise Notice (the "**Share Delivery Date**"), the Company shall (X) provided that the Transfer Agent is participating in The Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program and the Warrant Shares are otherwise DTC-eligible, upon the request of the Holder, credit such aggregate number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal At Custodian system, or (Y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to the address as specified in the Exercise Notice, a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder is entitled pursuant to such exercise. The Company shall be responsible for all fees and expenses of the Transfer Agent and all fees and expenses with respect to the issuance of Warrant Shares via DTC, if any. Upon delivery of the Exercise Notice, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date such Warrant Shares are credited to the Holder's DTC account or the date of delivery of the certificates evidencing such Warrant Shares, as the case may be. If this Warrant is submitted in connection with any exercise pursuant to this Section 1(a) and the number of Warrant Shares represented by this Warrant submitted for exercise is greater than the number of Warrant Shares being acquired upon an exercise, then the Company shall as soon as practicable and in no event later than three (3) Business Days after any exercise and at its own expense, issue a new Warrant (in accordance with Section 7(d)) representing the right to purchase the number of Warrant Shares purchasable immediately prior to such exercise under this Warrant, less the number of Warrant Shares with respect to which this Warrant is exercised. No fractional shares of Common Stock are to be issued upon the exercise of this Warrant, but rather the number of shares of Common Stock to be issued shall be rounded to the nearest whole number. The Company shall pay any and all taxes which may be payable with respect to the issuance and delivery of Warrant Shares upon exercise of this Warrant. Notwithstanding anything to the contrary herein, the Company's failure to deliver Warrant Shares to the Holder shall not be deemed to be a breach of this Warrant if the Company has not received the Aggregate Exercise Price pursuant to the requirements of this Section 1(a). The Company's obligations to issue and deliver Warrant Shares in accordance with the terms and subject to the conditions hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination.

(b) Exercise Price. For purposes of this Warrant, "**Exercise Price**" means $1.00, subject to adjustment as provided herein.

(c) Company's Failure to Timely Deliver Securities. If the Company shall fail for any reason or for no reason to issue to the Holder on or before the Share Delivery Date in compliance with the terms of this Section 1, a certificate for the number of shares of Common Stock to which the Holder is entitled and register such shares of Common Stock on the Company's share register or to credit the Holder's balance account with DTC for such number of shares of Common Stock to which the Holder is entitled upon the Holder's exercise of this Warrant, and if on or after the Share Delivery Date the Holder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Holder of shares of Common Stock issuable upon such exercise that the Holder anticipated receiving from the Company (a "**Buy-In**"), then the Company shall, within three (3) Business Days after the Holder's request and in the Holder's discretion, either (i) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (the "**Buy-In Price**"), at which point the Company's obligation to deliver such certificate or credit the Holder's balance account with DTC for the number of shares of Common Stock to which the Holder is entitled upon the Holder's exercise hereunder (as the case may be) (and to issue such Warrant Shares) shall terminate, or (ii) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such Warrant Shares and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of shares of Common Stock, times (B) the Closing Price on the Trading Day immediately preceding the date of the Exercise Notice. Nothing herein shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity, including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock upon the exercise of this Warrant as required pursuant to the terms hereof.

(d) Disputes. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the number of Warrant Shares to be issued pursuant to the terms hereof, the Company shall promptly issue to the Holder the number of Warrant Shares that are not disputed and resolve such dispute in accordance with Section 13.

(e) Insufficient Authorized Shares. If at any time from and after the Issuance Date and while any of the Warrants remain outstanding the Company does not have a sufficient number of authorized and unreserved shares of Common Stock to satisfy its obligation to reserve for issuance upon exercise of the Warrants at least 100% of the maximum number of shares of Common Stock as shall from time to time be necessary to effect the exercise of all of the Warrants then outstanding (without regard to any limitations on exercise) (the "**Required Reserve Amount**") (an "**Authorized Share Failure**"), then the Company shall immediately deliver a notice to the Holder specifying the number of shares unavailable to satisfy its obligations under this Warrant and shall take all action necessary to increase the Company's authorized shares of Common Stock to an amount sufficient to allow the Company to reserve the Required Reserve Amount for the Warrants then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than ninety (90) days after the occurrence of such Authorized Share Failure (the "**Authorized Share Failure Deadline**"), and assuming such Authorized Share Failure still exists, the Company shall hold a meeting of its stockholders for the approval of an increase in the number of authorized shares of Common Stock. In connection with such meeting, the Company shall provide each stockholder with a proxy statement and shall use its reasonable best efforts to solicit its stockholders' approval of such increase in authorized shares of Common Stock and to cause its board of directors to recommend to the stockholders that they approve such proposal. In the event that upon any exercise of this Warrant at any time from and after the Authorized Share Failure Deadline, the Company does not have sufficient authorized shares to deliver in satisfaction of such exercise, then unless the Holder elects to void such exercise, the Company shall pay to the Holder within three (3) Trading Days of the applicable exercise, cash in an amount equal to the product of (i) the number of Warrant Shares that the Company is unable to deliver pursuant hereto and (ii) the Black Scholes Value.

2. ADJUSTMENT OF EXERCISE PRICE AND NUMBER OF WARRANT SHARES. Without limiting any provision of Section 4, if the Company, at any time on or after the Issuance Date, (i) pays a stock dividend on one or more classes of its then outstanding shares of Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its then outstanding shares of Common Stock into a larger number of shares or (iii) combines (by combination, reverse stock split or otherwise) one or more classes of its then outstanding shares of Common Stock into a smaller number of shares (a "**Stock Combination Event**"), then in each such case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination. If any event requiring an adjustment under this paragraph occurs during the period that an Exercise Price is calculated hereunder, then the calculation of such Exercise Price shall be adjusted appropriately to reflect such event. Simultaneously with any adjustment to the Exercise Price pursuant to this paragraph, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the adjusted number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment (without regard to any limitations on exercise contained herein). All calculations under this Section 2 shall be made by rounding to the nearest cent or the nearest $1/100^{th}$ of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company.

3. RIGHTS UPON DISTRIBUTION OF ASSETS. In addition to any adjustments pursuant to Section 2 above, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or securities (other than stock or securities in which an adjustment is being made pursuant to Section 2), property or options, evidence of indebtedness or other assets by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "**Distribution**"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof) immediately before the date on which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution.

4. PURCHASE RIGHTS; FUNDAMENTAL TRANSACTIONS.

(a) Purchase Rights. In addition to any adjustments pursuant to Section 2 above, if at any time the Company grants, issues or sells any Options, Convertible Securities or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "**Purchase Rights**"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

(b) Fundamental Transactions. The Company shall not enter into or be party to a Fundamental Transaction unless the Successor Entity assumes in writing all of the obligations of the Company under this Warrant in accordance with the provisions of this Section 4(b), including agreements to deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant, including, without limitation, which is exercisable for a corresponding number of shares of capital stock equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such adjustments to the number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction. Upon the consummation of each Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of the applicable Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant with the same effect as if such Successor Entity had been named as the Company herein. Upon consummation of each Fundamental Transaction, the Successor Entity shall deliver to the Holder confirmation that there shall be issued upon exercise of this Warrant at any time after the consummation of the applicable Fundamental Transaction, in lieu of the shares of Common Stock (or other securities, cash, assets or other property (except such items still issuable under Sections 3 and 4(a) above, which shall continue to be receivable thereafter)) issuable upon the exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to the applicable Fundamental Transaction, such shares of publicly traded common stock (or its equivalent) of the Successor Entity (including its Parent Entity) which the Holder would have been entitled to receive upon the happening of the applicable Fundamental Transaction had this Warrant been exercised immediately prior to the applicable Fundamental Transaction (without regard to any limitations on the exercise of this Warrant), as adjusted in accordance with the provisions of this Warrant. Notwithstanding the foregoing, the Holder may elect, at its sole option, by delivery of written notice to the Company to waive this Section 4(b) to permit the Fundamental Transaction without the assumption of this Warrant. In addition to and not in substitution for any other rights hereunder, prior to the consummation of each Fundamental Transaction pursuant to which holders of shares of Common Stock are entitled to receive securities or other assets with respect to or in exchange for shares of Common Stock (a "**Corporate Event**"), the Company shall make appropriate provision to insure that the Holder will thereafter have the right to receive upon an exercise of this Warrant at any time after the consummation of the applicable Fundamental Transaction but prior to the Expiration Date, in lieu of the shares of the Common Stock (or other securities, cash, assets or other property (except such items still issuable under Sections 3 and 4(a) above, which shall continue to be receivable thereafter)) issuable upon the exercise of the Warrant prior to such Fundamental Transaction (without regard to any limitations on the exercise of this Warrant), such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights) which the Holder would have been entitled to receive upon the happening of the applicable Fundamental Transaction had this Warrant been exercised immediately prior to the applicable Fundamental Transaction (without regard to any limitations on the exercise of this Warrant). Provision made pursuant to the preceding sentence shall be in a form and substance reasonably satisfactory to the Holder. Notwithstanding the foregoing, in the event of a Fundamental Transaction, at the request of the Holder (which may be required by the Company if the Successor Entity is not publicly traded) delivered before the ninetieth (90^{th}) day after such Fundamental Transaction, the Company (or the Successor Entity) shall purchase this Warrant from the Holder by paying to the Holder, within five (5) Business Days after such request (or, if later, on the effective date of the Fundamental Transaction), cash in an amount equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of such Fundamental Transaction.

(c) Application. The provisions of this Section 4 shall apply similarly and equally to successive Fundamental Transactions and Corporate Events and shall be applied as if this Warrant (and any such subsequent warrants) were fully exercisable and without regard to any limitations on the exercise of this Warrant.

5. NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its Certificate of Incorporation, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any shares of Common Stock receivable upon the exercise of this Warrant above the Exercise Price then in effect, (ii) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock upon the exercise of this Warrant, and (iii) shall, so long as this Warrant is outstanding, take all action necessary to reserve and keep available out of its authorized and unissued shares of Common Stock, solely for the purpose of effecting the exercise of this Warrant, 100% of the number of shares of Common Stock issuable upon exercise of this Warrant then outstanding (without regard to any limitations on exercise).

6. WARRANT HOLDER NOT DEEMED A STOCKHOLDER. Except as otherwise specifically provided herein, the Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a stockholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 6, the Company shall provide the Holder with copies of the same notices and other information given to the stockholders of the Company generally, contemporaneously with the giving thereof to the stockholders.

7. REISSUANCE OF WARRANTS.

(a) Transfer of Warrant. If this Warrant is to be transferred, the Holder shall surrender this Warrant to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Warrant (in accordance with Section 7(d)), registered as the Holder may request, representing the right to purchase the number of Warrant Shares being transferred by the Holder and, if less than the total number of Warrant Shares then underlying this Warrant is being transferred, a new Warrant (in accordance with Section 7(d)) to the Holder representing the right to purchase the number of Warrant Shares not being transferred.

(b) Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 7(d)) representing the right to purchase the Warrant Shares then underlying this Warrant.

(c) Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Warrant or Warrants (in accordance with Section 7(d)) representing in the aggregate the right to purchase the number of Warrant Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Warrant Shares as is designated by the Holder at the time of such surrender; provided, however, that no Warrants for fractional shares of Common Stock shall be given.

(d) Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant (i) shall be of like tenor with this Warrant, (ii) shall represent, as indicated on the face of such new Warrant, the right to purchase the Warrant Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 7(a) or Section 7(c), the Warrant Shares designated by the Holder which, when added to the number of shares of Common Stock underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Warrant Shares then underlying this Warrant), (iii) shall have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date, and (iv) shall have the same rights and conditions as this Warrant.

8. NOTICES. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (a) the date of transmission, if such notice or communication is delivered via facsimile or email at the facsimile number or email address specified in this Section prior to 6:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile or email at the facsimile number or email address specified in this Section on a day that is not a Trading Day or later than 6:30 p.m. (New York City time) on any Trading Day, (c) the Trading Day following the date of deposit with a nationally recognized overnight courier service, or (d) upon actual receipt by the party to whom such notice is required to be given. The addresses, facsimile numbers and email addresses for such notices and communications are those as may be designated by the Holder and the Company prior to the Issuance Date, and in writing hereafter, in the same manner, by any such Person. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Warrant, including in reasonable detail a description of such action and the reason therefor. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon each adjustment of the Exercise Price and the number of Warrant Shares, setting forth in reasonable detail, and certifying, the calculation of such adjustment(s) and (ii) at least fifteen (15) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the shares of Common Stock or (B) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of its Subsidiaries, the Company shall simultaneously file such notice with the Securities and Exchange Commission pursuant to a Current Report on Form 8-K. It is expressly understood and agreed that the time of execution specified by the Holder in each Exercise Notice shall be definitive and may not be disputed or challenged by the Company, provided that the Exercise Notice is duly delivered within the period commencing on the Exercisability Date and ending on the Expiration Date.

9. AMENDMENT AND WAIVER. Except as otherwise provided herein, the provisions of this Warrant may be amended and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company has obtained the written consent of the Holder. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.

