

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended **June 30, 2021**

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: **000-21467**

**ALTO INGREDIENTS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction  
of incorporation or organization)

**41-2170618**

(I.R.S. Employer  
Identification No.)

**1300 South Second Street, Pekin, Illinois**

(Address of principal executive offices)

**61554**

(zip code)

**(916) 403-2123**

(Registrant's telephone number, including area code)

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

<b>Title of each Class</b>	<b>Trading Symbol</b>	<b>Name of Exchange on Which Registered</b>
Common Stock, \$0.001 par value	ALTO	The Nasdaq Stock Market LLC (Nasdaq Capital Market)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Emerging growth company

Accelerated filer

Smaller reporting 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.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of August 9, 2021, there were 72,806,563 shares of Alto Ingredients, Inc. common stock, \$0.001 par value per share, and 896 shares of Alto Ingredients, Inc. non-voting common stock, \$0.001 par value per share, outstanding.

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**PART I - FINANCIAL INFORMATION**

**ITEM 1. FINANCIAL STATEMENTS.**

**ALTO INGREDIENTS, INC.  
CONSOLIDATED BALANCE SHEETS  
(in thousands)**

	June 30, 2021 (unaudited)	December 31, 2020 *
<b><u>ASSETS</u></b>		
<b>Current Assets:</b>		
Cash and cash equivalents	\$ 50,796	\$ 47,667
Accounts receivable, net (net of allowance for doubtful accounts of \$363 and \$260, respectively)	67,043	43,491
Inventories	58,251	37,925
Prepaid inventory	531	891
Derivative instruments	28,498	17,149
Assets held-for-sale	30,199	58,295
Other current assets	8,932	8,628
Total current assets	<u>244,250</u>	<u>214,046</u>
Property and equipment, net	<u>221,327</u>	<u>229,486</u>
<b>Other Assets:</b>		
Right of use operating lease assets, net	13,509	11,046
Notes receivable	12,775	14,337
Intangible assets	2,678	2,678
Other assets	4,665	5,225
Total other assets	<u>33,627</u>	<u>33,286</u>
<b>Total Assets</b>	<b><u>\$ 499,204</u></b>	<b><u>\$ 476,818</u></b>

\* Amounts derived from the audited consolidated financial statements for the year ended December 31, 2020.

See accompanying notes to consolidated financial statements.

	2021 (unaudited)	2020 *
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>Current Liabilities:</b>		
Accounts payable – trade	\$ 30,029	\$ 13,047
Accrued liabilities	15,977	11,101
Current portion – operating leases	3,171	2,180
Current portion – long-term debt	23,660	25,533
Derivative instruments	20,174	—
Liabilities held-for-sale	10,478	19,542
Other current liabilities	7,255	15,524
Total current liabilities	<u>110,744</u>	<u>86,927</u>
Long-term debt, net of current portion	56,848	71,807
Operating leases, net of current portion	10,188	8,715
Other liabilities	13,405	13,134
<b>Total Liabilities</b>	<u>191,185</u>	<u>180,583</u>
Commitments and Contingencies (Note 7)		
<b>Stockholders' Equity:</b>		
Alto Ingredients, Inc. Stockholders' Equity:		
Preferred stock, \$0.001 par value; 10,000 shares authorized; Series A: 1,684 shares authorized; no shares issued and outstanding as of June 30, 2021 and December 31, 2020; Series B: 1,581 shares authorized; 927 shares issued and outstanding as of June 30, 2021 and December 31, 2020; liquidation preference of \$20,290 as of June 30, 2021	1	1
Common stock, \$0.001 par value; 300,000 shares authorized; 72,811 and 72,487 shares issued and outstanding as of June 30, 2021 and December 31, 2020, respectively	73	72
Non-voting common stock, \$0.001 par value; 3,553 shares authorized; 1 share issued and outstanding as of June 30, 2021 and December 31, 2020, respectively	—	—
Additional paid-in capital	1,035,980	1,036,638
Accumulated other comprehensive loss	(3,878)	(3,878)
Accumulated deficit	(724,157)	(736,598)
Total Stockholders' Equity	<u>308,019</u>	<u>296,235</u>
<b>Total Liabilities and Stockholders' Equity</b>	<u>\$ 499,204</u>	<u>\$ 476,818</u>

\* Amounts derived from the audited consolidated financial statements for the year ended December 31, 2020.

See accompanying notes to consolidated financial statements.

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**ALTO INGREDIENTS, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(unaudited, in thousands, except per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Net sales	\$ 298,110	\$ 212,074	\$ 516,844	\$ 523,478
Cost of goods sold	282,877	180,892	487,774	505,186
Gross profit	<u>15,233</u>	<u>31,182</u>	<u>29,070</u>	<u>18,292</u>
Selling, general and administrative expenses	7,230	8,629	14,244	18,841
Asset impairments	1,900	—	3,100	—
Income (loss) from operations	6,103	22,553	11,726	(549)
Interest expense, net	(1,045)	(4,647)	(2,930)	(9,954)
Income from loan forgiveness	3,887	—	3,887	—
Fair value adjustments	—	(1,314)	—	(641)
Other income (expense), net	(555)	(1,738)	385	(1,158)
Income (loss) before benefit for income taxes	<u>8,390</u>	<u>14,854</u>	<u>13,068</u>	<u>(12,302)</u>
Benefit for income taxes	—	—	—	—
Consolidated net income (loss)	8,390	14,854	13,068	(12,302)
Net loss attributed to noncontrolling interests	—	110	—	2,166
Net income (loss) attributed to Alto Ingredients, Inc.	<u>\$ 8,390</u>	<u>\$ 14,964</u>	<u>\$ 13,068</u>	<u>\$ (10,136)</u>
Preferred stock dividends	<u>\$ (315)</u>	<u>\$ (315)</u>	<u>\$ (627)</u>	<u>\$ (630)</u>
Net income (loss) available to common stockholders	<u>\$ 8,075</u>	<u>\$ 14,649</u>	<u>\$ 12,441</u>	<u>\$ (10,766)</u>
Net income (loss) per share, basic	<u>\$ 0.11</u>	<u>\$ 0.27</u>	<u>\$ 0.18</u>	<u>\$ (0.20)</u>
Net income (loss) per share, diluted	<u>\$ 0.11</u>	<u>\$ 0.27</u>	<u>\$ 0.17</u>	<u>\$ (0.20)</u>
Weighted-average shares outstanding, basic	<u>71,260</u>	<u>54,498</u>	<u>70,808</u>	<u>54,163</u>
Weighted-average shares outstanding, diluted	<u>71,929</u>	<u>54,498</u>	<u>71,961</u>	<u>54,163</u>

See accompanying notes to consolidated financial statements.

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**ALTO INGREDIENTS, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(unaudited, in thousands)

	Six Months Ended June 30,	
	2021	2020
<b>Operating Activities:</b>		
Consolidated net income (loss)	\$ 13,068	\$ (12,302)
Adjustments to reconcile consolidated net income (loss) to net cash provided by operating activities:		
Depreciation	11,670	18,806
Asset impairments	3,100	—
Income from loan forgiveness	(3,887)	—
Non-cash compensation	1,655	1,441
Amortization of deferred financing fees	701	497
Fair value adjustments	—	641
Interest added to debt	—	133
Bad debt expense	143	1
Changes in operating assets and liabilities:		
Accounts receivable	(23,694)	25,435
Inventories	(18,526)	14,274
Prepaid expenses and other assets	8,615	(403)
Prepaid inventory	361	(1,652)
Operating leases	(2,069)	(2,348)
Assets held-for-sale	(2,915)	1,012
Liabilities held-for-sale	1,445	9,345
Accounts payable and accrued expenses	11,096	(9,225)
Net cash provided by operating activities	<u>763</u>	<u>45,655</u>
<b>Investing Activities:</b>		
Proceeds from Madera Sale	19,500	—
Proceeds from PAL Sale	—	19,896
Additions to property and equipment	(4,192)	(2,510)
Net cash provided by investing activities	<u>15,308</u>	<u>17,386</u>
<b>Financing Activities:</b>		
Net proceeds from (payments on) Kinergy's line of credit	24,406	(36,897)
Proceeds from stock option exercises	462	—
Principal payments on borrowings	(37,810)	(25,500)
Proceeds from issuance of common stock	—	282
Proceeds from borrowings	—	9,860
Net cash used in financing activities	<u>(12,942)</u>	<u>(52,255)</u>
Net change in cash and cash equivalents	3,129	10,786
Cash and cash equivalents at beginning of period	47,667	18,997
Cash and cash equivalents at end of period	<u>\$ 50,796</u>	<u>\$ 29,783</u>
<b>Supplemental Information:</b>		
Interest paid	\$ 2,723	\$ 9,733
Accrued preferred stock dividends	<u>\$ 627</u>	<u>\$ 630</u>

See accompanying notes to consolidated financial statements.