10. SEVERABILITY. If any provision of this Warrant is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Warrant so long as this Warrant as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

11. GOVERNING LAW. This Warrant shall be governed by and construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Warrant shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. The Company hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to the Company at the address set forth in the Note Amendment Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS WARRANT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

12. CONSTRUCTION; HEADINGS. This Warrant shall be deemed to be jointly drafted by the Company and the Holder and shall not be construed against any Person as the drafter hereof. The headings of this Warrant are for convenience of reference and shall not form part of, or affect the interpretation of, this Warrant.

13. DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Exercise Price, the Closing Price, the VWAP or fair market value or the arithmetic calculation of the Warrant Shares (as the case may be), the Company or the Holder (as the case may be) shall submit the disputed determinations or arithmetic calculations (as the case may be) via facsimile (i) within two (2) Business Days after receipt of the applicable notice giving rise to such dispute to the Company or the Holder (as the case may be) or (ii) if no notice gave rise to such dispute, at any time after the Holder learned of the circumstances giving rise to such dispute. If the Holder and the Company are unable to agree upon such determination or calculation (as the case may be) of the Exercise Price, the Closing Price, the VWAP or fair market value or the number of Warrant Shares (as the case may be) within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Company or the Holder (as the case may be), then the Company shall, within two (2) Business Days submit via facsimile (a) the disputed determination of the Exercise Price, the Closing Price, the VWAP or fair market value (as the case may be) to an independent, reputable investment bank selected by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company shall cause at its expense the investment bank or the accountant (as the case may be) to perform the determinations or calculations (as the case may be) and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives such disputed determinations or calculations (as the case may be). Such investment bank's or accountant's determination or calculation (as the case may be) shall be binding upon all parties absent demonstrable error.

14. REMEDIES, CHARACTERIZATION, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Warrant shall be cumulative and in addition to all other remedies available under this Warrant and the other Transaction Documents, at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the right of the Holder to pursue actual damages for any failure by the Company to comply with the terms of this Warrant. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, exercises and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the holder of this Warrant shall be entitled, in addition to all other available remedies, to an injunction restraining any breach, without the necessity of showing economic loss and without any bond or other security being required. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Warrant (including, without limitation, compliance with Section 2 hereof). The issuance of shares and certificates for shares as contemplated hereby upon the exercise of this Warrant shall be made without charge to the Holder or such shares for any issuance tax or other costs in respect thereof, provided that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than the Holder or its agent or designee on its behalf.

15. TRANSFER. This Warrant may be offered for sale, sold, transferred or assigned without the consent of the Company.

16. CERTAIN DEFINITIONS. For purposes of this Warrant, the following terms shall have the following meanings:

(a) "**1934 Act**" means the Securities Exchange Act of 1934, as amended.

(b) "**Black Scholes Value**" means the value of the unexercised portion of this Warrant remaining on the date of the Holder's request, which value is calculated using the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg utilizing (i) an underlying price per share equal to, in the event of an Authorized Share Failure, the VWAP on the exercise date, or, in the event of a Fundamental Transaction, the VWAP on the Trading Day immediately preceding the consummation of the applicable Fundamental Transaction, (ii) a strike price equal to the Exercise Price in effect on the date of the Holder's request, (iii) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the greater of (1) the remaining term of this Warrant as of the date of the Holder's request and (2) the remaining term of this Warrant as of the date of consummation of the applicable Fundamental Transaction or as of the date of the Holder's request pursuant to Section 4(b), if such request is prior to the date of the consummation of the applicable Fundamental Transaction, (iv) an expected volatility equal to the greater of 90% and the 30-day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365-day annualization factor) as of the Trading Day immediately following the earlier to occur of the public disclosure or consummation of the applicable Fundamental Transaction and (v) a 0% cost of borrow.

(c) "**Bloomberg**" means Bloomberg, L.P.

(d) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.

(e) "**Closing Price**" means, for any date, the closing price per share of the Common Stock for such date (or the nearest preceding date) on the primary Eligible Market or exchange or quotation system on which the Common Stock is then listed or quoted.

(f) "**Common Stock**" means (i) the Company's shares of voting common stock, $0.001 par value per share, and (ii) any capital stock into which such common stock shall have been changed or any share capital resulting from a reclassification of such common stock.

(g) "**Convertible Securities**" means any stock or securities (other than Options) convertible into or exercisable or exchangeable for Common Stock.

(h) "**Eligible Market**" means any of The New York Stock Exchange, The NYSE American, The Nasdaq Global Market, The Nasdaq Global Select Market or the Principal Market.

(i) "**Expiration Date**" means the date that is the three (3) year anniversary of the Issuance Date, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a "**Holiday**"), the next date that is not a Holiday.

(j) "**Fundamental Transaction**" means that (i) the Company or any of its Subsidiaries shall, directly or indirectly, in one or more related transactions, including through Subsidiaries, affiliates or otherwise (1) consolidate or merge with or into (whether or not the Company or any of its Subsidiaries is the surviving corporation) any other Person, or (2) sell, lease, license, assign, transfer, convey or otherwise dispose of all or substantially all of its respective properties or assets to any other Person, or (3) allow any other Person to make a purchase, tender or exchange offer that is accepted by the holders of more than 50% of the outstanding shares of Voting Stock of the Company (not including any shares of Voting Stock of the Company held by the Person or Persons making or party to, or associated or affiliated with the Persons making or party to, such purchase, tender or exchange offer), or (4) consummate a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with any other Person whereby such other Person acquires more than 50% of the outstanding shares of Voting Stock of the Company (not including any shares of Voting Stock of the Company held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination), or (5) reorganize, recapitalize or reclassify the Common Stock, or (ii) any "person" or "group" (as these terms are used for purposes of Sections 13(d) and 14(d) of the 1934 Act and the rules and regulations promulgated thereunder) is or shall become the "beneficial owner" (as defined in Rule 13d-3 under the 1934 Act), directly or indirectly, of 50% of the aggregate ordinary voting power represented by issued and outstanding Voting Stock of the Company.

(k) "**Options**" means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

(l) "**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person and whose common stock or equivalent equity security is quoted or listed on an Eligible Market, or, if there is more than one such Person or Parent Entity, the Person or Parent Entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(m) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.

(n) "**Principal Market**" means The Nasdaq Capital Market.

(o) "**Rule 144**" means Rule 144 promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, as may be amended from time to time, or any similar rule or regulation hereafter adopted by the Securities Exchange Commission having substantially the same effect as such rule.

(p) "**Subsidiary**" means, with respect to any Person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at any time directly or indirectly owned by such Person.

(q) "**Successor Entity**" means the Person (or, if so elected by the Holder, the Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or the Person (or, if so elected by the Holder, the Parent Entity) with which such Fundamental Transaction shall have been entered into.

(r) "**Trading Day**" means (a) any day on which the Common Stock is listed or quoted and traded on its primary Trading Market, (b) if the Common Stock is not then listed or quoted and traded on any Eligible Market, then a day on which trading occurs on The NASDAQ Capital Market (or any successor thereto), or (c) if trading ceases to occur on The NASDAQ Capital Market (or any successor thereto), any Business Day.

(s) "**Trading Market**" means the Principal Market or any other Eligible Market, or any national securities exchange, market or trading or quotation facility on which the Common Stock is then listed or quoted.

(t) "**Transaction Documents**" has the meaning given to such term in the Amended Note.

(u) "**Voting Stock**" of a Person means capital stock of such Person of the class or classes pursuant to which the holders thereof have the general voting power to elect, or the general power to appoint, at least a majority of the board of directors, managers or trustees of such Person (irrespective of whether or not at the time capital stock of any other class or classes shall have or might have voting power by reason of the happening of any contingency).

(v) "**VWAP**" means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market (or, if the Principal Market is not the principal trading market for such security, then on the principal securities exchange or securities market on which such security is then traded) during the period beginning at 9:30:01 a.m., New York time, and ending at 4:00:00 p.m., New York time, as reported by Bloomberg through its "Volume at Price" function or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York time, and ending at 4:00:00 p.m., New York time, as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest closing bid price and the lowest closing ask price of any of the market makers for such security as reported in the "pink sheets" by OTC Markets Group Inc. If VWAP cannot be calculated for such security on such date on any of the foregoing bases, the VWAP of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved in accordance with the procedures in Section 13. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during such period.

17. MANDATORY EXERCISE. If at any time on or after the Exercisability Date the VWAP of the Company's Common Stock for the trailing five (5) Trading Day period is at least $1.50 (as adjusted for stock splits, stock combinations and the like occurring from and after the Issuance Date) (the "**Mandatory Exercise Eligibility Date**"), then the Company shall have the right to require the Holder to exercise all, but not less than all, of this Warrant for all of the then-remaining Warrant Shares in accordance with this Section 17 (a "**Mandatory Exercise**"). The Company may exercise its right to require exercise under this Section 17 by delivering, not later than the first (1st) Trading Day immediately following the Mandatory Exercise Eligibility Date, a written notice thereof by facsimile or email, or by the second (2nd) Trading Day immediately following the Mandatory Exercise Eligibility Date, a written notice thereof by overnight courier to the Holder in the form attached hereto as Exhibit B (the "**Mandatory Exercise Notice**," and the date the Holder receives such notice by facsimile or email, or if later by overnight courier, is referred to as the "**Mandatory Exercise Notice Date**"). The Mandatory Exercise Notice shall be irrevocable. The Mandatory Exercise Notice shall (a) state the Trading Day selected for the Mandatory Exercise in accordance with this Section 17, which Trading Day shall be at least five (5) Trading Days but not more than fifteen (15) Trading Days following the Mandatory Exercise Notice Date (the "**Mandatory Exercise Date**") and (b) state the number of shares of Common Stock to be issued to the Holder on the Mandatory Exercise Date. Any portion of this Warrant exercised by the Holder after the Mandatory Exercise Notice Date shall reduce the number of Warrant Shares for which this Warrant is required to be exercised on the Mandatory Exercise Date. If the Company has elected a Mandatory Exercise, the mechanics of exercise set forth in Section 1(a) shall apply, to the extent applicable, as if the Company had received from the Holder on the Mandatory Exercise Date an Exercise Notice with respect to all of the then-remaining Warrant Shares. Notwithstanding anything to the contrary contained herein, if the Holder fails to pay the Company the Aggregate Exercise Price in cash or by wire transfer of immediately available funds within two (2) Business Days following the Mandatory Exercise Date, then, if the Holder continues to hold the Amended Note, the Company shall have the right to automatically reduce the outstanding principal balance due under the Amended Note by the amount of the Aggregate Exercise Price and issue to the Holder all of the then-remaining Warrant Shares, in accordance with the mechanics of exercise set forth in Section 1(a), to the extent applicable, as if the Company had received from the Holder on such date an Exercise Notice with respect to all of the then-remaining Warrant Shares.

[*signature page follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Warrant to Purchase Common Stock to be duly executed as of the Issuance Date set out above.

PACIFIC ETHANOL, INC.

By: _____
Name: Neil M. Koehler
Title: President and Chief Executive Officer

[HOLDER]

By: _____
Name:
Title:

Address: _____

_____

Facsimile: _____
Email: _____

[Signature Page to Warrant]

EXHIBIT A

EXERCISE NOTICE
TO BE EXECUTED BY THE REGISTERED HOLDER TO EXERCISE THIS
WARRANT TO PURCHASE COMMON STOCK

PACIFIC ETHANOL, INC.

The undersigned holder (the "**Holder**") hereby exercises the right to purchase _____ shares of Common Stock ("**Warrant Shares**") of **PACIFIC ETHANOL, INC.**, a Delaware corporation (the "**Company**"), evidenced by the attached Warrant to Purchase Common Stock (the "**Warrant**"). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Payment of Exercise Price. The Holder shall pay the Aggregate Exercise Price in the sum of $_____ to the Company in accordance with the terms of the Warrant.

2. Delivery of Warrant Shares. The Company shall deliver to the Holder _____ Warrant Shares in accordance with the terms of the Warrant. Delivery shall be made to the Holder, or for its benefit, to the following address:

_____

_____

Date: _____ __, _____

_____
Name of Registered Holder

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

The Company hereby acknowledges this Exercise Notice and hereby directs American Stock Transfer & Trust Co., LLC to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated _____, 20__ from the Company and acknowledged and agreed to by American Stock Transfer & Trust Co., LLC.

PACIFIC ETHANOL, INC

By: _____

Name: _____

Title: _____

EXHIBIT B

MANDATORY EXERCISE NOTICE
TO BE EXECUTED BY PACIFIC ETHANOL, INC. TO CAUSE THE EXERCISE OF THIS WARRANT TO PURCHASE COMMON STOCK

Pacific Ethanol, Inc., a Delaware corporation (the "**Company**"), hereby exercises its right to require the below-named holder (the "**Holder**") to purchase _____ shares of Common Stock ("**Warrant Shares**") of the Company evidenced by the attached Warrant to Purchase Common Stock (the "**Warrant**"). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Warrant.

1. Payment of Exercise Price. The Holder shall pay the Aggregate Exercise Price in the sum of $_____ to the Company in accordance with the terms of the Warrant.

2. Delivery of Warrant Shares. The Company shall deliver to the Holder _____ Warrant Shares in accordance with the terms of the Warrant. Delivery shall be made to the Holder, or for its benefit, to the following address:

_____

_____

Date: _____ __, _____

_____
Name of Registered Holder

PACIFIC ETHANOL, INC.

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

The Company hereby acknowledges this Mandatory Exercise Notice and hereby directs American Stock Transfer & Trust Co., LLC to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated _____, 20__ from the Company and acknowledged and agreed to by American Stock Transfer & Trust Co., LLC.

PACIFIC ETHANOL, INC

By: _____

Name: _____

Title: _____

Exhibit 10.4

Execution Version

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "**Agreement**"), dated as of December 22, 2019, is by and among Pacific Ethanol, Inc., a Delaware corporation, with offices at 400 Capitol Mall, Suite 2060, Sacramento, California 95814 (the "**Company**"), and the undersigned holders (each, a "**Holder**," and collectively, the "**Holders**").

RECITALS

A. In connection with the Senior Secured Note Amendment Agreement dated December 22, 2019 by and among the parties hereto (the "**Note Amendment Agreement**"), the Company has agreed, upon the terms and subject to the conditions of the Note Amendment Agreement, to issue to the Holders (i) an aggregate of 5,530,718 shares (the "**Shares**") of the Company's voting common stock, $0.001 par value per share (the "**Common Stock**"), and (ii) warrants ("**Warrants**") to purchase an aggregate of 5,500,000 shares (the "**Warrant Shares**") of Common Stock.

B. To induce the Holders to consummate the transactions contemplated by the Note Amendment Agreement, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "**Securities Act**"), and applicable state securities laws.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and each of the Holders hereby agree as follows:

1. Definitions.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Note Amendment Agreement. As used in this Agreement, the following terms shall have the following meanings:

(a) "**Additional Common Shares**" has the meaning set forth in the Note Amendment Agreement.

(b) "**Business Day**" means any day other than Saturday, Sunday or any other day on which commercial banks in New York, New York are authorized or required by law to remain closed.

(c) "**Blue Sky Filings**" has the meaning set forth in Section 6(a).

(d) "**Claims**" has the meaning set forth in Section 6(a).

(e) "**Common Stock**" has the meaning set forth in the Recitals.

(f) "**Cut Back Shares**" has the meaning set forth in Section 2(d).

(g) "**Effective Date**" means the date that the applicable Registration Statement has been declared effective by the SEC.

(h) "**Exchange Act**" has the meaning set forth in Section 3(b).

(i) "**Filing Deadline**" means (i) with respect to the initial Registration Statement required to be filed pursuant to Section 2(a), the 30th calendar day after the date of this Agreement, and (ii) with respect to any additional Registration Statements that may be required to be filed by the Company pursuant to this Agreement, the date on which the Company was required to file such additional Registration Statement pursuant to the terms of this Agreement.

(j) "**FINRA**" has the meaning set forth in Section 3(k).

(k) "**Holder**" means a Holder or any transferee or assignee of any Registrable Securities or Warrants, as applicable, to whom a Holder assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 9 and any transferee or assignee thereof to whom a transferee or assignee of any Registrable Securities or Warrants, as applicable, assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 9.

(l) "**Indemnified Damages**" has the meaning set forth in Section 6(a).

(m) "**Indemnified Party**" has the meaning set forth in Section 6(b).

(n) "**Indemnified Person**" has the meaning set forth in Section 6(a).

(o) "**Inspectors**" has the meaning set forth in Section 3(i).

(p) "**Note Amendment Agreement**" has the meaning set forth in the Recitals.

(q) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization or a government or any department or agency thereof.

(r) "**Records**" has the meaning set forth in Section 3(i).

(s) "**register**," "**registered**," and "**registration**" refer to a registration effected by preparing and filing one or more Registration Statements in compliance with the Securities Act and pursuant to Rule 415 and the declaration of effectiveness of such Registration Statement(s) by the SEC.

(t) "**Registrable Securities**" means (i) the Shares, (ii) the Additional Common Shares, if any, (iii) the Warrant Shares, and (iv) any capital stock of the Company issued or issuable with respect to the Shares, any Additional Common Shares, the Warrants or the Warrant Shares, including, without limitation, (1) as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise and (2) shares of capital stock of the Company into which the shares of Common Stock are converted or exchanged and shares of capital stock of a Successor Entity (as defined in the Warrants) into which the shares of Common Stock are converted or exchanged, in each case, without regard to any limitations on issuance of Common Stock pursuant to the exercise of the Warrants.

(u) "**Registration Period**" has the meaning set forth in Section 3(a).

(v) "**Registration Statement**" means a registration statement or registration statements of the Company filed under the Securities Act covering Registrable Securities.

(w) "**Required Holders**" means the holders of at least 66 2/3% of the aggregate principal amount of the Registrable Securities (excluding any Registrable Securities held by the Company or any of its Subsidiaries).

(x) "**Required Registration Amount**" means 5,530,718 Shares issued pursuant to the terms of the Note Amendment Agreement, any Additional Common Shares issuable pursuant to the terms of the Note Amendment Agreement and 5,500,000 Warrant Shares issuable upon exercise of the Warrants, all subject to adjustment as provided in Section 2(c).

(y) "**Rule 144**" means Rule 144 promulgated by the SEC under the Securities Act, as such rule may be amended from time to time, or any other similar or successor rule or regulation of the SEC that may at any time permit the Holders to sell securities of the Company to the public without registration.

(z) "**Rule 415**" means Rule 415 promulgated by the SEC under the Securities Act, as such rule may be amended from time to time, or any other similar or successor rule or regulation of the SEC providing for offering securities on a continuous or delayed basis.

(aa) "**Rule 424**" means Rule 424 promulgated by the SEC under the Securities Act, as such rule may be amended from time to time, or any other similar or successor rule or regulation of the SEC having substantially the same purpose and effect of such Rule.

(bb) "**SEC**" means the United States Securities and Exchange Commission or any successor thereto.

(cc) "**Securities Act**" has the meaning set forth in the Recitals.

(dd) "**Selling Stockholder Questionnaire**" has the meaning set forth in Section 4(b).

(ee) "**Shares**" has the meaning set forth in the Recitals.

(ff) "**Staff**" has the meaning set forth in Section 2(d).

(gg) "**Transaction Agreements**" means this Agreement, the Note Amendment Agreement, the Amended Notes and Security Agreement (as such terms are defined in the Note Amendment Agreement) and the Warrants.

(hh) "**Violations**" has the meaning set forth in Section 6(a).

(ii) "**Warrants**" has the meaning set forth in the Recitals.

(jj) "**Warrant Shares**" has the meaning set forth in the Recitals.

2. Registration.

(a) Mandatory Registration. The Company shall prepare and, as soon as practicable, but in no event later than the Filing Deadline, file with the SEC an initial Registration Statement on Form S-1 covering the resale of all of the Registrable Securities, provided that such initial Registration Statement shall register for resale the number of shares of Common Stock equal to the Required Registration Amount as of the date such Registration Statement is initially filed with the SEC (but as to any Additional Common Shares, only up to 1,106,144 Additional Common Shares that may be issued pursuant to the Note Amendment Agreement). Such initial Registration Statement, and each other Registration Statement required to filed pursuant to the terms of this Agreement, shall contain (except if otherwise directed by the Required Holders) the "Selling Security Holders" and "Plan of Distribution" sections in substantially the form attached hereto as Exhibit B. The Company shall use its commercially reasonable best efforts to have such initial Registration Statement, and each other Registration Statement required to filed pursuant to the terms of this Agreement, declared effective by the SEC as soon as practicable and, with respect to the initial Registration Statement, within sixty (60) days after the date of this Agreement.

(b) Use of Form S-3. If the Company is eligible to use Form S-3 without regard to the limitation provided for in Instruction I.B.6 of Form S-3, the Company shall undertake to register the resale of the Registrable Securities on Form S-3 (or transition the registration of the Registrable Securities from Form S-1 to Form S-3) as soon as practicable, provided that the Company shall maintain the effectiveness of all Registration Statements then in effect until such time as a Registration Statement on Form S-3 covering the resale of all the Registrable Securities has been declared effective by the SEC.

(c) Sufficient Number of Shares Registered. In the event the number of shares available under any Registration Statement is insufficient to cover all of the Registrable Securities required to be covered by such Registration Statement or a Holder's allocated portion of the Registrable Securities pursuant to Section 2(f), the Company shall amend such Registration Statement (if permissible), or file with the SEC a new Registration Statement (if the Company is eligible to use Form S-3 without regard to the limitation provided for in Instruction I.B.6 of Form S-3, then on the short form available therefor, if applicable), or both, so as to cover at least the Required Registration Amount as of the trading day immediately preceding the date of the filing of such amendment or new Registration Statement, in each case, as soon as practicable, but in any event not later than fifteen (15) days after the necessity therefor arises (but taking account of any Staff position with respect to the date on which the Staff will permit such amendment to the Registration Statement and/or such new Registration Statement (as the case may be) to be filed with the SEC). The Company shall use its commercially reasonable best efforts to cause such amendment to such Registration Statement and/or such new Registration Statement (as the case may be) to become effective as soon as practicable following the filing thereof with the SEC.

(d) Offering. Notwithstanding anything to the contrary contained in this Agreement, in the event the staff of the SEC (the "**Staff**") or the SEC seeks to characterize any offering pursuant to a Registration Statement filed pursuant to this Agreement as constituting an offering of securities by, or on behalf of, the Company, or in any other manner, such that the Staff or the SEC do not permit such Registration Statement to become effective and used for resales in a manner that does not constitute such an offering and that permits the continuous resale at the market by the Holders participating therein (or as otherwise may be acceptable to each Holder) without being named therein as an "underwriter," then the Company shall remove from the Registration Statement such portion of the Registrable Securities (the "**Cut Back Shares**") to be included in such Registration Statement by all Holders until such time as the Staff and the SEC shall so permit such Registration Statement to become effective as aforesaid. In making such reduction, the Company shall remove from the Registration Statement the number of Registrable Securities to be included by all Holders on a pro rata basis (based upon the number of Registrable Securities otherwise required to be included for each Holder) unless the inclusion of the Registrable Securities by a particular Holder or a particular set of Holders are resulting in the Staff or the SEC's "by or on behalf of the Company" offering position, in which event the Registrable Securities held by such Holder or set of Holders shall be the only Registrable Securities subject to reduction (and if by a set of Holders on a pro rata basis by such Holders or on such other basis as would result in the exclusion of the least number of Registrable Securities by all such Holders). In addition, in the event that the Staff or the SEC requires any Holder seeking to sell securities under a Registration Statement filed pursuant to this Agreement to be specifically identified as an "underwriter" in order to permit such Registration Statement to become effective, and such Holder does not consent to being so named as an underwriter in such Registration Statement, then, in each such case, the Company shall reduce the total number of Registrable Securities to be registered on behalf of such Holder, until such time as the Staff or the SEC does not require such identification or until such Holder accepts such identification and the manner thereof. Any reduction pursuant to this paragraph will first reduce all Registrable Securities other than those issued pursuant to the Note Amendment Agreement. In the event of any reduction in Registrable Securities pursuant to this paragraph, an affected Holder shall have the right to require, upon delivery of a written request to the Company signed by such Holder, the Company to file a registration statement within thirty (30) days of such request (subject to any restrictions imposed by Rule 415 or required by the Staff or the SEC) for resale by such Holder in a manner acceptable to such Holder, and the Company shall following such request cause to be and keep effective such registration statement in the same manner as otherwise contemplated in this Agreement for registration statements hereunder, in each case until such time as: (i) all Registrable Securities held by such Holder have been registered and sold pursuant to an effective Registration Statement in a manner acceptable to such Holder or (ii) all Registrable Securities may be resold by such Holder without restriction (including, without limitation, volume limitations) pursuant to Rule 144 (taking account of any Staff position with respect to "affiliate" status) and without the need for current public information required by Rule 144(c)(1) (or Rule 144(i)(2), if applicable) or (iii) such Holder agrees to be named as an underwriter in any such Registration Statement in a manner acceptable to such Holder as to all Registrable Securities held by such Holder and that have not theretofore been included in a Registration Statement under this Agreement (it being understood that the special demand right under this sentence may be exercised by a Holder multiple times and with respect to limited amounts of Registrable Securities in order to permit the resale thereof by such Holder as contemplated above).

(e) Piggyback Registrations. Without limiting any obligation of the Company hereunder or under the Note Amendment Agreement, if there is not an effective Registration Statement covering all of the Registrable Securities or the prospectus contained therein is not available for use and the Company shall determine to prepare and file with the SEC a registration statement on Form S-1 (or on Form S-3 if the Company is eligible to use Form S-3 without regard to the limitation provided for in Instruction I.B.6) relating to an offering for its own account or the account of others under the Securities Act of any of its equity securities (other than on Form S-4 or Form S-8 (each as promulgated under the Securities Act) or their then equivalents relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with the Company's stock option or other employee benefit plans), then the Company shall deliver to each Holder a written notice of such determination and, if within fifteen (15) days after the date of the delivery of such notice, any such Holder shall so request in writing, the Company shall include in such registration statement all or any part of such Registrable Securities such Holder requests to be registered; provided, however, that the Company shall not be required to register any Registrable Securities pursuant to this Section 2(e) that are eligible for resale pursuant to Rule 144 without restriction (including, without limitation, volume restrictions) and without the need for current public information required by Rule 144(c)(1) (or Rule 144(i)(2), if applicable) or that are the subject of a then-effective Registration Statement.