**ALTO INGREDIENTS, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
(unaudited, in thousands)

	Preferred Stock		Common Stock		Additional Paid-In	Accumulated	Accum. Other Comprehensive	Non- Controlling	Total
	Shares	Amount	Shares	Amount	Capital	Deficit	Income (Loss)	Interests	
<b>Balances, January 1, 2021</b>	927	\$ 1	72,487	\$ 72	\$ 1,036,638	\$ (736,598)	\$ (3,878)	\$ —	\$ 296,235
Restricted stock issued to employees and directors, net of cancellations and tax	—	—	550	1	(186)	—	—	—	(185)
Stock-based compensation	—	—	—	—	804	—	—	—	804
Stock option exercises	—	—	124	—	462	—	—	—	462
Preferred stock dividends	—	—	—	—	—	(312)	—	—	(312)
Net loss	—	—	—	—	—	4,678	—	—	4,678
<b>Balances, March 31, 2021</b>	927	\$ 1	73,161	\$ 73	\$ 1,037,718	\$ (732,232)	\$ (3,878)	\$ —	\$ 301,682
Restricted stock issued to employees and directors, net of cancellations and tax	—	—	(350)	—	(2,589)	—	—	—	(2,589)

Stock-based compensation	—	—	—	—	851	—	—	—	851
Preferred stock dividends	—	—	—	—	—	(315)	—	—	(315)
Net income	—	—	—	—	—	8,390	—	—	8,390
<b>Balances, June 30, 2021</b>	<b>927</b>	<b>\$ 1</b>	<b>72,811</b>	<b>\$ 73</b>	<b>\$ 1,035,980</b>	<b>\$ (724,157)</b>	<b>\$ (3,878)</b>	<b>\$ —</b>	<b>\$ 308,019</b>
	Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Accum. Other Comprehensive Income (Loss)	Non-Controlling Interests	Total
	Shares	Amount	Shares	Amount					
<b>Balances, January 1, 2020</b>	<b>927</b>	<b>\$ 1</b>	<b>55,508</b>	<b>\$ 56</b>	<b>\$ 942,307</b>	<b>\$ (720,214)</b>	<b>\$ (2,370)</b>	<b>\$ 7,265</b>	<b>\$ 227,045</b>
Restricted stock issued to employees and directors, net of cancellations and tax	—	—	(38)	(4)	3	—	—	—	(1)
Stock-based compensation	—	—	—	—	865	—	—	—	865
Issuances of common stock	—	—	421	4	278	—	—	—	282
Preferred stock dividends	—	—	—	—	—	(315)	—	—	(315)
Net loss	—	—	—	—	—	(25,100)	—	(2,056)	(27,156)
<b>Balances, March 31, 2020</b>	<b>927</b>	<b>\$ 1</b>	<b>55,891</b>	<b>\$ 56</b>	<b>\$ 943,453</b>	<b>\$ (745,629)</b>	<b>\$ (2,370)</b>	<b>\$ 5,209</b>	<b>\$ 200,720</b>
Restricted stock issued to employees and directors, net of cancellations and tax	—	—	(409)	(1)	6	—	—	—	5
Stock-based compensation	—	—	—	—	576	—	—	—	576
Preferred stock dividends	—	—	—	—	—	(315)	—	—	(315)
Sale of interests in PAL	—	—	—	—	—	—	—	(5,099)	(5,099)
Net income (loss)	—	—	—	—	—	14,964	—	(110)	14,854
<b>Balances, June 30, 2020</b>	<b>927</b>	<b>\$ 1</b>	<b>55,482</b>	<b>\$ 55</b>	<b>\$ 944,035</b>	<b>\$ (730,980)</b>	<b>\$ (2,370)</b>	<b>\$ —</b>	<b>\$ 210,741</b>

See accompanying notes to consolidated financial statements.

**ALTO INGREDIENTS, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**(UNAUDITED)**

1. ORGANIZATION AND BASIS OF PRESENTATION.

*Organization and Business* – The consolidated financial statements include, for all periods presented, the accounts of Alto Ingredients, Inc., a Delaware corporation (“Alto Ingredients”), and its direct and indirect subsidiaries (collectively, the “Company”), including its wholly-owned subsidiaries, Kinergy Marketing LLC, an Oregon limited liability company (“Kinergy”), Alto Nutrients LLC, a California limited liability company, Alto Op Co., a Delaware corporation, and all seven of the Company’s production facilities through May 14, 2021. As discussed in Note 2, on May 14, 2021, the Company completed the sale of its production facility located in Madera, California.

The Company is a leading producer and marketer of specialty alcohols and essential ingredients. The Company also produces and markets fuel-grade ethanol. The Company’s production facilities in Pekin, Illinois are located in the heart of the Corn Belt, benefit from low-cost and abundant feedstock and allow for access to many additional domestic markets. In addition, the Company’s ability to load unit trains and barges from these facilities allows for greater access to international markets. The Company’s three production facilities in California, Oregon and Idaho, located in close proximity to both feed and fuel-grade ethanol customers, enjoy unique advantages in efficiency, logistics and product pricing.

The Company has a combined production capacity of 410 million gallons per year, markets, on an annualized basis, over 500 million gallons of alcohols, and produces, on an annualized basis, nearly 1.5 million tons of essential ingredients on a dry matter basis, such as dried yeast, corn gluten meal, corn gluten feed, and distillers grains and liquid feed used in commercial animal feed and pet foods.

The Company focuses on four key markets: *Health, Home & Beauty*; *Food & Beverage*; *Essential Ingredients*; and *Renewable Fuels*. Products for the Health, Home & Beauty market include specialty alcohols used in mouthwash, cosmetics, pharmaceuticals, hand sanitizers, disinfectants and cleaners. Products for the Food & Beverage markets include grain neutral spirits used in alcoholic beverages and vinegar as well as corn germ used for corn oils. Products for Essential Ingredients markets include yeast, corn gluten and distillers grains used in commercial animal feed and pet foods. Renewable Fuels includes fuel-grade ethanol and distillers corn oil used as a feedstock for renewable diesel fuel.

As of June 30, 2021, the Company was operating at approximately 71% of its 410 million gallon annual production capacity. As market conditions change, the Company may increase, decrease or idle production at one or more operating facilities or resume operations at any idled facility.

*Basis of Presentation–Interim Financial Statements* – The accompanying unaudited consolidated financial statements and related notes have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information and the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Results for interim periods should not be considered indicative of results for a full year. These interim consolidated financial statements should be read in conjunction with the consolidated financial statements and related notes contained in the Company’s Annual Report on Form 10-K for the year ended December 31, 2020. The accounting policies used in preparing these consolidated financial statements are the same as those described in Note 1 to the consolidated financial statements in the Company’s Annual Report on Form 10-K for the year ended December 31, 2020. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair statement of the results for interim periods have been included. All significant intercompany accounts and transactions have been eliminated in consolidation.

**Accounts Receivable and Allowance for Doubtful Accounts** – Trade accounts receivable are presented at face value, net of the allowance for doubtful accounts. The Company sells specialty alcohols to large consumer products companies, sells fuel-grade ethanol to gasoline refining and distribution companies, sells essential ingredients to animal feed customers, including distillers grains and other feed co-products to dairy operators and animal feedlots and corn oil to poultry and biodiesel customers generally without requiring collateral.

The Company maintains an allowance for doubtful accounts for balances that appear to have specific collection issues. The collection process is based on the age of the invoice and requires attempted contacts with the customer at specified intervals. If, after a specified number of days, the Company has been unsuccessful in its collection efforts, a bad debt allowance is recorded for the balance in question. Delinquent accounts receivable are charged against the allowance for doubtful accounts once uncollectibility has been determined. The factors considered in reaching this determination are the apparent financial condition of the customer and the Company's success in contacting and negotiating with the customer. If the financial condition of the Company's customers were to deteriorate, resulting in an impairment of ability to make payments, additional allowances may be required.

Of the accounts receivable balance, approximately \$61,501,000 and \$35,839,000 at June 30, 2021 and December 31, 2020, respectively, were used as collateral under Kinergy's operating line of credit. The allowance for doubtful accounts was \$363,000 and \$260,000 as of June 30, 2021 and December 31, 2020, respectively. The Company recorded a bad debt expense of \$52,000 and a bad debt recovery of \$18,000 for the three months ended June 30, 2021 and 2020, respectively. The Company recorded a bad debt expense of \$143,000 and \$1,000 for the six months ended June 30, 2021 and 2020, respectively. The Company does not have any off-balance sheet credit exposure related to its customers.

**Financial Instruments** – The carrying values of cash and cash equivalents, accounts receivable, derivative assets, accounts payable, accrued liabilities and derivative liabilities are reasonable estimates of their fair values because of the short maturity of these items. The carrying value of the Company's senior secured notes are recorded at fair value and are considered Level 2 fair value measurements. The Company believes the carrying value of its notes receivable are not considered materially different than fair value due to their recent issuances, and other long-term debt instruments' carrying values are not considered materially different than fair value because the interest rates on these instruments are variable, and are considered Level 2 fair value measurements.

**Estimates and Assumptions** – The preparation of the consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates are required as part of determining the allowance for doubtful accounts, net realizable value of inventory, estimated lives of property and equipment, long-lived asset impairments, fair value of warrants, valuation allowances on deferred income taxes and the potential outcome of future tax consequences of events recognized in the Company's financial statements or tax returns, and the valuation of assets acquired and liabilities assumed as a result of business combinations. Actual results and outcomes may materially differ from management's estimates and assumptions.

## 2. ASSETS AND LIABILITIES HELD-FOR-SALE.

In October 2020, the Company's Board of Directors approved a plan to sell the Company's fuel-grade ethanol production facilities located in Madera and Stockton, California. As a result, the Company determined the related long-lived asset groups should be classified as held-for-sale at December 31, 2020. During the six months ended June 30, 2021, the Company provided for an additional impairment charge of \$1.2 million based on revised fair value estimates.

On May 14, 2021, the Company closed the sale of its Madera facility for total consideration of \$28.3 million, comprised of \$19.5 million in cash and \$8.8 million in assumption of liabilities, resulting in a net loss on sale of less than \$0.1 million, recorded as other income (expense), net in the Company's consolidated statements of operations. All of the cash proceeds were used to repay a significant portion of the Company's term debt and accrued interest.

The Company continues to market its Stockton facility for sale.

In June 2021, the Company agreed to a plan to sell certain assets of the Company's idled facility in Canton, Illinois. As a result, the Company determined the related long-lived asset groups should be classified as held-for-sale at June 30, 2021. During the three months ended June 30, 2021, the Company recorded an estimated impairment charge of \$1.9 million based on fair value estimates.

The Company classified the following assets and liabilities as held-for-sale as of June 30, 2021 (in thousands):

	Stockton	Canton
Property and equipment, net	\$ 19,535	\$ 1,000
Right of use operating lease assets, net	9,664	—
Assets held-for-sale	<u>\$ 29,199</u>	<u>\$ 1,000</u>
	Stockton	Canton
Liabilities held-for-sale – operating leases	<u>\$ 10,478</u>	<u>\$ —</u>

The Company classified the following assets and liabilities as held-for-sale as of December 31, 2020 (in thousands):

	Stockton	Madera
Property and equipment, net	\$ 19,535	\$ 29,013
Right of use operating lease assets, net	9,747	—
Assets held-for-sale	<u>\$ 29,282</u>	<u>\$ 29,013</u>
	Stockton	Madera
Operating lease obligations	\$ 10,435	\$ —
Assessment financing	—	9,107
Liabilities held-for-sale	<u>\$ 10,435</u>	<u>\$ 9,107</u>

For the three months ended June 30, 2021, net sales attributed to the results of operations for Stockton and Madera were \$0.4 million and less than \$0.1 million, respectively. For the three months ended June 30, 2020, net sales attributed to the results of operations for Stockton and Madera were \$0.5 million and \$1.0 million, respectively. For the

three months ended June 30, 2021, pre-tax loss attributed to the results of operations for Stockton and Madera was \$1.4 million and \$0.2 million, respectively. For the three months ended June 30, 2020, pre-tax loss attributed to the results of operations for Stockton and Madera was \$1.2 million and \$1.8 million, respectively.

For the six months ended June 30, 2021, net sales attributed to the results of operations for Stockton and Madera were \$9.6 million and less than \$0.1 million, respectively. For the six months ended June 30, 2020, net sales attributed to the results of operations for Stockton and Madera were \$22.4 million and \$22.5 million, respectively. For the six months ended June 30, 2021, pre-tax loss attributed to the results of operations for Stockton and Madera was \$2.2 million and \$1.8 million, respectively. For the six months ended June 30, 2020, pre-tax loss attributed to the results of operations for Stockton and Madera was \$3.5 million and \$3.6 million, respectively.

### 3. SEGMENTS.

The Company reports its financial and operating performance in three segments: (1) marketing and distribution, which includes marketing and merchant trading for Company-produced alcohols and essential ingredients on an aggregated basis, and third-party fuel-grade ethanol (2) Pekin production, which includes the production and sale of alcohols and essential ingredients produced at the Company's Pekin, Illinois campus ("Pekin Campus"), and (3) Other production, which includes the production and sale of fuel-grade ethanol and essential ingredients produced at all of the Company's other production facilities on an aggregated basis ("Other production"), none of which are individually so significant as to be considered a reportable segment.

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The following tables set forth certain financial data for the Company's operating segments (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
<b><u>Net Sales</u></b>				
Marketing and distribution:				
Alcohol sales, gross	\$ 86,299	\$ 71,117	\$ 143,309	\$ 128,623
Alcohol sales, net	532	307	984	736
Intersegment sales	2,618	1,838	4,862	6,153
Total marketing and distribution sales	89,449	73,262	149,155	135,512
Pekin Campus production, recorded as gross:				
Alcohol sales	\$ 132,296	\$ 94,538	\$ 227,380	\$ 178,669
Essential ingredient sales	49,578	33,633	94,655	73,504
Intersegment sales	316	263	628	680
Total Pekin Campus sales	182,190	128,434	322,663	252,853
Other production, recorded as gross:				
Alcohol sales	\$ 22,153	\$ 9,796	\$ 38,121	\$ 109,025
Essential ingredient sales	7,252	2,683	12,395	32,921
Intersegment sales	332	410	637	701
Total Other production sales	29,737	12,889	51,153	142,647
Intersegment eliminations	(3,266)	(2,511)	(6,127)	(7,534)
Net sales as reported	\$ 298,110	\$ 212,074	\$ 516,844	\$ 523,478
<b><u>Cost of goods sold:</u></b>				
Marketing and distribution	\$ 85,746	\$ 69,101	\$ 139,705	\$ 126,240
Pekin Campus production	171,547	95,070	299,250	221,840
Other production	27,325	18,354	51,442	160,663
Intersegment eliminations	(1,741)	(1,633)	(2,623)	(3,557)
Cost of goods sold as reported	\$ 282,877	\$ 180,892	\$ 487,774	\$ 505,186
<b><u>Income (loss) before benefit for income taxes:</u></b>				
Marketing and distribution	\$ 1,678	\$ 2,043	\$ 5,411	\$ 4,286
Pekin Campus production	10,726	27,459	20,736	19,280
Other production	(1,666)	(10,252)	(7,609)	(33,816)
Corporate activities	(2,348)	(4,396)	(5,470)	(2,052)
	\$ 8,390	\$ 14,854	\$ 13,068	\$ (12,302)
<b><u>Depreciation:</u></b>				
Pekin Campus production	\$ 4,326	\$ 4,371	\$ 8,671	\$ 8,757
Other production	1,468	3,697	2,966	9,982
Corporate activities	17	33	33	67
	\$ 5,811	\$ 8,101	\$ 11,670	\$ 18,806
<b><u>Interest expense:</u></b>				
Marketing and distribution	\$ 222	\$ 313	\$ 426	\$ 940
Pekin Campus production	73	1,594	591	3,679
Other production	46	29	182	60
Corporate activities	704	2,711	1,731	5,275
	\$ 1,045	\$ 4,647	\$ 2,930	\$ 9,954

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The following table sets forth the Company's total assets by operating segment (in thousands):

	June 30, 2021	December 31, 2020
<b><i>Total assets:</i></b>		
Marketing and distribution	\$ 140,204	\$ 89,337
Pekin Campus production	254,206	234,439
Other production	83,330	102,409
Corporate assets	21,464	50,633
	<u>\$ 499,204</u>	<u>\$ 476,818</u>

#### 4. INVENTORIES.

Inventories consisted primarily of bulk ethanol, specialty alcohols, corn, essential ingredients and unleaded fuel, and are valued at the lower of cost or net realizable value, with cost determined on a first-in, first-out basis. Inventory is net of valuation adjustments of \$1,800,000 and \$1,033,000 as of June 30, 2021 and December 31, 2020, respectively. Inventory balances consisted of the following (in thousands):

	June 30, 2021	December 31, 2020
Finished goods	\$ 40,497	\$ 25,154
Work in progress	5,701	4,333
Raw materials	10,788	7,074
Other	1,265	1,364
Total	<u>\$ 58,251</u>	<u>\$ 37,925</u>

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#### 5. DERIVATIVES.

The business and activities of the Company expose it to a variety of market risks, including risks related to changes in commodity prices. The Company monitors and manages these financial exposures as an integral part of its risk management program. This program recognizes the unpredictability of financial markets and seeks to reduce the potentially adverse effects that market volatility could have on operating results.

***Commodity Risk – Cash Flow Hedges*** – The Company uses derivative instruments to protect cash flows from fluctuations caused by volatility in commodity prices for periods of up to twelve months in order to protect gross profit margins from potentially adverse effects of market and price volatility on alcohol sales and purchase commitments where the prices are set at a future date and/or if the contracts specify a floating or index-based price. In addition, the Company hedges anticipated sales of alcohol to minimize its exposure to the potentially adverse effects of price volatility. These derivatives may be designated and documented as cash flow hedges and effectiveness is evaluated by assessing the probability of the anticipated transactions and regressing commodity futures prices against the Company's purchase and sales prices. Ineffectiveness, which is defined as the degree to which the derivative does not offset the underlying exposure, is recognized immediately in cost of goods sold. For the three and six months ended June 30, 2021 and 2020, the Company did not designate any of its derivatives as cash flow hedges.