(f) Allocation of Registrable Securities. The initial number of Registrable Securities included in any Registration Statement and any increase in the number of Registrable Securities included therein shall be allocated pro rata among the Holders based on the number of Registrable Securities held by each Holder at the time such Registration Statement covering such initial number of Registrable Securities or increase thereof is declared effective by the SEC. In the event that a Holder sells or otherwise transfers any of such Holder's Registrable Securities, each transferee or assignee (as the case may be) that becomes a Holder shall be allocated a pro rata portion of the then-remaining number of Registrable Securities included in such Registration Statement for such transferor or assignee (as the case may be). Any shares of Common Stock included in a Registration Statement and which remain allocated to any Person which ceases to hold any Registrable Securities covered by such Registration Statement shall be allocated to the remaining Holders, pro rata based on the number of Registrable Securities then held by such Holders which are covered by such Registration Statement.

(g) No Inclusion of Other Securities. In no event shall the Company include any securities other than Registrable Securities on any Registration Statement without the prior written consent of the Required Holders.

3. Related Obligations.

The Company shall use its commercially reasonable best efforts to effect the registration of the Registrable Securities in accordance with the intended method of disposition thereof, and, pursuant thereto, the Company shall have the following obligations:

(a) The Company shall promptly prepare and file with the SEC a Registration Statement with respect to all the Registrable Securities (but in no event later than the applicable Filing Deadline) and use its commercially reasonable best efforts to cause such Registration Statement to become effective as soon as practicable after such filing. The Company shall use its commercially reasonable best efforts keep each Registration Statement effective (and the prospectus contained therein available for use) pursuant to Rule 415 for resales by the Holders on a delayed or continuous basis at then-prevailing market prices (and not fixed prices) at all times until the earlier of (i) the date as of which all of the Holders may sell all of the Registrable Securities required to be covered by such Registration Statement (disregarding any reduction pursuant to Section 2(e)) without restriction pursuant to Rule 144 (including, without limitation, volume restrictions) and without the need for current public information required by Rule 144(c)(1) (or Rule 144(i)(2), if applicable), or (ii) the date on which the Holders shall have sold all of the Registrable Securities covered by such Registration Statement, or if only the Warrant Shares remain unsold, the date on which all Warrants have expired (the "**Registration Period**"). Notwithstanding anything to the contrary contained in this Agreement, the Company shall ensure that, when filed and at all times while effective, each Registration Statement (including, without limitation, all amendments and supplements thereto) and the prospectus (including, without limitation, all amendments and supplements thereto) used in connection with such Registration Statement (1) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein (in the case of prospectuses, in the light of the circumstances in which they were made) not misleading and (2) will disclose (whether directly or through incorporation by reference to other SEC filings to the extent permitted) all material information regarding the Company and its securities required to be disclosed under the Securities Act or the Exchange Act (as defined below). The Company shall use its best efforts to submit to the SEC, within one (1) Business Day (but in any event no later than the second (2^{nd}) Business Day), after the date that the Company learns that no review of a particular Registration Statement will be made by the Staff or that the Staff has no further comments on a particular Registration Statement (as the case may be), a request for acceleration of effectiveness of such Registration Statement to a time and date not later than twenty-four (24) hours after the submission of such request. The Company shall respond in writing to comments made by the SEC in respect of a Registration Statement as soon as practicable, but in no event later than fifteen (15) days after the receipt of comments by or notice from the SEC that an amendment is required in order for a Registration Statement to be declared effective.

(b) The Company shall prepare and file with the SEC such amendments (including, without limitation, post-effective amendments) and supplements to each Registration Statement and the prospectus used in connection with each such Registration Statement, which prospectus is to be filed pursuant to Rule 424 promulgated under the Securities Act, as may be necessary to keep each such Registration Statement effective at all times during the Registration Period for such Registration Statement, and, during such period, comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities of the Company required to be covered by such Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in such Registration Statement; provided, however, that by 8:30 a.m. (New York time) on the Business Day immediately following each Effective Date, the Company shall file with the SEC in accordance with Rule 424(b) under the Securities Act the final prospectus to be used in connection with sales pursuant to the applicable Registration Statement (whether or not such a prospectus is technically required by such rule). In the case of amendments and supplements to any Registration Statement which are required to be filed pursuant to this Agreement (including, without limitation, pursuant to this Section 3(b)) by reason of the Company filing a report on Form 10-Q or Form 10-K or any analogous report under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), the Company shall have incorporated such report by reference into such Registration Statement, if applicable, or shall file such amendments or supplements with the SEC on the same day on which the Exchange Act report is filed which created the requirement for the Company to amend or supplement such Registration Statement.

(c) The Company shall (A) permit legal counsel for each Holder to review and comment upon (i) each Registration Statement at least five (5) Business Days prior to its filing with the SEC and (ii) all amendments and supplements to each Registration Statement (including, without limitation, the prospectus contained therein) (except for Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and any similar or successor reports) within a reasonable number of days prior to their filing with the SEC, and (B) not file any Registration Statement or amendment or supplement thereto in a form to which any legal counsel for any Holder reasonably objects. The Company shall not submit a request for acceleration of the effectiveness of a Registration Statement or any amendment or supplement thereto without the prior approval of legal counsel to each Holder, which consent shall not be unreasonably withheld. The Company shall promptly furnish to legal counsel for each Holder, without charge, (i) copies of any correspondence from the SEC or the Staff to the Company or its representatives relating to each Registration Statement, provided that such correspondence shall not contain any material, non-public information regarding the Company or any of its Subsidiaries (as defined in the Note Amendment Agreement), (ii) after the same is prepared and filed with the SEC, one (1) copy of each Registration Statement and any amendment(s) and supplement(s) thereto, including, without limitation, financial statements and schedules, all documents incorporated therein by reference, if requested by a Holder, and all exhibits and (iii) upon the effectiveness of each Registration Statement, one (1) copy of the prospectus included in such Registration Statement and all amendments and supplements thereto. The Company shall reasonably cooperate with legal counsel for each Holder in performing the Company's obligations pursuant to this Section 3.

(d) The Company shall promptly furnish to each Holder whose Registrable Securities are included in any Registration Statement, without charge, (i) after the same is prepared and filed with the SEC, at least one (1) copy of each Registration Statement and any amendment(s) and supplement(s) thereto, including, without limitation, financial statements and schedules, all documents incorporated therein by reference, if requested by a Holder, all exhibits and each preliminary prospectus, (ii) upon the effectiveness of each Registration Statement, ten (10) copies of the prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as such Holder may reasonably request from time to time) and (iii) such other documents, including, without limitation, copies of any preliminary or final prospectus, as such Holder may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by such Holder.

(e) The Company shall use its commercially reasonable best efforts to (i) register and qualify, unless an exemption from registration and qualification applies, the resale by Holders of the Registrable Securities covered by a Registration Statement under such other securities or "blue sky" laws of all applicable jurisdictions in the United States, (ii) prepare and file in those jurisdictions, such amendments (including, without limitation, post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(e), (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. The Company shall promptly notify legal counsel for each Holder and each Holder who holds Registrable Securities of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threatening of any proceeding for such purpose.

(f) The Company shall notify legal counsel for each Holder and each Holder in writing of the happening of any event, as promptly as practicable after becoming aware of such event, as a result of which the prospectus included in a Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (provided that in no event shall such notice contain any material, non-public information regarding the Company or any of its Subsidiaries), and promptly prepare and file a supplement or amendment to such Registration Statement and such prospectus contained therein to correct such untrue statement or omission and deliver ten (10) copies of such supplement or amendment to legal counsel for each Holder and each Holder (or such other number of copies as legal counsel for each Holder or such Holder may reasonably request). The Company shall also promptly notify legal counsel for each Holder and each Holder in writing (i) when a prospectus or any prospectus supplement or post-effective amendment has been filed, when a Registration Statement or any post-effective amendment has become effective (notification of such effectiveness shall be delivered to legal counsel for each Holder and each Holder by facsimile or e-mail on the same day of such effectiveness and by overnight mail), and when the Company receives written notice from the SEC that a Registration Statement or any post-effective amendment will be reviewed by the SEC, (ii) of any request by the SEC for amendments or supplements to a Registration Statement or related prospectus or related information, (iii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate; and (iv) of the receipt of any request by the SEC or any other federal or state governmental authority for any additional information relating to the Registration Statement or any amendment or supplement thereto or any related prospectus. The Company shall respond as promptly as practicable to any comments received from the SEC with respect to each Registration Statement or any amendment thereto. Notwithstanding anything to the contrary contained herein, any inability of any Holder to use the prospectus included in a Registration Statement as a result of the circumstances described in this Section 3(f) will not exceed (x) forty-five (45) days in any single instance or as a result of any single or series of related events or seventy-five (75) days in the aggregate in any 360 day period.

(g) The Company shall (i) use its commercially reasonable best efforts to prevent the issuance of any stop order or other suspension of effectiveness of each Registration Statement or the use of any prospectus contained therein, or the suspension of the qualification, or the loss of an exemption from qualification, of any of the Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible moment and (ii) notify legal counsel for each Holder and each Holder who holds Registrable Securities of the issuance of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding for such purpose.

(h) If any Holder may be required under applicable securities law to be described in any Registration Statement as an underwriter or any Holder believes that it could reasonably be deemed an underwriter and such Holder consents to so being named an underwriter, at the request of any Holder, the Company shall furnish to such Holder, on the date of the effectiveness of such Registration Statement and thereafter from time to time on such dates as a Holder may reasonably request (i) a letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the Holders, and (ii) an opinion, dated as of such date, of counsel representing the Company for purposes of such Registration Statement, in form, scope and substance as is customarily given in an underwritten public offering, addressed to the Holders.

(i) If any Holder may be required under applicable securities law to be described in any Registration Statement as an underwriter or any Holder believes that it could reasonably be deemed an underwriter and such Holder consents to so being named an underwriter, upon the written request of such Holder, the Company shall make available for inspection by (i) such Holder, (ii) legal counsel for such Holder and (iii) one (1) firm of accountants or other agents retained by such Holder (collectively, the "**Inspectors**"), all pertinent financial and other records, and pertinent corporate documents and properties of the Company (collectively, the "**Records**"), as shall be reasonably deemed necessary by each Inspector, and cause the Company's officers, directors and employees to supply all information which any Inspector may reasonably request; provided, however, that each Inspector shall agree in writing to hold in strict confidence and not to make any disclosure (except to such Holder and its advisors) or use of any Record or other information which the Company's board of directors determines in good faith to be confidential, and of which determination the Inspectors are so notified, unless (1) the disclosure of such Records is necessary to avoid or correct a misstatement or omission in any Registration Statement or is otherwise required under the Securities Act, (2) the release of such Records is required by applicable law or regulation or is ordered pursuant to a final, non-appealable subpoena or order from a court or government body of competent jurisdiction, or (3) the information in such Records has been made generally available to the public other than by disclosure in violation of this Agreement or any other Transaction Agreement. Such Holder agrees that it shall, upon learning that disclosure of such Records is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Company and allow the Company, at its expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, the Records deemed confidential. Nothing herein (or in any other confidentiality agreement between the Company and such Holder, if any) shall be deemed to limit any Holder's ability to sell Registrable Securities in a manner which is otherwise consistent with applicable laws and regulations.

(j) The Company shall hold in confidence and not make any disclosure of information concerning a Holder provided to the Company unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement or is otherwise required to be disclosed in such Registration Statement pursuant to the Securities Act, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this Agreement or any other Transaction Agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning a Holder is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt written notice to such Holder and allow such Holder, at such Holder's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

(k) Without limiting any obligation of the Company under the Note Amendment Agreement, the Company shall use its commercially reasonable best efforts either to (i) cause all of the Registrable Securities covered by each Registration Statement to be listed on each securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange, (ii) secure designation and quotation of all of the Registrable Securities covered by each Registration Statement on an Eligible Market (as defined in the Note Amendment Agreement), or (iii) if, despite the Company's commercially reasonable best efforts to satisfy the preceding clauses (i) or (ii) the Company is unsuccessful in satisfying the preceding clauses (i) or (ii), without limiting the generality of the foregoing, to use its commercially reasonable best efforts to arrange for at least two market makers to register with the Financial Industry Regulatory Authority ("**FINRA**") as such with respect to such Registrable Securities. In addition, the Company shall cooperate with each Holder and any broker or dealer through which any such Holder proposes to sell its Registrable Securities in effecting a filing with FINRA pursuant to FINRA Rule 5110 as requested by such Holder. The Company shall pay all fees and expenses in connection with satisfying its obligations under this Section 3(k)

(l) The Company shall cooperate with the Holders who hold Registrable Securities being offered and, to the extent applicable, facilitate the timely preparation and delivery of certificates (not bearing any restrictive legend) representing the Registrable Securities to be offered pursuant to a Registration Statement and enable such certificates to be in such denominations or amounts (as the case may be) as the Holders may reasonably request from time to time and registered in such names as the Holders may request.