***Commodity Risk – Non-Designated Hedges*** – The Company uses derivative instruments to lock in prices for certain amounts of corn and alcohols by entering into exchange-traded forward contracts or options for those commodities. These derivatives are not designated for hedge accounting treatment. The changes in fair value of these contracts are recorded on the balance sheet and recognized immediately in cost of goods sold. The Company recognized net gains of \$8,868,000 and \$0 as the change in the fair value of these contracts for the three months ended June 30, 2021 and 2020, respectively. The Company recognized net gains of \$19,411,000 and \$0 as the change in the fair value of these contracts for the six months ended June 30, 2021 and 2020, respectively.

***Non Designated Derivative Instruments*** – The classification and amounts of the Company's derivatives not designated as hedging instruments, and related cash collateral balances, are as follows (in thousands):

				As of June 30, 2021			
		Assets				Liabilities	
Type of Instrument	Balance Sheet Location	Fair Value		Balance Sheet Location	Fair Value		
Cash collateral balance	Other current assets	\$ 3,777					
Commodity contracts	Derivative assets	\$ 28,498		Derivative liabilities	\$ 20,174		
				As of December 31, 2020			
		Assets				Liabilities	
Type of Instrument	Balance Sheet Location	Fair Value		Balance Sheet Location	Fair Value		
Cash collateral balance	Other current assets	\$ 520					
Commodity contracts	Derivative assets	\$ 17,149		Derivative liabilities	\$ —		

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The classification and amounts of the Company's recognized gains for its derivatives not designated as hedging instruments are as follows (in thousands):

Type of Instrument	Statements of Operations Location	Realized Gains	
		For the Three Months Ended June 30,	
		2021	2020
Commodity contracts	Cost of goods sold	\$ 18,158	\$ —
		<u>\$ 18,158</u>	<u>\$ —</u>
Type of Instrument	Statements of Operations Location	Realized Gains	
		For the Six Months Ended June 30,	
		2021	2020
Commodity contracts	Cost of goods sold	\$ 24,343	\$ —
		<u>\$ 24,343</u>	<u>\$ —</u>
Type of Instrument	Statements of Operations Location	Unrealized Losses	
		For the Three Months Ended June 30,	
		2021	2020
Commodity contracts	Cost of goods sold	\$ 9,290	\$ —
		<u>\$ 9,290</u>	<u>\$ —</u>
Type of Instrument	Statements of Operations Location	Unrealized Losses	
		For the Six Months Ended June 30,	
		2021	2020
Commodity contracts	Cost of goods sold	\$ 4,932	\$ —
		<u>\$ 4,932</u>	<u>\$ —</u>

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## 6. DEBT.

Long-term borrowings are summarized as follows (in thousands):

	June 30, 2021	December 31, 2020
Kinergy line of credit	\$ 56,918	\$ 32,512
Pekin revolving loan	7,580	20,580
ICP revolving loan	9,384	9,384
Parent notes payable	723	25,533
CARES Act loans	5,973	9,860
	<u>80,578</u>	<u>97,869</u>
Less unamortized debt premium	—	230
Less unamortized debt financing costs	(70)	(759)
Less short-term portion	(23,660)	(25,533)
Long-term debt	<u>\$ 56,848</u>	<u>\$ 71,807</u>

*Parent Notes Payable* – On May 14, 2021, with proceeds from the Company's sale of its Madera, California facility, the Company repaid \$19.3 million of principal on its notes payable, resulting in an aggregate balance of \$0.7 million.

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*CARES Act Loans* – On May 4, 2020, Alto Ingredients, Inc. and Alto Pekin, LLC, or Alto Pekin, received loan proceeds from Bank of America, NA under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), through the Paycheck Protection Program administered by the U.S. Small Business Administration ("SBA"). Alto Ingredients, Inc. received \$6.0 million and Alto Pekin received \$3.9 million in loan proceeds. Under the terms of the loans, certain amounts may be forgiven if they are used for qualifying expenses as described in the CARES Act. In June 2021, the SBA approved Alto Pekin's forgiveness application for the full amount of \$3.9 million, and accordingly, the Company recognized income from loan forgiveness for the three months ended June 30, 2021. The Company has applied to the SBA for forgiveness of the Company's remaining loan. The SBA may audit the loan forgiveness applications and further examine eligibility for forgiveness, including the facts and circumstances existing at the time the loans were made. The Company can provide no assurances that any loan forgiven will not require repayment following an audit by the SBA.

*Maturities of Long-term Debt* – The Company's long-term debt matures as follows (in thousands):

December 31:	
2021	\$ 723
2022	22,937

*Restrictions* – At June 30, 2021, there were approximately \$245.7 million of net assets at the Company’s subsidiaries that were not available for transfer to Alto Ingredients, Inc. in the form of dividends, loans or advances due to restrictions contained in the credit facilities of the Company’s subsidiaries.

#### 7. COMMITMENTS AND CONTINGENCIES.

*Sales Commitments* – At June 30, 2021, the Company had entered into sales contracts with its major customers to sell certain quantities of alcohol and essential ingredients. The Company had open alcohol indexed-price contracts for 96,399,000 gallons as of June 30, 2021 and open fixed-price alcohol sales contracts totaling \$23,575,000 as of June 30, 2021. The Company had open fixed-price sales contracts for essential ingredients totaling \$11,061,000 and open indexed-price sales contracts of essential ingredients for 117,000 tons as of June 30, 2021. These sales contracts are scheduled for completion over the next twelve months.

*Purchase Commitments* – At June 30, 2021, the Company had indexed-price purchase contracts to purchase 17,706,000 gallons of alcohol and fixed-price purchase contracts to purchase \$39,086,000 of alcohol from its suppliers. The Company had fixed-price purchase contracts to purchase \$77,375,000 of corn from its suppliers as of June 30, 2021. These purchase commitments are scheduled to be satisfied throughout 2021.

*Litigation – General* – The Company is subject to various claims and contingencies in the ordinary course of its business, including those related to litigation, business transactions, employee-related matters, environmental regulations, and others. When the Company is aware of a claim or potential claim, it assesses the likelihood of any loss or exposure. If it is probable that a loss will result and the amount of the loss can be reasonably estimated, the Company will record a liability for the loss. If the loss is not probable or the amount of the loss cannot be reasonably estimated, the Company discloses the claim if the likelihood of a potential loss is reasonably possible and the amount involved could be material. While there can be no assurances, the Company does not expect that any of its pending legal proceedings will have a material impact on the Company’s financial condition or results of operations.

#### 8. PENSION AND RETIREMENT BENEFIT PLANS.

The Company sponsors a defined benefit pension plan (the “Retirement Plan”) and a health care and life insurance plan (the “Postretirement Plan”). The Company assumed the Retirement Plan and the Postretirement Plan as part of its acquisition of Aventine Renewable Energy Holdings, Inc. on July 1, 2015.

The Retirement Plan is noncontributory, and covers only “grandfathered” unionized employees at the Company’s Pekin, Illinois facility who fulfill minimum age and service requirements. Benefits are based on a prescribed formula based upon the employee’s years of service. The Retirement Plan, which is part of a collective bargaining agreement, covers only union employees hired prior to November 1, 2010.

The Company uses a December 31 measurement date for its Retirement Plan. The Company’s funding policy is to make the minimum annual contribution required by applicable regulations. As of December 31, 2020, the Retirement Plan’s accumulated projected benefit obligation was \$24.6 million, with a fair value of plan assets of \$17.6 million. The underfunded amount of \$7.0 million is recorded on the Company’s consolidated balance sheet in other liabilities.

For the three months ended June 30, 2021, the Retirement Plan’s net periodic expense was \$22,000, comprised of \$151,000 in interest cost and \$109,000 in service cost, partially offset by \$238,000 of expected return on plan assets. For the three months ended June 30, 2020, the Retirement Plan’s net periodic expense was \$8,000, comprised of \$173,000 in interest cost and \$101,000 in service cost, partially offset by \$226,000 of expected return on plan assets. For the six months ended June 30, 2021, the Retirement Plan’s net periodic expense was \$44,000, comprised of \$302,000 in interest cost and \$218,000 in service cost, partially offset by \$476,000 of expected return on plan assets. For the six months ended June 30, 2020, the Retirement Plan’s net periodic expense was \$96,000, comprised of \$346,000 in interest cost and \$202,000 in service cost, partially offset by \$452,000 of expected return on plan assets.

The Postretirement Plan provides postretirement medical benefits and life insurance to certain “grandfathered” unionized employees. Employees hired after December 31, 2000 are not eligible to participate in the Postretirement Plan. The Postretirement Plan is contributory, with contributions required at the same rate as active employees. Benefit eligibility under the plan declines at age 65 from a defined benefit to a defined dollar cap based upon years of service. As of December 31, 2020, the Postretirement Plan’s accumulated projected benefit obligation was \$5.3 million and is recorded on the Company’s consolidated balance sheet in other liabilities. The Company’s funding policy is to make the minimum annual contribution required by applicable regulations.

For the three months ended June 30, 2021, the Postretirement Plan’s net periodic expense was \$42,000, comprised of \$10,000 of interest cost, \$26,000 of service cost and \$6,000 of amortization expense. For the three months ended June 30, 2020, the Postretirement Plan’s net periodic expense was \$9,000, comprised of \$38,000 of interest cost, \$14,000 of service cost and \$7,000 of amortization expense.