(m) If requested by a Holder, the Company shall as soon as practicable after receipt of notice from such Holder and (i) incorporate in a prospectus supplement or post-effective amendment such information as a Holder reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; (ii) make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment; and (iii) supplement or make amendments to any Registration Statement or prospectus contained therein if reasonably requested by a Holder holding any Registrable Securities.

(n) The Company shall use its commercially reasonable best efforts to cause the Registrable Securities covered by a Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to consummate the disposition of such Registrable Securities.

(o) The Company shall make generally available to its security holders as soon as practical, but not later than ninety (90) days after the close of the period covered thereby, an earnings statement (in form complying with, and in the manner provided by, the provisions of Rule 158 under the Securities Act) covering a twelve-month period beginning not later than the first (1^{st}) day of the Company's fiscal quarter next following the applicable Effective Date of each Registration Statement. For the avoidance of doubt, filing of documents required by this Section 3(o) via the SEC's Electronic Data Gathering, Analysis and Retrieval system (EDGAR) shall satisfy all delivery requirements of this Section 3(o).

(p) The Company shall otherwise use its commercially reasonable best efforts to comply with all applicable rules and regulations of the SEC in connection with any registration hereunder.

(q) Within one (1) Business Day after a Registration Statement, which covers Registrable Securities, is declared effective by the SEC, the Company shall deliver, and shall cause legal counsel for the Company to deliver, to the transfer agent for such Registrable Securities (with copies to the Holders whose Registrable Securities are included in such Registration Statement) confirmation that such Registration Statement has been declared effective by the SEC substantially in the form attached hereto as Exhibit A.

(r) The Company shall use its commercially reasonable best efforts to maintain eligibility for use of Form S-3 (or any successor form thereto).

(s) The Company shall take all other commercially reasonable actions necessary to expedite and facilitate disposition by each Holder of its Registrable Securities pursuant to each Registration Statement.

(t) Neither the Company nor any of its subsidiaries has entered, as of the date hereof, nor shall the Company or any of its subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof.

4. Obligations of the Holders.

(a) At least five (5) Business Days prior to the first anticipated filing date of each Registration Statement, the Company shall notify each Holder in writing of the information the Company requires from each such Holder with respect to such Registration Statement. It shall be a condition precedent to the obligations of the Company to complete the registration pursuant to this Agreement with respect to the Registrable Securities of a particular Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it, as shall be reasonably required to effect and maintain the effectiveness of the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request.

(b) Each Holder, by such Holder's acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of each Registration Statement hereunder, unless such Holder has notified the Company in writing of such Holder's election to exclude all of such Holder's Registrable Securities from such Registration Statement. Each Holder agrees to furnish to the Company a completed questionnaire in the form attached to this Agreement as Exhibit D (a "**Selling Stockholder Questionnaire**") on a date that is the later of (i) not less than two (2) Business Days prior to the Filing Date or (ii) by the end of the fourth (4^{th}) Business Day following the date on which such Holder receives draft materials in accordance with this Section.

(c) Each Holder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(g) or the first sentence of Section 3(f), such Holder will immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement(s) covering such Registrable Securities until such Holder's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(g) or the first sentence of Section 3(f) or receipt of notice that no supplement or amendment is required. Notwithstanding anything to the contrary in this Section 4(c), the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of a Holder in accordance with the terms of the Note Amendment Agreement in connection with any sale of Registrable Securities with respect to which such Holder has entered into a contract for sale prior to the Holder's receipt of a notice from the Company of the happening of any event of the kind described in Section 3(g) or the first sentence of Section 3(f) and for which such Holder has not yet settled.

(d) Each Holder covenants and agrees that it will comply with the prospectus delivery requirements of the Securities Act as applicable to it in connection with sales of Registrable Securities pursuant to a Registration Statement.

5. Expenses of Registration.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Section 2 and Section 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, FINRA filing fees (if any) and fees and disbursements of counsel for the Company and each Holder shall be paid by the Company.

6. Indemnification.

(a) In the event any Registrable Securities are included in any Registration Statement under this Agreement, to the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend each Holder and each of its affiliates and each of their respective directors, officers, shareholders, members, partners, employees, agents, advisors, representatives (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title) and each Person, if any, who controls such Holder within the meaning of the Securities Act or the Exchange Act and each of the directors, officers, shareholders, members, partners, employees, agents, advisors, representatives (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title) of such controlling Persons (each, an "**Indemnified Person**"), against any losses, obligations, claims, damages, liabilities, contingencies, judgments, fines, penalties, charges, costs (including, without limitation, court costs, reasonable attorneys' fees and costs of defense and investigation), amounts paid in settlement or expenses, joint or several, (collectively, "**Claims**") incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the SEC, whether pending or threatened, whether or not an indemnified party is or may be a party thereto ("**Indemnified Damages**"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("**Blue Sky Filing**"), or the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading or (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement or this Agreement (the matters in the foregoing clauses (i) through (iii) being, collectively, "**Violations**"). Subject to Section 6(c), the Company shall reimburse the Indemnified Persons, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (x) shall not apply to a Claim by an Indemnified Person arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by such Indemnified Person for such Indemnified Person expressly for use in connection with the preparation of such Registration Statement or any such amendment thereof or supplement thereto, (y) shall not be available to a particular Holder to the extent such Claim is based on a failure of such Holder to deliver or to cause to be delivered the prospectus made available by the Company (to the extent applicable), including, without limitation, a corrected prospectus, if such prospectus or corrected prospectus was timely made available by the Company pursuant to Section 3(d) and then only if, and to the extent that, following the receipt of the corrected prospectus no grounds for such Claim would have existed and (z) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of any of the Registrable Securities by any of the Holders pursuant to Section 9.

(b) In connection with any Registration Statement in which a Holder is participating, such Holder agrees to severally and not jointly indemnify, hold harmless and defend, to the same extent and in the same manner as is set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement and each Person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act (each, an " **Indemnified Party**"), against any Claim or Indemnified Damages to which any of them may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or are based upon any Violation, in each case, to the extent, and only to the extent, that such Violation occurs in reliance upon and in conformity with written information furnished to the Company by such Holder expressly for use in connection with such Registration Statement; and, subject to Section 6(c) and the below provisos in this Section 6(b), such Holder will reimburse an Indemnified Party any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any such Claim; provided, however, that the indemnity agreement contained in this Section 6(b) and the agreement with respect to contribution contained in Section 7 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Holder, which consent shall not be unreasonably withheld or delayed, provided further that such Holder shall be liable under this Section 6(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to such Holder as a result of the applicable sale of Registrable Securities pursuant to such Registration Statement and no Holder shall be liable for any indirect, consequential, special, exemplary or punitive damages. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of any of the Registrable Securities by any of the Holders pursuant to Section 9.

(c) Promptly after receipt by an Indemnified Person or Indemnified Party (as the case may be) under this Section 6 of notice of the commencement of any action or proceeding (including, without limitation, any governmental action or proceeding) involving a Claim, such Indemnified Person or Indemnified Party (as the case may be) shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party (as the case may be); provided, however, that an Indemnified Person or Indemnified Party (as the case may be) shall have the right to retain its own counsel with the fees and expenses of such counsel to be paid by the indemnifying party if: (i) the indemnifying party has agreed in writing to pay such fees and expenses; (ii) the indemnifying party shall have failed promptly to assume the defense of such Claim and to employ counsel reasonably satisfactory to such Indemnified Person or Indemnified Party (as the case may be) in any such Claim; or (iii) the named parties to any such Claim (including, without limitation, any impleaded parties) include both such Indemnified Person or Indemnified Party (as the case may be) and the indemnifying party, and such Indemnified Person or such Indemnified Party (as the case may be) shall have been advised by counsel that a conflict of interest is likely to exist if the same counsel were to represent such Indemnified Person or such Indemnified Party and the indemnifying party (in which case, if such Indemnified Person or such Indemnified Party (as the case may be) notifies the indemnifying party in writing that it elects to employ separate counsel at the expense of the indemnifying party, then the indemnifying party shall not have the right to assume the defense thereof and such counsel shall be at the expense of the Indemnifying Party, provided further, that in the case of clause (iii) above the indemnifying party shall not be responsible for the reasonable fees and expenses of more than one (1) separate legal counsel for such Indemnified Person or Indemnified Party (as the case may be). The Indemnified Party or Indemnified Person (as the case may be) shall reasonably cooperate with the indemnifying party in connection with any negotiation or defense of any such action or Claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to the Indemnified Party or Indemnified Person (as the case may be) which relates to such action or Claim. The indemnifying party shall keep the Indemnified Party or Indemnified Person (as the case may be) reasonably apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its prior written consent; provided, however, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Indemnified Party or Indemnified Person (as the case may be), consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party or Indemnified Person (as the case may be) of a release from all liability in respect to such Claim or litigation, and such settlement shall not include any admission as to fault on the part of the Indemnified Party. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Indemnified Party or Indemnified Person (as the case may be) with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party (as the case may be) under this Section 6, except to the extent that the indemnifying party is materially and adversely prejudiced in its ability to defend such action.

(d) No Person involved in the sale of Registrable Securities who is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) in connection with such sale shall be entitled to indemnification from any Person involved in such sale of Registrable Securities who is not guilty of fraudulent misrepresentation.

(e) The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or Indemnified Damages are incurred.

(f) The indemnity and contribution agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnified Party or Indemnified Person against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to the law.

7. Contribution.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however, that: (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6, (ii) no Person involved in the sale of Registrable Securities which Person is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) in connection with such sale shall be entitled to contribution from any Person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the amount of net proceeds received by such seller from the applicable sale of such Registrable Securities pursuant to such Registration Statement and no Holder shall be liable for any indirect, consequential, special, exemplary or punitive damages. Notwithstanding the provisions of this Section 7, no Holder shall be required to contribute, in the aggregate, any amount in excess of the amount by which the net proceeds actually received by such Holder from the applicable sale of the Registrable Securities subject to the Claim exceeds the amount of any damages that such Holder has otherwise been required to pay, or would otherwise be required to pay under Section 6(b), by reason of such untrue or alleged untrue statement or omission or alleged omission.

8. Reports Under the Exchange Act.

With a view to making available to the Holders the benefits of Rule 144, the Company agrees to use its best efforts to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144;

(b) file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act so long as the Company remains subject to such requirements (it being understood and agreed that nothing herein shall limit any obligations of the Company under the Note Amendment Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

(c) furnish to each Holder so long as such Holder owns Registrable Securities, promptly upon request, (i) a written statement by the Company, if true, that it has complied with the reporting, submission and posting requirements of Rule 144 and the Exchange Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company with the SEC if such reports are not publicly available via EDGAR, and (iii) such other information as may be reasonably requested to permit the Holders to sell such securities pursuant to Rule 144 without registration.

9. Assignment of Registration Rights.

All or any portion of the rights under this Agreement shall be automatically assignable by each Holder to any transferee or assignee (as the case may be) of all or any portion of such Holder's Registrable Securities or Warrants if: (i) such Holder agrees in writing with such transferee or assignee (as the case may be) to assign all or any portion of such rights, and a copy of such agreement is furnished to the Company within a reasonable time after such transfer or assignment (as the case may be); (ii) the Company is, within a reasonable time after such transfer or assignment (as the case may be), furnished with written notice of (a) the name and address of such transferee or assignee (as the case may be), and (b) the securities with respect to which such registration rights are being transferred or assigned (as the case may be); (iii) immediately following such transfer or assignment (as the case may be) the further disposition of such securities by such transferee or assignee (as the case may be) is restricted under the Securities Act or applicable state securities laws if so required; (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence such transferee or assignee (as the case may be) agrees in writing with the Company to be bound by all of the provisions contained herein; (v) such transfer or assignment (as the case may be) shall have been made in accordance with the applicable requirements of the Note Amendment Agreement and the Warrants (as the case may be); and (vi) such transfer or assignment (as the case may be) shall have been conducted in accordance with all applicable federal and state securities laws.

10. Amendment of Registration Rights.

Provisions of this Agreement may be amended only with the written consent of the Company and the Required Holders, provided that no such shall be effective to the extent that it (1) applies to less than all of the holders of the holders of Registrable Securities, (2) imposes any obligation or liability on any Holder without such Holder's prior written consent (which may be granted or withheld in such Holder's sole discretion) or (3) applies retroactively. Any amendment effected in accordance with this Section 10 shall be binding upon each Holder and the Company. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party. No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

11. Miscellaneous.

(a) Solely for purposes of this Agreement, a Person is deemed to be a holder of Registrable Securities whenever such Person owns, or is deemed to own, of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from such record owner of such Registrable Securities.