For the six months ended June 30, 2021, the Postretirement Plan’s net periodic expense was \$84,000, comprised of \$20,000 of interest cost, \$52,000 of service cost and \$12,000 of amortization expense. For the six months ended June 30, 2020, the Postretirement Plan’s net periodic expense was \$18,000, comprised of \$76,000 of interest cost, \$28,000 of service cost and \$14,000 of amortization expense.

#### 9. FAIR VALUE MEASUREMENTS.

The fair value hierarchy prioritizes the inputs used in valuation techniques into three levels, as follows:

- Level 1 – Observable inputs – unadjusted quoted prices in active markets for identical assets and liabilities;
- Level 2 – Observable inputs other than quoted prices included in Level 1 that are observable for the asset or liability through corroboration with market data; and
- Level 3 – Unobservable inputs – includes amounts derived from valuation models where one or more significant inputs are unobservable. For fair value measurements using significant unobservable inputs, a description of the inputs and the information used to develop the inputs is required along with a reconciliation of Level 3 values from the prior reporting period.

used as a practical expedient to determine fair value for these accounts. Each pooled separate account provides for redemptions by the Retirement Plan at reported net asset values per share, with little to no advance notice requirement, therefore these funds are classified within Level 2 of the valuation hierarchy.

*Long-Lived Assets Held-for-Sale* – The Company recorded its long-lived assets associated with its property and equipment held-for-sale at fair value at June 30, 2021 and December 31, 2020 of \$20,535,000 and \$48,548,000, respectively. The fair values of these assets are based on observable values for the assets through corroboration with market data and are designated as Level 3 inputs.

*Other Derivative Instruments* – The Company’s other derivative instruments consist of commodity positions. The fair values of the commodity positions are based on quoted prices on the commodity exchanges and are designated as Level 1 inputs.

The following table summarizes recurring and nonrecurring fair value measurements by level at June 30, 2021 (in thousands):

	Fair Value	Level 1	Level 2	Level 3
<b>Assets:</b>				
Derivative financial instruments	\$ 28,498	\$ 28,498	\$ —	\$ —
Long-lived assets held-for-sale	30,199	—	—	30,199
	<u>\$ 58,697</u>	<u>\$ 28,498</u>	<u>\$ —</u>	<u>\$ 30,199</u>
<b>Liabilities:</b>				
Derivative financial instruments	\$ (20,174)	\$ (20,174)	\$ —	\$ —
	<u>\$ (20,174)</u>	<u>\$ (20,174)</u>	<u>\$ —</u>	<u>\$ —</u>

The following table summarizes recurring and nonrecurring fair value measurements by level at December 31, 2020 (in thousands):

	Fair Value	Level 1	Level 2	Level 3	Benefit Plan Percentage Allocation
<b>Assets:</b>					
Derivative financial instruments	\$ 17,149	\$ 17,149	\$ —	\$ —	
Long-lived assets held-for-sale	58,295	—	—	58,295	
<b>Defined benefit plan assets(1) (pooled separate accounts):</b>					
Large U.S. Equity(2)	5,470	—	5,470	—	31%
Small/Mid U.S. Equity(3)	2,605	—	2,605	—	15%
International Equity(4)	2,921	—	2,921	—	17%
Fixed Income(5)	6,592	—	6,592	—	37%
	<u>\$ 93,032</u>	<u>\$ 17,149</u>	<u>\$ 17,588</u>	<u>\$ 58,295</u>	
<b>Liabilities:</b>					
	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	

(1) Included in other assets in the consolidated balance sheets.

(2) This category includes investments in funds comprised of equity securities of large U.S. companies. The funds are valued using the net asset value method in which an average of the market prices for the underlying investments is used to value the fund.

(3) This category includes investments in funds comprised of equity securities of small- and medium-sized U.S. companies. The funds are valued using the net asset value method in which an average of the market prices for the underlying investments is used to value the fund.

(4) This category includes investments in funds comprised of equity securities of foreign companies including emerging markets. The funds are valued using the net asset value method in which an average of the market prices for the underlying investments is used to value the fund.

(5) This category includes investments in funds comprised of U.S. and foreign investment-grade fixed income securities, high-yield fixed income securities that are rated below investment-grade, U.S. treasury securities, mortgage-backed securities, and other asset-backed securities. The funds are valued using the net asset value method in which an average of the market prices for the underlying investments is used to value the fund.

## 10. EARNINGS PER SHARE.

The following tables compute basic and diluted earnings per share (in thousands, except per share data):

	Three Months Ended June 30, 2021		
	Income Numerator	Shares Denominator	Per-Share Amount
Net income attributed to Alto Ingredients, Inc.	\$ 8,390		
Less: Preferred stock dividends	(315)		
<b>Basic income per share:</b>			
Income available to common stockholders	\$ 8,075	71,260	<u>\$ 0.11</u>
Add: Dilutive instruments	—	669	
<b>Diluted income per share:</b>			
Income available to common stockholders	<u>\$ 8,075</u>	<u>71,929</u>	<u>\$ 0.11</u>
	Three Months Ended June 30, 2020		
	Income Numerator	Shares Denominator	Per-Share Amount
Net income attributed to Alto Ingredients, Inc.	\$ 14,964		
Less: Preferred stock dividends	(315)		
<b>Basic and diluted income per share:</b>			
Income available to common stockholders	<u>\$ 14,649</u>	<u>54,498</u>	<u>\$ 0.27</u>

	Six Months Ended June 30, 2021		
	Income Numerator	Shares Denominator	Per-Share Amount
Net income attributed to Alto Ingredients, Inc.	\$ 13,068		
Less: Preferred stock dividends	(627)		
<b>Basic income per share:</b>			
Income available to common stockholders	\$ 12,441	70,808	\$ 0.18
Add: Dilutive instruments	—	1,153	
<b>Diluted income per share:</b>			
Income available to common stockholders	\$ 12,441	71,961	\$ 0.17

  

	Six Months Ended June 30, 2020		
	Loss Numerator	Shares Denominator	Per-Share Amount
Net loss attributed to Alto Ingredients, Inc.	\$ (10,136)		
Less: Preferred stock dividends	(630)		
<b>Basic and diluted loss per share:</b>			
Loss available to common stockholders	\$ (10,766)	54,163	\$ (0.20)

There were an additional aggregate potentially dilutive weighted-average shares of 964,000 from convertible securities outstanding for the three and six months ended June 30, 2021 and 2020. These securities were not considered in calculating diluted net income (loss) per share for the three and six months ended June 30, 2021 and 2020, as their effect would have been anti-dilutive.

#### 11. PARENT COMPANY FINANCIALS.

*Restricted Net Assets* – At June 30, 2021, the Company had approximately \$245.7 million of net assets at its subsidiaries that were not available for transfer to Alto Ingredients in the form of dividends, distributions, loans or advances due to restrictions contained in the credit facilities of these subsidiaries.

Parent company financial statements for the periods covered in this report are set forth below (in thousands):

	June 30, 2021	December 31, 2020
<b>ASSETS</b>		
<b>Current Assets:</b>		
Cash and cash equivalents	\$ 15,128	\$ 25,632
Receivables from subsidiaries	13,460	15,548
Other current assets	2,588	1,836
Total current assets	31,176	43,016
Property and equipment, net	108	142
<b>Other Assets:</b>		
Investments in subsidiaries	264,645	246,518
Alto West, LLC receivable	27,592	42,649
Right of use operating lease assets, net	2,844	2,985
Other assets	796	1,088
Total other assets	295,877	293,240
<b>Total Assets</b>	<b>\$ 327,161</b>	<b>\$ 336,398</b>
<b>Current Liabilities:</b>		
Accounts payable and accrued liabilities	\$ 5,439	\$ 2,001
Accrued Alto Op Co. purchase	3,829	3,829
Current portion of long-term debt	6,696	25,533
Other current liabilities	329	473
Total current liabilities	16,293	31,836
Long-term debt, net of current portion	—	5,564
Other liabilities	2,849	2,763
<b>Total Liabilities</b>	<b>19,142</b>	<b>40,163</b>
<b>Stockholders' Equity:</b>		
Preferred stock	1	1
Common and non-voting common stock	73	72
Additional paid-in capital	1,035,980	1,036,638
Accumulated other comprehensive loss	(3,878)	(3,878)
Accumulated deficit	(724,157)	(736,598)
Total Alto Ingredients, Inc. stockholders' equity	308,019	296,235
<b>Total Liabilities and Stockholders' Equity</b>	<b>\$ 327,161</b>	<b>\$ 336,398</b>

	Three Months Ended June 30,		Six Months Ended June 30,	
	2021	2020	2021	2020
Management fees from subsidiaries	\$ 2,486	\$ 2,873	\$ 5,012	\$ 6,126
Selling, general and administrative expenses	4,393	4,308	9,044	9,685