(b) Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); (iii) with respect to Section 3(c), by electronic mail (provided confirmation of transmission is electronically generated and kept on file by the sending party); or (iv) one (1) Business Day after deposit with a nationally recognized overnight delivery service with next day delivery specified, in each case, properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:

If to the Company:

Pacific Ethanol, Inc.
400 Capitol Mall
Suite 2060
Sacramento, CA 95814
Telephone: (916) 403-2130
Facsimile: (916) 403-3936
Attention: General Counsel

With a copy (for informational purposes only) to:

Troutman Sanders LLP
5 Park Plaza, 14th Floor
Irvine, CA 92614
Telephone: (949) 622-2710
Facsimile: (949) 622-2739
Attention: Larry A. Cerutti, Esq.

If to the Transfer Agent:

American Stock Transfer & Trust Company
6201 15th Avenue, 2nd Floor
Brooklyn, NY 11219
Telephone: (718) 921-8360
Facsimile: (718) 921-8310
Attention: William Torre

If to a Holder, to its address and facsimile number set forth on the signature page to the Note Amendment Agreement, or to such other address and/or facsimile number and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine or electronic mail transmission containing the time, date, recipient facsimile number or electronic mail address and an image of the first page of such transmission or (C) provided by a courier or overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from a nationally recognized overnight delivery service in accordance with clause (i), (ii) or (iii) above, respectively.

(c) Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof. The Company and each Holder acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that each party hereto shall be entitled to an injunction or injunctions to prevent or cure breaches of the provisions of this Agreement by any other party hereto and to enforce specifically the terms and provisions hereof (without the necessity of showing economic loss and without any bond or other security being required), this being in addition to any other remedy to which any party may be entitled by law or equity.

(d) All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HEREWITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

(e) This Agreement, the other Transaction Agreements, the schedules and exhibits attached hereto and thereto and the instruments referenced herein and therein constitute the entire agreement among the parties hereto and thereto solely with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement, the other Transaction Agreements, the schedules and exhibits attached hereto and thereto and the instruments referenced herein and therein supersede all prior agreements and understandings among the parties hereto solely with respect to the subject matter hereof and thereof; provided, however, that nothing contained in this Agreement or any other Transaction Agreement shall (or shall be deemed to) (i) have any effect on any agreements any Holder has entered into with the Company or any of its Subsidiaries prior to the date hereof with respect to any prior investment made by such Holder in the Company, (ii) waive, alter, modify or amend in any respect any obligations of the Company or any of its Subsidiaries or any rights of or benefits to any Holder or any other Person in any agreement entered into prior to the date hereof between or among the Company and/or any of its Subsidiaries and any Holder and all such agreements shall continue in full force and effect or (iii) limit any obligations of the Company under any of the other Transaction Agreements.

(f) Subject to compliance with Section 9 (if applicable), this Agreement shall inure to the benefit of and be binding upon the permitted successors and assigns of each of the parties hereto provided that this Agreement is not assignable by the Company without the prior written consent of each Holder. This Agreement is not for the benefit of, nor may any provision hereof be enforced by, any Person, other than the parties hereto, their respective permitted successors and assigns and the Persons referred to in Sections 6 and 7 hereof.

(g) The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein," "hereunder," "hereof" and words of like import refer to this entire Agreement instead of just the provision in which they are found.

(h) This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such signature page shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

(i) Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(j) The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent and no rules of strict construction will be applied against any party.

(k) All consents and other determinations required to be made by the Holders pursuant to this Agreement shall be made, unless otherwise specified in this Agreement, by the Holders.

(l) The obligations of each Holder under this Agreement and the other Transaction Agreements are several and not joint with the obligations of any other Holder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder under this Agreement or any other Transaction Agreement. Nothing contained herein or in any other Transaction Agreement, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as, and the Company acknowledges that the Holders do not so constitute, a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by the Transaction Agreements or any matters, and the Company acknowledges that the Holders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or the transactions contemplated by this Agreement or any of the other the Transaction Agreements. Each Holder shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of any other Transaction Agreements, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained herein was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

[*signature pages follow*]

IN WITNESS WHEREOF, the Company and the Holders have caused their respective signature page to this Registration Rights Agreement to be duly executed as of the date first written above.

COMPANY:

PACIFIC ETHANOL, INC.

By: /s/ Neil M. Koehler
Neil M. Koehler, President and CEO

[SIGNATURE PAGES OF HOLDERS FOLLOW]

CWD Summit, LLC,
acting for and on behalf of
Candlewood Renewable Energy Series I

By: /s/ David Koenig
Name: David Koenig
Title: Authorized Signatory

Address for Notices:
555 Theodore Fremd Ave.
Suite C303
Rye, NY 10580

CKP South LLC

By: /s/ [illegible]
Name:
Title:

Address for Notices:
400 South Ave.
New Canaan, CT 06840

Corrum Capital Alternative Income Fund LP

By: /s/ [illegible]
Name:
Title:

Address for Notices:

CIF-Income Partners (A), LLC

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Orange 2015 DisloCredit Fund, L.P.

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Sainsbury's Credit Opportunities Fund, Ltd.

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Co-Investment Income Fund, L.P. -
US Taxable Series

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

Co-Investment Income Fund, L.P. -
US Tax-Exempt Series

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Address for Notices:
40 E. 52nd St.
New York, NY 10022

EXHIBIT A

FORM OF NOTICE OF EFFECTIVENESS
OF REGISTRATION STATEMENT

_____
_____
_____
Attention: _____

Re: Pacific Ethanol, Inc.

Ladies and Gentlemen:

We are counsel to Pacific Ethanol, Inc., a Delaware corporation (the "**Company**"), and have represented the Company in connection with that certain Senior Secured Note Amendment Agreement (the "**Note Amendment Agreement**") entered into by and among the Company and the Holders named therein (collectively, the "**Holders**") pursuant to which the Company issued to the Holders certain shares ("**Shares**") of the Company's common stock, $0.001 par value per share (the "**Common Stock**") and warrants ("**Warrants**") exercisable for shares of Common Stock, and may issue additional shares of Common Stock ("**Additional Common Shares**"). Pursuant to the Note Amendment Agreement, the Company also has entered into a Registration Rights Agreement with the Holders (the " **Registration Rights Agreement**") pursuant to which the Company agreed, among other things, to register the Registrable Securities (as defined in the Registration Rights Agreement), including the shares of Common Stock issuable pursuant to the terms of the Warrants ("**Warrant Shares**"), under the Securities Act of 1933, as amended (the "**1933 Act**"). In connection with the Company's obligations under the Registration Rights Agreement, on _____ ___, 20__, the Company filed a Registration Statement on Form [S-1] (File No. 333-_____) (the "**Registration Statement**") with the Securities and Exchange Commission (the "**SEC**") relating to the Registrable Securities which names each of the Holders as a selling security holder thereunder.

The names of the Selling Stockholders to whom this opinion relates and the numbers of Shares that each Selling Stockholder may resell under the Registration Statement are set forth under the column "Shares to be Offered" in the section of the Registration Statement and Prospectus entitled "Selling Stockholders" in the column "Shares to be Offered Pursuant to the Registration Statement." For purposes of this opinion, we have reviewed a copy of the Registration Statement and Prospectus, and such other and further information and documents as we have deemed advisable.

In connection with the foregoing, we have examined copies of resolutions of the Board of Directors of the Company, the securities described in the Registration Statement and such other agreements, instruments and documents as we have deemed relevant or necessary as a basis for the opinions hereinafter set forth. In making such examination, we have assumed the genuineness of all signatures on all original documents and the conformity to original documents of all copies submitted to us as conformed, photostat or other copies. As to matters of fact material to such opinions, we have, when relevant facts were not independently established, relied upon statements and certificates furnished to us.

EXHIBIT A

Based upon and subject to the foregoing, we render the following opinions:

1. The Registration Statement has become effective under the Act, and to the best of our knowledge, no stop order suspending the effectiveness of the Registration Statement has been issued, and no proceedings for that purpose have been instituted or threatened.

2. The Shares are, and upon due issuance of the Additional Common Shares in accordance with the terms of the Note Amendment Agreement, the Additional Common Shares will be, and upon due exercise of the Warrants in accordance with their terms including receipt of the consideration therefor, the Warrant Shares will be, duly and validly issued, fully paid and non-assessable, and not subject to the preemptive rights of any stockholder of the Company.

As with any selling stockholders' registration statement, the Shares, any Additional Common Shares and the Warrant Shares are restricted securities, but may be sold pursuant to the Registration Statement. The normal restrictive legend appearing thereto may be removed following the sale of such securities or the placement in street name of the selling broker in contemplation of imminent sale with the understanding that, if the sale is not consummated, the certificates will be returned to you for relegending.

Notwithstanding the foregoing, we may in the future advise you as to certain institutional type investors or foreign investors from whose shares the restrictive legend may be removed prior to placement into street name based on their status.

Our opinion shall not apply to resales occurring during any period that we or the Company may advise you in writing that the Registration Statement is not current. In such event, no resales of Shares, Additional Common Shares or Warrant Shares by Selling Stockholders shall be effected pursuant to our opinion until we confirm that our opinion may again be relied upon to effect resales by Selling Stockholders.

This opinion is rendered to American Stock Transfer & Trust Company and is not to be relied upon by any other person. We undertake no responsibility to update this information to reflect facts occurring after the date hereof.

Very truly yours,

[ISSUER'S COUNSEL]

By: _____

EXHIBIT B

SELLING SECURITY HOLDERS

This prospectus covers the sale by the selling security holders of up to an aggregate of [_____] shares of common stock, including an aggregate of [_____] shares of our common stock underlying warrants. We are registering the shares of common stock in order to permit the selling security holders to offer the shares for resale from time to time. The selling security holders have not had any material relationship with us within the past three years except as disclosed under the heading "Our Relationships with the Selling Security Holders" below.

The table below lists the selling security holders and other information regarding the beneficial ownership of the shares of common stock held by each of the selling security holders. The second column lists the number of shares of common stock beneficially owned by the selling security holders, based on their respective ownership of shares of common stock and warrants, as of _____ __, 20__, assuming exercise of the warrants held by each selling security holder on that date and does not take into account of any of the limitations on exercise and issuance of common stock contained in the warrants. The number of shares of common stock issuable upon exercise of the warrants held by each selling security holder on _____ __, 20__ is the maximum number of shares of common stock issuable upon exercise of the warrants on _____ __, 20__.

The third column lists the shares of common stock being offered by this prospectus by the selling security holders and does not take into account any limitations on issuance of common stock upon exercise of the warrants contained in the warrants.

The fourth column assumes the sale of all of the shares offered by the selling security holders under this prospectus and does not take into account any limitations on issuance of common stock upon exercise of the warrants contained in the warrants.

The selling security holders may sell all, some or none of their shares in this offering. See "Plan of Distribution."

EXHIBIT C

PLAN OF DISTRIBUTION

We are registering the shares of common stock issued to the selling security holders and the shares of common stock issuable upon exercise of the warrants to permit the resale of these shares of common stock by selling security holders from time to time after the date of this prospectus. We will not receive any of the proceeds from the sale by the selling security holders of the shares of common stock. We will bear all fees and expenses incident to our obligation to register the shares of common stock.

The selling security holders may sell all or a portion of the shares of common stock held by them and offered hereby from time to time directly or through one or more underwriters, broker-dealers or agents. If the shares of common stock are sold through underwriters or broker-dealers, the selling security holders will be responsible for underwriting discounts or commissions or agent's commissions. The shares of common stock may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of sale or at negotiated prices. These sales may be effected in transactions, which may involve crosses or block transactions, pursuant to one or more of the following methods:

- on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;
- in the over-the-counter market;
- in transactions otherwise than on these exchanges or systems or in the over-the-counter market;
- through the writing or settlement of options, whether such options are listed on an options exchange or otherwise;
- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales made after the date the Registration Statement is declared effective by the SEC;
- broker-dealers may agree with the selling security holders to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

The selling security holders may also sell shares of common stock under Rule 144 promulgated under the Securities Act of 1933, as amended, if available, rather than under this prospectus. In addition, the selling security holders may transfer the shares of common stock by other means not described in this prospectus. If the selling security holders effect such transactions by selling shares of common stock to or through underwriters, broker-dealers or agents, such underwriters, broker-dealers or agents may receive commissions in the form of discounts, concessions or commissions from the selling security holders or commissions from purchasers of the shares of common stock for whom they may act as agent or to whom they may sell as principal (which discounts, concessions or commissions as to particular underwriters, broker-dealers or agents may be in excess of those customary in the types of transactions involved). In connection with sales of the shares of common stock or otherwise, the selling security holders may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the shares of common stock in the course of hedging in positions they assume. The selling security holders may also sell shares of common stock short and deliver shares of common stock covered by this prospectus to close out short positions and to return borrowed shares in connection with such short sales. The selling security holders may also loan or pledge shares of common stock to broker-dealers that in turn may sell such shares.