Income (loss) from operations	(1,907)	(1,435)	(4,032)	(3,559)
Fair value adjustments	—	(1,314)	—	(641)
Interest expense, net	(704)	(1,721)	(1,731)	(3,297)
Other income (expense)	410	(140)	1,218	(162)
Loss before benefit for income taxes	(2,201)	(4,610)	(4,545)	(7,659)
Benefit for income taxes	—	—	—	—
Net loss	(2,201)	(4,610)	(4,545)	(7,659)
Equity in income (losses) of subsidiaries	10,591	19,574	17,613	(2,477)
Net income (loss) attributed to Alto Ingredients, Inc.	\$ 8,390	\$ 14,964	\$ 13,068	\$ (10,136)

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	For the Six Months Ended June 30,	
	2021	2020
<b>Operating Activities:</b>		
Net income (loss)	\$ 13,068	\$ (10,136)
Adjustments to reconcile net income (loss) to cash used in operating activities:		
Equity in (income) losses of subsidiaries	(17,613)	2,477
Fair value adjustments	—	(641)
Depreciation	33	67
Amortization of debt (premiums) discounts	409	(115)
Changes in operating assets and liabilities:		
Accounts receivable	2,088	(1,207)
Other assets	(319)	714
Accounts payable and accrued expenses	(2,416)	—
Accounts payable with subsidiaries	37	475
Net cash used in operating activities	(4,713)	(8,366)
<b>Investing Activities:</b>		
Additions to property and equipment	—	—
Net cash used in investing activities	—	—
<b>Financing Activities:</b>		
Proceeds from issuances of common stock	462	282
Proceeds from plant receivables	15,057	5,813
Proceeds from long-term debt	—	5,973
Payments on senior notes	(24,810)	—
Dividend from subsidiary	3,500	—
Net cash provided by (used in) financing activities	(5,791)	12,068
Net change in cash and cash equivalents	(10,504)	3,702
Cash and cash equivalents at beginning of period	25,632	4,985
Cash and cash equivalents at end of period	\$ 15,128	\$ 8,687

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## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

The following discussion and analysis should be read in conjunction with our consolidated financial statements and notes to consolidated financial statements included elsewhere in this report. This report and our consolidated financial statements and notes to consolidated financial statements contain forward-looking statements, which generally include the plans and objectives of management for future operations, including plans and objectives relating to our future economic performance and our current beliefs regarding revenues we might generate and profits we might earn if we are successful in implementing our business and growth strategies. The forward-looking statements and associated risks may include, relate to or be qualified by other important factors, including:

- fluctuations in the market prices of alcohols and essential ingredients;
- fluctuations in the costs of key production input commodities such as corn and natural gas;
- the projected growth or contraction in the alcohol and essential ingredients markets in which we operate;
- our strategies for expanding, maintaining or contracting our presence in these markets;
- anticipated trends in our financial condition and results of operations; and
- our ability to distinguish ourselves from our current and future competitors.

You are cautioned not to place undue reliance on any forward-looking statements, which speak only as of the date of this report, or in the case of a document incorporated by reference, as of the date of that document. We do not undertake to update, revise or correct any forward-looking statements, except as required by law.

Any of the factors described immediately above, or referenced from time to time in our filings with the Securities and Exchange Commission or in the "Risk Factors" section below could cause our financial results, including our net income or loss or growth in net income or loss to differ materially from prior results, which in turn could, among other things, cause the price of our common stock to fluctuate substantially.

### Overview

We are a leading producer and marketer of specialty alcohols and essential ingredients, and the largest producer of specialty alcohols in the United States based on

annualized volumes.

We operate six alcohol production facilities. Three of our production facilities are located in the Midwestern state of Illinois and three of our facilities are located in the Western states of California, Oregon and Idaho. We are in the process of marketing our Stockton, California facility for sale. We have an annual alcohol production capacity of 410 million gallons. We market all of the alcohols produced at our facilities as well as fuel-grade ethanol produced by third parties. In 2020, we marketed over 500 million gallons combined of our own alcohols as well as fuel-grade ethanol produced by third parties, and nearly 1.5 million tons of essential ingredients on a dry matter basis.

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We report our financial and operating performance in three segments: (1) marketing and distribution, which includes marketing and merchant trading for Company-produced alcohols and essential ingredients on an aggregated basis, and third party fuel-grade ethanol (2) Pekin production, which includes the production and sale of alcohols and essential ingredients produced at our Pekin, Illinois campus, or Pekin Campus, and (3) Other production, which includes the production and sale of fuel-grade ethanol and essential ingredients produced at all of our other production facilities on an aggregate basis, none of which are individually so significant as to be considered a reportable segment.

Our mission is to expand our business as a leading producer and marketer of specialty alcohols and essential ingredients. We intend to accomplish this goal in part by investing in our specialized and higher value specialty alcohol production and distribution infrastructure, expanding production in high-demand essential ingredients, expanding and extending the sale of our products into new regional and international markets, building efficiencies and economies of scale and by capturing a greater portion of the value stream.

#### Production Segments

We produce specialty alcohols, fuel-grade ethanol and essential ingredients, focusing on four key markets: *Health, Home & Beauty*; *Food & Beverage*; *Essential Ingredients*; and *Renewable Fuels*. Products for the Health, Home & Beauty market include specialty alcohols used in mouthwash, cosmetics, pharmaceuticals, hand sanitizers, disinfectants and cleaners. Products for the Food & Beverage markets include grain neutral spirits used in alcoholic beverages and vinegar as well as corn germ used for corn oils. Products for Essential Ingredients markets include yeast, corn gluten and distillers grains used in commercial animal feed and pet foods. Our Renewable Fuels products include fuel-grade ethanol and distillers corn oil used as a feedstock for renewable diesel fuel.

We produce our alcohols and essential ingredients at our production facilities described below. Our production facilities located in the Midwest are in the heart of the Corn Belt, benefit from low-cost and abundant feedstock and enjoy logistical advantages that enable us to provide our products to both domestic and international markets via truck, rail or barge. Our production facilities located on the West Coast are near their respective fuel and feed customers, offering significant timing, transportation cost and logistical advantages.

We are currently operating at approximately 71% of our estimated maximum annual production capacity. Our Magic Valley and Stockton facilities are currently idled. As market conditions change, we may increase, decrease or idle production at one or more operating facilities or resume operations at any idled facility.

Production Facility	Location	Annual Production Capacity (estimated, in gallons)	
		Fuel-Grade Ethanol	Specialty Alcohol
Pekin Campus	Pekin, IL	110,000,000	140,000,000
Magic Valley	Burley, ID	60,000,000	—
Columbia	Boardman, OR	40,000,000	—
Stockton	Stockton, CA	60,000,000	—

#### Marketing Segment

We market all of the alcohols and essential ingredients we produce at our facilities. We also market fuel-grade ethanol produced by third parties.

We have extensive and long-standing customer relationships, both domestic and international, for our specialty alcohols and essential ingredients. These customers include producers and distributors of ingredients for cosmetics, sanitizers and related products, distilled spirits producers, food products manufacturers, producers of personal health/consumer health and personal care hygiene products, and global trading firms.

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Our fuel-grade ethanol customers are located throughout the Western and Midwestern United States and consist of integrated oil companies and gasoline marketers who blend fuel-grade ethanol into gasoline. Our customers depend on us to provide a reliable supply of fuel-grade ethanol and manage the logistics and timing of delivery with very little effort on their part. Our customers collectively require fuel-grade ethanol volumes in excess of the supplies we produce at our facilities. We secure additional fuel-grade ethanol supplies from third-party fuel-grade ethanol plants in California and other third-party suppliers in the Midwest where a majority of fuel-grade ethanol producers are located. We arrange for transportation, storage and delivery of fuel-grade ethanol purchased by our customers through our agreements with third-party service providers in the Western United States as well as in the Midwest from a variety of sources.

We market our essential ingredient feed products to dairies and feedlots, in many cases located near our production facilities. These customers use our feed products for livestock as a substitute for corn and other sources of starch and protein. We sell our corn oil to poultry and biodiesel customers. We do not market essential ingredients from other producers.

See “Note 3 – Segments” to our Notes to Consolidated Financial Statements included elsewhere in this report for financial information about our business segments.

#### Current Initiatives and Outlook

We achieved our fifth consecutive quarter of gross profit and continue to reap the benefits of our new business focus on specialty alcohols and essential ingredients. As part of our business transformation, we continue to improve our balance sheet, invest in our production infrastructure, expand our product offerings and pursue new long-term accretive growth opportunities.

We are expanding, deepening and strengthening our relationships with key customers as a leading certified producer of a growing variety of specialty alcohols used in common everyday consumer goods such as vinegars, spirits, mouthwash, cosmetics and cleaning products. Through our integrated production and operations at our Pekin, Illinois campus along with our enhanced certifications, we can provide surety of quality, supply and redundancy, all of which are material differentiators among our growing

base of product offerings. We are well positioned through these and other distinctions as we begin the contracting process for specialty alcohol volumes for 2022 and beyond. We believe that we will improve utilization over time of our expanded specialty alcohol production capacity.

We remain on track to generate a minimum of \$60 million in gross profit in 2021 from the sale of specialty alcohols under fixed-price contracts. Many variables could materially impact this projected amount and our overall results, including export conditions, the ability of our customers to take all of their contracted volumes for 2021, market demand for sanitizers and disinfectants, our ability to timely sell our Stockton, California production facility, and fuel-grade ethanol crush margins.

In the second quarter, we closed the sale of our fuel-grade ethanol facility in Madera, California. As we continue our business transformation to further focus on specialty alcohols and essential ingredients, our asset sale initiatives are now targeting our fuel-grade ethanol facility in Stockton, California and the remaining assets of our non-operating facility in Canton, Illinois.

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Our capital improvement projects are on-track and directed at expanding revenue and increasing efficiencies and plant reliability. Our yeast facility expansion and Pekin campus upgrade projects are scheduled for completion and full operation by the third quarter with an expected payback in less than two years, or approximately \$5.0 million in additional annual earnings before interest, taxes, depreciation and amortization, or EBITDA. We are also expanding our annual corn oil production capacity at our Pekin campus by approximately 4,000 tons, which we estimate will contribute an additional \$4.5 million in EBITDA annually. This project is on-track for completion before year-end.

We have scheduled a mid-August repair and maintenance shutdown of our Pekin campus wet mill. This project is scheduled to occur during a period of choppy market conditions resulting from low pre-harvest corn inventories and tight fuel-grade ethanol margins. Lower revenues and higher repair and maintenance expenses resulting from this project are expected to impact only the third quarter. We do not anticipate any impact on our ability to meet our contractual supply obligations for specialty alcohols or essential ingredients. The net effect of this project will be improved efficiency and reliability of our Pekin campus wet mill and better alignment of our production with market demand.

Looking ahead, among many other projects under development is our plan to expand protein production at our dry-mill facilities, which collectively represent 250 million gallons of annual production capacity. We believe the economics of expanded protein production are compelling and would expect to achieve growth and greater diversity in revenue as well as growth and higher quality of earnings.

Our Pekin Campus sits on the Mt. Simon sandstone formation, considered one of the most significant potential carbon storage resources in the United States. As a member of the Carbon Capture Coalition, we are actively engaged in discussions to develop a carbon capture and sequestration program at our Pekin site, which generates over 600,000 tons of CO<sub>2</sub> annually, and expect to be an active player in the carbon capture space.

Over the past year, we have improved operations and our production footprint to focus on our most profitable and strategic operations. We have also repaired our balance sheet. We are now pursuing opportunities to expand our business through enhanced service and product offerings and accretive vertical integration.

#### Critical Accounting Policies

The preparation of our financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America, requires us to make judgments and estimates that may have a significant impact upon the portrayal of our financial condition and results of operations. We believe that of our significant accounting policies, the following require estimates and assumptions that require complex, subjective judgments by management that can materially impact the portrayal of our financial condition and results of operations: revenue recognition; impairment of long-lived assets and held-for-sale classification; valuation of allowance for deferred taxes and derivative instruments. These significant accounting principles are more fully described in “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies” in our Annual Report on Form 10-K for the year ended December 31, 2020.

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#### Results of Operations

The following selected financial information should be read in conjunction with our consolidated financial statements and notes to our consolidated financial statements included elsewhere in this report, and the other sections of “Management’s Discussion and Analysis of Financial Condition and Results of Operations” contained in this report.

Certain performance metrics that we believe are important indicators of our results of operations include:

	Three Months Ended		Percentage Variance	Six Months Ended		Percentage Variance
	June 30,			June 30,		
	2021	2020		2021	2020	
Fuel-grade ethanol production gallons sold (in millions)	41.4	27.0	53.3%	80.4	127.2	(36.8)%
Specialty alcohol production gallons sold (in millions)	24.3	29.9	(18.7)%	43.3	52.2	(17.0)%
Third party fuel-grade ethanol gallons sold (in millions)	59.3	73.9	(19.8)%	113.3	136.3	(16.9)%
Total gallons sold (in millions)	125.0	130.8	(4.4)%	237.0	315.7	(24.9)%
Total gallons produced (in millions)	63.6	47.6	33.6%	121.5	163.9	(25.9)%
Production capacity utilization	59%	40%	47.5%	56%	60%	(6.7)%
Average sales price per gallon	\$ 2.41	\$ 1.59	51.6%	\$ 2.17	\$ 1.55	40.0%
Corn cost per bushel – CBOT equivalent	\$ 6.05	\$ 3.39	78.5%	\$ 5.51	\$ 3.59	53.5%
Average basis <sup>(1)</sup>	\$ 0.41	\$ 0.20	105.0%	\$ 0.36	\$ 0.32	12.5%
Delivered cost of corn	\$ 6.46	\$ 3.59	79.9%	\$ 5.87	\$ 3.91	50.1%
Total essential ingredients tons sold (in thousands)	304.0	250.1	21.6%	580.9	922.0	(37.0)%
Essential ingredients revenues as % of delivered cost of corn <sup>(2)</sup>	32.2%	46.5%	(30.8)%	35.9%	41.8%	(14.1)%

Average CBOT ethanol price per gallon	\$ 2.30	\$ 1.08	113.0%	\$ 2.00	\$ 1.16	72.4%
Average CBOT corn price per bushel	\$ 6.62	\$ 3.23	105.0%	\$ 6.01	\$ 3.59	67.4%

- (1) Corn basis represents the difference between the immediate cash price of delivered corn and the future price of corn for Chicago delivery.  
(2) Essential ingredients revenues as a percentage of delivered cost of corn shows our yield based on sales of essential ingredients, including wet distillers grains and corn oil, generated from alcohol we produced.

### Net Sales, Cost of Goods Sold and Gross Profit

The following table presents our net sales, cost of goods sold and gross profit in dollars and gross profit as a percentage of net sales (in thousands, except percentages):

	Three Months Ended		Variance in		Six Months Ended		Variance in	
	June 30,		Dollars	Percent	June 30,		Dollars	Percent
	2021	2020			2021	2020		
Net sales	\$ 298,110	\$ 212,074	\$ 86,036	40.6%	\$ 516,844	\$ 523,478	\$ (6,634)	(1.3)%
Cost of goods sold	282,877	180,892	101,985	56.4%	487,774	505,186	(17,412)	(3.4)%
Gross profit	\$ 15,233	\$ 31,182	\$ (15,949)	(51.1)%	\$ 29,070	\$ 18,292	\$ 10,778	58.9%
Percentage of net sales	5.1%	14.7%			5.6%	3.5%		

### Net Sales

The increase in our consolidated net sales for the three months ended June 30, 2021 as compared to the same period in 2020 was primarily due to an increase in our average sales price per gallon, partially offset by a decrease in our total gallons sold.

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Our production gallons sold and our volume of essential ingredients sold increased for the three months ended June 30, 2021 as compared to the same period in 2020 primarily due to the operation of our Pekin dry mill in the second quarter of 2021 which was idled during the second quarter of 2020 because of the Illinois River closure. Our third-party gallons sold declined as compared to the same period in 2020 because we focused our efforts on selling our own fuel-grade ethanol production.

The decline in our consolidated net sales for the six months ended June 30, 2021 as compared to the same period in 2020 was primarily due to a reduction in our total gallons sold and lower sales of essential ingredients, partially offset by an increase in our average sales price per gallon.

Our production gallons, our third-party gallons and our volume of essential ingredients sold declined for the six months ended June 30, 2021 as compared to the same period in 2020 due to an intentional reduction in our production of fuel-grade ethanol in the first quarter of 2020 because of adverse market conditions. In addition, the prior year period includes gallons associated with our production facilities that have since been idled and/or sold.

### Three Months Ended June 30, 2021 and 2020

On a consolidated basis, our average sales price per gallon increased by 52% to \$2.41 for the three months ended June 30, 2021 as compared to \$1.59 for the same period in 2020. The average Chicago Board of Trade, or CBOT, fuel-grade ethanol price per gallon, increased 113% to \$2.30 for the three months ended June 30, 2021 as compared to \$1.08 for the same period in 2020.

### Marketing Segment

Net sales of fuel-grade ethanol from our marketing segment reported gross, excluding intersegment sales, increased by \$15.4 million, or 22%, to \$86.8 million for the three months ended June 30, 2021 as compared to \$71.4 million for the same period in 2020.

Our volume of third party fuel-grade ethanol gallons sold reported gross by our marketing segment declined by 20.1 million gallons, or 38%, to 33.4 million gallons for the three months ended June 30, 2021 as compared to 53.5 million gallons for the same period in 2020. At our marketing segment's average sales price per gallon of \$2.58 for the three months ended June 30, 2021, we generated \$51.9 million less in net sales from our marketing segment from the 20.1 million fewer gallons of third-party fuel-grade ethanol sold gross in the three months ended June 30, 2021 as compared to the same period in 2020.

The \$1.25 per gallon, or 94%, increase in our marketing segment's average sales price per gallon for the three months ended June 30, 2021 as compared to the same period in 2020 resulted in a \$67.1 million increase in our net sales from third-party fuel-grade ethanol sold reported gross by our marketing segment.

Our volume of third party fuel-grade ethanol gallons sold reported net by our marketing segment increased by 5.5 million gallons, or 27%, to 25.9 million gallons for the three months ended June 30, 2021 as compared to 20.4 million gallons for the same period in 2020. The increase in third-party fuel-grade ethanol gallons sold reported net increased net sales by \$0.2 million.