The selling security holders may pledge or grant a security interest in some or all of the shares of common stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock from time to time pursuant to this prospectus or any amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act amending, if necessary, the list of selling security holders to include the pledgee, transferee or other successors in interest as selling security holders under this prospectus. The selling security holders also may transfer and donate the shares of common stock in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

To the extent required by the Securities Act and the rules and regulations thereunder, the selling security holders and any broker-dealer participating in the distribution of the shares of common stock may be deemed to be “underwriters” within the meaning of the Securities Act, and any commission paid, or any discounts or concessions allowed to, any such broker-dealer may be deemed to be underwriting commissions or discounts under the Securities Act. At the time a particular offering of the shares of common stock is made, a prospectus supplement, if required, will be distributed, which will set forth the aggregate amount of shares of common stock being offered and the terms of the offering, including the name or names of any broker-dealers or agents, any discounts, commissions and other terms constituting compensation from the selling security holders and any discounts, commissions or concessions allowed or re-allowed or paid to broker-dealers.

Under the securities laws of some states, the shares of common stock may be sold in such states only through registered or licensed brokers or dealers. In addition, in some states the shares of common stock may not be sold unless such shares have been registered or qualified for sale in such state or an exemption from registration or qualification is available and is complied with.

There can be no assurance that any selling security holder will sell any or all of the shares of common stock registered pursuant to the registration statement, of which this prospectus forms a part.

The selling security holders and any other person participating in such distribution will be subject to applicable provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder, including, without limitation, to the extent applicable, Regulation M of the Exchange Act, which may limit the timing of purchases and sales of any of the shares of common stock by the selling security holders and any other participating person. To the extent applicable, Regulation M may also restrict the ability of any person engaged in the distribution of the shares of common stock to engage in market-making activities with respect to the shares of common stock. All of the foregoing may affect the marketability of the shares of common stock and the ability of any person or entity to engage in market-making activities with respect to the shares of common stock.

We will pay all expenses of the registration of the shares of common stock pursuant to the registration rights agreement, estimated to be $[ ] in total, including, without limitation, Securities and Exchange Commission filing fees and expenses of compliance with state securities or "blue sky" laws; provided, however, that a selling security holder will pay all underwriting discounts and selling commissions, if any. We will indemnify the selling security holders against liabilities, including some liabilities under the Securities Act in accordance with the registration rights agreements or the selling security holders will be entitled to contribution. We may be indemnified by the selling security holders against civil liabilities, including liabilities under the Securities Act that may arise from any written information furnished to us by the selling security holder specifically for use in this prospectus, in accordance with the related registration rights agreements or we may be entitled to contribution.

Once sold under the registration statement, of which this prospectus forms a part, the shares of common stock will be freely tradable in the hands of persons other than our affiliates.

EXHIBIT D

PACIFIC ETHANOL, INC.

SELLING STOCKHOLDER QUESTIONNAIRE

In connection with the Registration Rights Agreement dated _____, 2019 (the "**Registration Rights Agreement**") by and between Pacific Ethanol, Inc., a Delaware corporation (the "**Company**") and the undersigned selling stockholder (the "**Selling Stockholder**"), the Company agreed to file with the U.S. Securities and Exchange Commission (the "**Commission**") a registration statement (the "**Resale Registration Statement**") pursuant to which the Company will register for resale certain shares of its common stock (the "**Restricted Securities**") held of record by the Selling Stockholder and shares underlying warrants held of record by the Selling Stockholder under Rule 415 under the Securities Act of 1933, as amended (the "**Securities Act**").

This Selling Stockholder Questionnaire (the "**Questionnaire**") requests certain information regarding you as a Selling Stockholder which is necessary to complete the preparation of the Resale Registration Statement. *Exhibit A* to this questionnaire defines certain terms which are used herein.

1. Please provide the full legal name of the Selling Stockholder(s):

_____

_____

If the Selling Stockholder is a corporation, partnership, limited liability company or other entity, please provide the jurisdiction under which such entity is organized:

_____

2. Please indicate below the total number of shares of the Company's common stock held by the Selling Stockholder as of the date hereof:

_____

3. Please indicate below the nature of any position, office or other material relationship which the Selling Stockholder has had within the past three years with the Company or any of the Company's affiliates:

_____

4. Is the Selling Stockholder a registered "broker-dealer" under Section 15 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")? "**Broker**" and "**dealer**" are defined on *Exhibit* A attached hereto.

Yes ☐ No ☐

If "*Yes*", did the Selling Stockholder receive the Restricted Securities as compensation for services provided to the Company?

Yes ☐ No ☐

_____

If the Selling Stockholder is a Broker or Dealer and has checked the "No" box directly above, the Company may identify the Selling Stockholder as an underwriter in the Resale Registration Statement and related prospectus in accordance with the Commission's rules and interpretations.

5. Is the Selling Stockholder an "affiliate" of a registered broker-dealer as defined above? An "**affiliate**" is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified. *Securities Act, Rule 405, Rule 501(b), Rule 3b-18.*

Yes ☐ No ☐

If "*Yes*", did the Selling Stockholder both: (i) purchase the Restricted Securities in the ordinary course of business; and (ii) hasno agreement or understanding, directly or indirectly, with any party to distribute the Restricted Securities, at the time of purchase of the Restricted Securities?

Yes ☐ No ☐

If the Selling Stockholder is an affiliate of a Broker or Dealer and has checked the "No" box directly above, the Company may identify such Selling Stockholder as an underwriter in the Resale Registration Statement and related prospectus in accordance with the Commission's rules and interpretations.

6. Please list in the space provided below the names of all natural persons (*i.e.*, individuals), if any, who have beneficial ownership of the Restricted Securities. "**Beneficial ownership**" is defined on *Exhibit A* attached hereto.

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7. Are there any agreement or understanding to transfer the Restricted Securities to a third party or any existing warrants, options, stock purchase agreements, redemption agreements, restrictions of any nature, calls or rights to subscribe of any character relating to the Restricted Securities?

Yes ☐ No ☐

If "*Yes*", please describe below:

---

8. Is the Selling Stockholder subject to any lock-up or leak-out agreements with respect to the Restricted Securities?

Yes ☐ No ☐

If "*Yes*", please describe below:

---

9. At the time the Selling Stockholder **acquired** the Restricted Securities was the Selling Stockholder a U.S. person? "**U.S. person**" is defined on *Exhibit A* attached hereto.

Yes ☐ No ☐

Once you have completed the Questionnaire, please sign it to indicate:

- your acknowledgment that the Company will rely on the information provided by you in this Questionnaire in the preparation and filing of the Resale Registration Statement, and your consent for the Company to use the information provided therein;
- your acknowledgement that material misstatements or omissions in your responses to the questions contained in this Questionnaire may give rise to civil and criminal liabilities against you;
- your agreement to promptly notify the Company of any changes in information provided in the Questionnaire occurring after the date you sign the Questionnaire; and
- your confirmation that the information contained in the Questionnaire is true and correct, to the best of your knowledge and belief after a reasonable investigation, as of the date you sign the Questionnaire.

If the Restricted Securities are held of record by more than one person, both persons must complete and sign this Questionnaire.

Please return this completed executed Questionnaire as soon as possible, but not later than _____ to: Christopher W. Wright, Esq., General Counsel of the Company. **THE EXISTENCE AND CONTENTS OF THE QUESTIONNAIRE, AS WELL AS YOUR ANSWERS AND ALL NOTES AND DRAFTS PREPARED BY YOU, ARE CONSIDERED EXTREMELY CONFIDENTIAL AND PROPRIETY BY THE COMPANY AND SHOULD BE TREATED ACCORDINGLY**.

IN WITNESS WHEREOF, the undersigned, by authority duly given, has caused this Questionnaire to be executed and delivered either in person or by its authorized agent.

Dated: _____

_____
Printed Name of Selling Stockholder(s)

_____
Signature

_____
Signature

_____
Printed name(s) of Signatory

_____
Title of Signatory, if applicable

EXHIBIT A

Exchange Act, Section 3(a)(4).

A. **"Broker"** means generally, any person engaged in the business of effecting transactions in securities for the account of others.

B**.** A bank shall not be considered to be a broker because the bank engages in any one or more of the following activities under the conditions described:

i. **Third party brokerage arrangements:** The bank enters into a contractual or other written arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if —

I. such broker or dealer is clearly identified as the person performing the brokerage services;

II. the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

III. any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

IV. any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement are in compliance with the Federal securities laws before distribution;

V. bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the types of investment vehicles available from the bank and the broker or dealer under the arrangement;

VI. bank employees do not receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self- regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

VII. such services are provided by the broker or dealer on a basis in which all customers that receive any services are fully disclosed to the broker or dealer;

VIII. the bank does not carry a securities account of the customer except as permitted under clause (ii) or (viii) of this subparagraph; and

IX. the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

ii. **Trust activities:** The bank effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards, and—

I. is chiefly compensated for such transactions, consistent with fiduciary principles and standards, on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers, or any combination of such fees; and

II. does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

iii. **Permissible securities transactions:** The bank effects transactions in—

I. commercial paper, bankers acceptances, or commercial bills;

II. exempted securities;

III. qualified Canadian government obligations as defined in section 24 of Title 12, in conformity with section 15C and the rules and regulations thereunder, or obligations of the North American Development Bank; or

IV. any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

iv. **Certain stock purchase plans**

I. **Employee benefit plans:** The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of any pension, retirement, profit- sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its affiliates (as defined in section 1841 of Title 12), if the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan.

II. **Dividend reinvestment plans:** The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of that issuer's dividend reinvestment plan, if—

(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan; and

(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission.

III. **Issuer plans:** The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of a plan or program for the purchase or sale of that issuer's shares, if—

(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program; and

(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission.

IV. **Permissible delivery of materials:** The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by delivery of written or electronic plan materials by a bank to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

(aa) comparable in scope or nature to that permitted by the Commission as of November 12, 1999; or

(bb) otherwise permitted by the Commission.

v. **Sweep accounts:** The bank effects transactions as part of a program for the investment or reinvestment of deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

vi. **Affiliate transactions:** The bank effects transactions for the account of any affiliate of the bank (as defined in section 1841 of Title 12) other than—

I. a registered broker or dealer; or

II. an affiliate that is engaged in merchant banking, as described in section 1843(k)(4)(H) of Title 12.

vii. **Private securities offerings:** The bank—

I. effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder;

II. at any time after the date that is 1 year after November 12, 1999, is not affiliated with a broker or dealer that has been registered for more than 1 year in accordance with this title, and engages in dealing, market making, or underwriting activities, other than with respect to exempted securities; and

III. if the bank is not affiliated with a broker or dealer, does not effect any primary offering described in subclause (I) the aggregate amount of which exceeds 25 percent of the capital of the bank, except that the limitation of this subclause shall not apply with respect to any sale of government securities or municipal securities.

viii. **Safekeeping and custody activities**

I. **In general:** The bank, as part of customary banking activities—

(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions

(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law, if the bank maintains records separately identifying the securities and the customer; or

(ee) serves as a custodian or provider of other related administrative services to any individual retirement account, pension, retirement, profit sharing, bonus, thrift savings, incentive, or other similar benefit plan.

II. **Exception for carrying broker activities:** The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42)).

ix. **Identified banking products:** The bank effects transactions in identified banking products as defined in section 206 of the Gramm-Leach-Bliley Act [15 U.S.C.A. § 78c note].

x. **Municipal securities:** The bank effects transactions in municipal securities.

xi. **De minimis exception:** The bank effects, other than in transactions referred to in clauses (i) through (x), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

C. Execution by broker or dealer: The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

i. the bank directs such trade to a registered broker or dealer for execution;

ii. the trade is a cross trade or other substantially similar trade of a security that—

I. is made by the bank or between the bank and an affiliated fiduciary; and

II. is not in contravention of fiduciary principles established under applicable Federal or State law; or

iii. the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

D. Fiduciary capacity: For purposes of subparagraph (B)(ii), the term “fiduciary capacity” means —

i. in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act, or as an investment adviser if the bank receives a fee for its investment advice;

ii. in any capacity in which the bank possesses investment discretion on behalf of another; or

iii. in any other similar capacity.

E. Exception for entities subject to section 15(e): The term "broker" does not include a bank that—

i. was, on the day before November 12, 1999, subject to section 15(e); and

ii. is subject to such restrictions and requirements as the Commission considers appropriate.

Exchange Act, Section 3(a)(5).

A**. "Dealer"** means generally, any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

B. **Exception for person not engaged in the business of dealing:** The term "dealer" does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

C. **Exception for certain bank activities:** A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

i. **Permissible securities transactions:** The bank buys or sells—

I. commercial paper, bankers acceptances, or commercial bills;

II. exempted securities;

III. qualified Canadian government obligations as defined in section 24 of Title 12, in conformity with section 15C and the rules and regulations thereunder, or obligations of the North American Development Bank; or

IV. any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

ii. **Investment, trustee, and fiduciary transactions:** The bank buys or sells securities for investment purposes—

I. for the bank; or

II. for accounts for which the bank acts as a trustee or fiduciary.

iii. **Asset-backed transactions:** The bank engages in the issuance or sale to qualified investors, through a grantor trust or other separate entity, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations (other than securities of which the bank is not the issuer), or pools of any such obligations predominantly originated by—

I. the bank;

II. an affiliate of any such bank other than a broker or dealer; or

III. a syndicate of banks of which the bank is a member, if the obligations or pool of obligations consists of mortgage obligations or consumer related receivables.

iv. **Identified banking products:** The bank buys or sells identified banking products, as defined in section 206 of the Gramm-Leach-Bliley Act [15 U.S.C.A. § 78c note].

"**Beneficial Ownership**" Securities are "beneficially owned" by an individual if such individual, directly or indirectly, through any contract, arrangement, understanding, relationship or other means, has or shares with others either (or both):

- Voting power, that is, the power to vote, or to direct the vote, of the securities; and/or
- Investment power, that is, the power to dispose, or to direct the disposition, of the securities.

Securities beneficially owned need not be registered in an individual's name. For example, an individual would ordinarily be considered the beneficial owner of securities:

- held in the name of family members, if such individual has the power to re-vest title in himself or herself or to dispose or direct the voting of the securities;
- held for such individual in the names of nominees, such as brokers, or in "street name";
- held by a partnership of which such individual is a partner;
- held by a corporation controlled by such individual; or
- held by a trust of which such individual is a trustee.

On the other hand, securities would not be beneficially owned by an individual if such individual only has the right to receive dividends on, or the sale proceeds of, such securities, and does not have or share the power to vote or divest them. For example, a beneficiary of the income from securities held in a trust managed by independent trustees would not ordinarily be the beneficial owner of such securities.

An individual would also be considered the beneficial owner of securities on any date if he or she has the right to acquire beneficial ownership, as defined above, within 60 days of that date, including pursuant to the exercise of an option, warrant, or other right, through conversion of a security, or pursuant to the power to revoke a trust, discretionary account, or similar arrangement.

U.S. person. A "U.S. person" means:

(i) any natural person resident in the United States;

(ii) any partnership or corporation organized or incorporated under the laws of the United States;

(iii) any estate of which any executor or administrator is a U.S. person;

(iv) any trust of which any trustee is a U.S. person;

(v) any agency or branch of a foreign entity located in the United States;

(vi) any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. person;

(vii) any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States; and

(viii) any partnership or corporation if:

(A) organized or incorporated under the laws of any foreign jurisdiction; and

(B) formed by a U.S. person principally for the purpose of investing in securities not registered under the Act, unless it is organized or incorporated, and owned, by accredited investors who are not natural persons, estates or trusts.

The following are *not* "U.S. persons":

(i) any discretionary account or similar account (other than an estate or trust) held for the benefit or account of a non-U.S. person by a dealer or other professional fiduciary organized, incorporated, or (if an individual) resident in the United States;

(ii) any estate of which any professional fiduciary acting as executor or administrator is a U.S. person if:

(A) an executor or administrator of the estate who is not a U.S. person has sole or shared investment discretion with respect to the assets of the estate; and

(B) the estate is governed by foreign law;

(iii) any trust of which any professional fiduciary acting as trustee is a U.S. person, if a trustee who is not a U.S. person has sole or shared investment discretion with respect to the trust assets, and no beneficiary of the trust (and no settlor if the trust is revocable) is a U.S. person;

(iv) an employee benefit plan established and administered in accordance with the law of a country other than the United States and customary practices and documentation of such country;

(v) any agency or branch of a U.S. person located outside the United States if:

(A) the agency or branch operates for valid business reasons; and

(B) the agency or branch is engaged in the business of insurance or banking and is subject to substantive insurance or banking regulation, respectively, in the jurisdiction where located; and

(vi) the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the United Nations, and their agencies, affiliates and pension plans, and any other similar international organizations, their agencies, affiliates and pension plans.

"United States" means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia.

Exhibit 10.5

Execution Version

SECOND AMENDMENT TO SECURITY AGREEMENT

THIS SECOND AMENDMENT TO SECURITY AGREEMENT (this "**Amendment**") is entered into effective as of December 22, 2019 by and among Pacific Ethanol, Inc., a Delaware corporation (the "**Company**"), each Holder, in its capacity as such and as a Secured Party, and Cortland Capital Market Services LLC, as collateral agent for itself and the Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "**Agent**"). All capitalized terms not otherwise defined herein shall have the meanings attributed to them in that certain Senior Secured Note Amendment Agreement dated effective as of December 22, 2019 by and among the Company and each Holder (the "**Amendment Agreement**").

RECITALS

WHEREAS, the Company issued certain Secured Promissory Notes in the aggregate original principal amount of $55,000,000 on December 15, 2016 (the "**Initial Notes**") pursuant to a Note Purchase Agreement dated as of December 12, 2016 by and among the Company and the Investors identified therein (the "**Initial Purchase Agreement**"), the obligations arising under which, among other obligations, are secured pursuant to the Security Agreement.

WHEREAS, the Company and certain Holders (including certain Holders that hold Initial Notes and certain Holders that do not hold Initial Notes) are parties to a Note Purchase Agreement dated as of June 26, 2017 (as amended, restated, supplemented or otherwise modified from time to time, including amendments and restatements thereof in its entirety, the "**Additional Purchase Agreement**"), pursuant to which the Company issued $13,948,078 in aggregate original principal amount of senior secured notes due December 15, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "**Additional Notes**").

WHEREAS, the Holders are holders of the Initial Notes, the Additional Notes and certain other Secured Promissory Notes issued by the Company on December 16, 2019 (the "**Existing Notes**"). Pursuant to the Amendment Agreement, the Existing Notes have been amended and restated with the written consent of all holders of Existing Notes (the "**Amended Notes**").

WHEREAS, as a condition to the closing under the Amendment Agreement with the Company, the Holders of the Amended Notes have required, among other things, that the Company shall enter into this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Certain Definitions. The following defined terms are added to Section 1 of the Security Agreement, or to the extent already defined in the Security Agreement, are amended and restated to read in their entireties as follows:

"**Amendment Agreement**" means that certain Senior Secured Note Amendment Agreement dated as of December 22, 2019, by and among the Company and the Holders from time to time party thereto.

"**Amended Note**" means any amended and restated Note amended and restated pursuant to the Amendment Agreement in substantially the form attached thereto as Exhibit B.

"**Holders**" means (x) each Person that is (i) a signatory to the Amendment Agreement and identified as a "Noteholder" on Exhibit A to the Amendment Agreement, (ii) a holder of any of the Notes, and (iii) a signatory to the Second Amendment in its capacity as a Holder and as a "Secured Party" and (y) any other Person that becomes (i) a holder of any of the Notes pursuant to any permitted assignment or transfer and (ii) a "Secured Party" under this Agreement pursuant to a Security Agreement Joinder, other than any such Person that ceases to be a party hereto pursuant to an assignment of all of its Notes and its rights and obligations under the Transaction Documents.

"**Obligations**" means all of the liabilities and obligations (primary, secondary, direct, contingent, sole, joint or several) due or to become due, or that are now or may be hereafter contracted or acquired, or owing to, of the Company to the Agent or to the Secured Parties, including, without limitation, all obligations under this Agreement, the Initial Purchase Agreement, the Additional Purchase Agreement, the Notes, the Amendment Agreement, the Agent Fee Letter, the Transaction Documents (as defined in the Amendment Agreement) and any other instruments, agreements or other documents executed and/or delivered in connection herewith or therewith, in each case, whether now or hereafter existing, voluntary or involuntary, direct or indirect, absolute or contingent, liquidated or unliquidated, whether or not jointly owed with others, and whether or not from time to time decreased or extinguished and later increased, created or incurred, and all or any portion of such obligations or liabilities that are paid, to the extent all or any part of such payment is avoided or recovered directly or indirectly from Agent or any of the Secured Parties as a preference, fraudulent transfer or otherwise as such obligations may be amended, supplemented, converted, extended or modified from time to time. Without limiting the generality of the foregoing, the term "Obligations" shall include, without limitation: (i) the principal amount of, and interest on the Notes and the loans extended pursuant thereto; (ii) any and all other fees, indemnities, costs, obligations and liabilities of the Company from time to time under or in connection with this Agreement, the Initial Purchase Agreement, the Additional Purchase Agreement, the Notes, the Amendment Agreement, the Agent Fee Letter, the Transaction Documents and any other instruments, agreements or other documents executed and/or delivered in connection herewith or therewith; and (iii) all amounts (including but not limited to post-petition interest) in respect of the foregoing that would be payable but for the fact that the obligations to pay such amounts are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Company.

The term "**Notes**" referred to in Recital A of the Security Agreement, and the term "**Notes**" used throughout the body of the Security Agreement, shall include the Initial Notes and the Additional Notes, collectively, as such Notes may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, including, for the avoidance of doubt, as amended and restated by the applicable Amended Note.

The term "**Purchase Agreement**" referred to in Recital A of the Security Agreement, and the term "**Purchase Agreement**" used throughout the body of the Security Agreement, shall include the Initial Purchase Agreement and the Additional Purchase Agreement, collectively, as such agreements may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, including, for the avoidance of doubt, as amended and restated by the Amendment Agreement.

"**Second Amendment**" means the Second Amendment to Security Agreement, dated as of December 22, 2019, among the Company, each Holder and the Agent.

2. Amendment to Notice Address. The Agent's notice address shall be amended and restated in its entirety to read as set forth on the signature page attached to this Amendment.

3. Effectiveness. This Amendment will become effective upon the date on which the Agent has received a counterpart hereof duly executed by each party hereto.

4. Representations and Warranties. In order to induce the Agent and the Holders to enter into this Amendment, the Company hereby remakes all of the representations and warranties contained in Section 6 of the Security Agreement as of the date of this Amendment (except to the extent such representation or warranty relates to an earlier date, in which case, it is true, correct and complete as of such earlier date). The Company's representations and warranties in Sections 6(b) and (c) of the Security Agreement shall apply, *mutatis mutandis*, to this Amendment.

5. Interpretation. Except as expressly modified by this Amendment, all terms and provisions of the Security Agreement shall remain unchanged and in full force and effect and are ratified and affirmed on the date hereof. In the event of any inconsistency between the terms of this Amendment and the terms of the Security Agreement prior to its amendment, the terms of this Amendment shall control.

6. Reaffirmation. The Company hereby acknowledges and agrees that (i) to the extent any Transaction Document purports to grant, assign or pledge to the Agent or any Holder a security interest or lien on any collateral as security for the Obligations, such grant, assignment or pledge is hereby ratified and confirmed in all respects and (ii) the obligations secured under the Transaction Documents will include all Obligations, as amended by this Amendment and the Amendment Agreement, including the Amended Notes.

7. Counterparts. This Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and either of the parties hereto may execute this Amendment by signing any such counterpart.

8. Governing Law. This Amendment shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Agreement shall be governed by, the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York.

9. Direction. The Holders party hereto constituting all of the Holders party to the Security Agreement hereby (i) (x) authorize and direct the Agent to execute and deliver this Amendment and (y) authorize and direct the Agent to take any and all actions as may be required or advisable to effectuate the amendments contemplated hereby and (ii) acknowledge and agree that (x) each of the directions in this Section 9 constitute a direction from all Holders under the provisions of Section 17 of the Security Agreement and (y) Section 17(i) of the Security Agreement shall apply to any and all actions taken by the Agent in accordance with such directions.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the day and year first above written.

COMPANY:

Pacific Ethanol, Inc.,
a Delaware corporation

By: /s/ Neil M. Koehler
Name: Neil M. Koehler
Title: President & Chief Executive Officer

AGENT:

Cortland Capital Market Services LLC,
as Agent

By: /s/ Jon Kirschmeier
Name: Jon Kirschmeier
Title: Associate Counsel

Address:
Cortland Capital Market Services LLC
225 W. Washington Street, 9th Floor
Chicago, IL 60606
Attention: Ashwinee Sawh and Legal Department
Telecopy no.: (312) 562-5072
E-mail: Cortland_Successor
Agent@cortlandglobal.com
and legal@cortlandglobal.com

with a copy (which copy shall not constitute notice) to:

Arnold & Porter Kaye Scholer LLP
250 W. 55th Street
New York, NY 10019
Attention: Alan Glantz
Telecopy no.: (212) 836-6763
E-mail: alan.glantz@amoldporter.com

HOLDERS:

CWD Summit, LLC,
acting for and on behalf of
Candlewood Renewable Energy Series I

By: /s/ David Koenig
Name: David Koenig
Title: Authorized Signatory

CKP South LLC

By: /s/ [illegible]
Name:
Title:

Corrum Capital Alternative Income Fund, LP

By: /s/ [illegible]
Name:
Title:

CIF-Income Partners (A), LLC

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Orange 2015 DisloCredit Fund, L.P.

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Sainsbury's Credit Opportunities Fund, Ltd.

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Co-Investment Income Fund, L.P. – US Tax-Exempt Series

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director

Co-Investment Income Fund, L.P. – US Taxable Series

By: BlackRock Financial Management, Inc.
Its investment manager

By: /s/ Stephen Kavalich
Name: Stephen Kavalich
Title: Director