### Pekin Campus Production Segment

Net sales of alcohol from our Pekin Campus production segment increased by \$37.8 million, or 40%, to \$132.3 million for the three months ended June 30, 2021 as compared to \$94.5 million for the same period in 2020. Our total volume of production gallons sold increased by 7.2 million gallons, or 14%, to 57.5 million gallons for the three months ended June 30, 2021 as compared to 50.3 million gallons for the same period in 2020. At our Pekin Campus production segment's average sales price per gallon of \$2.30 for the three months ended June 30, 2021, we generated \$16.6 million in additional net sales from our Pekin Campus production segment from the 7.2 million additional gallons of alcohol sold in the three months ended June 30, 2021 as compared to the same period in 2020. The increase of \$0.42, or 22%, in our Pekin Campus production segment's average sales price per gallon in the three months ended June 30, 2021 as compared to the same period in 2020 improved our net sales from our Pekin Campus production segment by \$21.2 million.

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Net sales of essential ingredients increased by \$16.0 million, or 48%, to \$49.6 million for the three months ended June 30, 2021 as compared to \$33.6 million for the



same period in 2020. Our total volume of essential ingredients sold increased by 17,800 tons, or 9%, to 222,200 tons for the three months ended June 30, 2021 from 204,400 tons for the same period in 2020. At our average sales price per ton of \$223.12 for the three months ended June 30, 2021, we generated an additional \$4.0 million in net sales from the 17,800 additional tons of essential ingredients sold in the three months ended June 30, 2021 as compared to the same period in 2020. The increase of \$58.58, or 36%, in our average sales price per ton for the three months ended June 30, 2021 as compared to the same period in 2020 increased our net sales from our Pekin Campus production segment by \$12.0 million.

#### *Other Production Segment*

Net sales of alcohol from our other production segment increased by \$12.4 million, or 127%, to \$22.2 million for the three months ended June 30, 2021 as compared to \$9.8 million for the same period in 2020. Our total volume of gallons sold increased by 1.6 million gallons, or 24%, to 8.2 million gallons for the three months ended June 30, 2021 as compared to 6.6 million gallons for the same period in 2020. At our other production segment's average sales price per gallon of \$2.70 for the three months ended June 30, 2021, we generated an additional \$4.4 million in net sales from our other production segment from the 1.6 million additional gallons of alcohol sold in the three months ended June 30, 2021 as compared to the same period in 2020. The increase of \$1.22, or 82%, in our other production segment's average sales price per gallon for the three months ended June 30, 2021 as compared to the same period in 2020 improved our net sales from our other production segment by \$8.0 million.

Net sales of essential ingredients increased by \$4.6 million, or 170%, to \$7.3 million for the three months ended June 30, 2021 as compared to \$2.7 million for the same period in 2020. Our total volume of essential ingredients sold increased by 36,100 tons, or 79%, to 81,800 tons for the three months ended June 30, 2021 from 45,700 tons for the same period in 2020. At our average sales price per ton of \$88.66 for the three months ended June 30, 2021, we generated an additional \$3.2 million in net sales from the 36,100 additional tons of essential ingredients sold in the three months ended June 30, 2021 as compared to the same period in 2020. The increase of \$29.95, or 51%, in our average sales price per ton for the three months ended June 30, 2021 as compared to the same period in 2020 increased our net sales from our other production segment by \$1.4 million.

#### Six Months Ended June 30, 2021 and 2020

On a consolidated basis, our average sales price per gallon increased by 40% to \$2.17 for the six months ended June 30, 2021 as compared to \$1.55 for the same period in 2020. The average CBOT fuel-grade ethanol price per gallon, increased by 72% to \$2.00 for the six months ended June 30, 2021 as compared to \$1.16 for the same period in 2020.

#### *Marketing Segment*

Net sales of fuel-grade ethanol from our marketing segment reported gross, excluding intersegment sales, increased by \$14.9 million, or 12%, to \$144.3 million for the six months ended June 30, 2021 as compared to \$129.4 million for the same period in 2020.

Our volume of third party fuel-grade ethanol gallons sold reported gross by our marketing segment declined by 27.3 million gallons, or 31%, to 60.1 million gallons for the six months ended June 30, 2021 as compared to 87.4 million gallons for the same period in 2020. At our marketing segment's average sales price per gallon of \$2.38 for the six months ended June 30, 2021, we generated \$65.1 million less in net sales from our marketing segment from the 27.3 million fewer gallons of third-party fuel-grade ethanol sold gross in the six months ended June 30, 2021 as compared to the same period in 2020.

The \$0.91 per gallon, or 62%, increase in our marketing segment's average sales price per gallon for the six months ended June 30, 2021 as compared to the same period in 2020 resulted in a \$79.8 million increase in our net sales from third-party fuel-grade ethanol sold reported gross by our marketing segment.

Our volume of third party fuel-grade ethanol gallons sold reported net by our marketing segment increased by 4.3 million gallons, or 9%, to 53.2 million gallons for the six months ended June 30, 2021 as compared to 48.9 million gallons for the same period in 2020. The increase in third-party fuel-grade ethanol gallons sold reported net increased net sales by \$0.2 million.

#### *Pekin Campus Production Segment*

Net sales of alcohol from our Pekin Campus production segment increased by \$48.7 million, or 27%, to \$227.4 million for the six months ended June 30, 2021 as compared to \$178.7 million for the same period in 2020. Our total volume of production gallons sold declined by 23.7 million gallons, or 18%, to 108.1 million gallons for the six months ended June 30, 2021 as compared to 131.8 million gallons for the same period in 2020. At our Pekin Campus production segment's average sales price per gallon of \$2.10 for the six months ended June 30, 2021, we generated \$49.9 million less in net sales from our Pekin Campus production segment from the 23.7 million fewer gallons of alcohol sold in the six months ended June 30, 2021 as compared to the same period in 2020. The increase of \$0.75, or 55%, in our Pekin Campus production segment's average sales price per gallon in the six months ended June 30, 2021 as compared to the same period in 2020 improved our net sales from our Pekin Campus production segment by \$98.6 million.

Net sales of essential ingredients increased by \$21.2 million, or 29%, to \$94.7 million for the six months ended June 30, 2021 as compared to \$73.5 million for the same period in 2020. Our total volume of essential ingredients sold declined by 21,900 tons, or 5%, to 433,700 tons for the six months ended June 30, 2021 from 455,600 tons for the same period in 2020. At our average sales price per ton of \$218.25 for the six months ended June 30, 2021, we generated \$4.8 million less in net sales from the 21,900 fewer tons of essential ingredients sold in the six months ended June 30, 2021 as compared to the same period in 2020. The increase of \$56.92, or 35%, in our average sales price per ton for the six months ended June 30, 2021 as compared to the same period in 2020 increased our net sales from our Pekin Campus production segment by \$26.0 million.

#### *Other Production Segment*

Net sales of alcohol from our other production segment declined by \$70.9 million, or 65%, to \$38.1 million for the six months ended June 30, 2021 as compared to \$109.0 million for the same period in 2020. Our total volume of gallons sold declined by 32.0 million gallons, or 67%, to 15.6 million gallons for the six months ended June 30, 2021 as compared to 47.6 million gallons for the same period in 2020. At our other production segment's average sales price per gallon of \$2.44 for the six months ended June 30, 2021, we generated \$78.2 million less in net sales from the 32.0 million fewer gallons of alcohol sold in the six months ended June 30, 2021 as compared to the same period in 2020. The increase of \$0.15, or 7%, in our other production segment's average sales price per gallon for the six months ended June 30, 2021 as compared to the same period in 2020 improved our net sales from our other production segment by \$7.3 million.

Net sales of essential ingredients declined by \$20.5 million, or 62%, to \$12.4 million for the six months ended June 30, 2021 as compared to \$32.9 million for the same period in 2020. Our total volume of essential ingredients sold declined by 319,200 tons, or 68%, to 147,200 tons for the six months ended June 30, 2021 from 466,400

tons for the same period in 2020. At our average sales price per ton of \$84.21 for the six months ended June 30, 2021, we generated \$26.9 million less in net sales from the 319,200 fewer tons of essential ingredients sold in the six months ended June 30, 2021 as compared to the same period in 2020. The increase of \$13.62, or 19%, in our average sales price per ton for the six months ended June 30, 2021 as compared to the same period in 2020 increased our net sales from our other production segment by \$6.4 million.

### **Cost of Goods Sold and Gross Profit**

Our consolidated gross profit declined to \$15.2 million, representing a gross profit margin of 5.1%, for the three months ended June 30, 2021 compared to \$31.2 million, representing a gross profit margin of 14.7%, for the same period in 2020. Our gross profit and gross profit margin declined primarily due to significantly higher margins during the three months ended June 30, 2020 from spot sales of our high quality alcohol used in sanitizers and disinfectants which experienced unprecedented demand in the quarter.

Our consolidated gross profit improved to \$29.1 million, representing a gross profit margin of 5.6%, for the six months ended June 30, 2021 compared to \$18.3 million, representing a gross profit margin of 3.5%, for the same period in 2020. Our gross profit and gross profit margin improved primarily due to a greater proportion of higher margin fixed-price contract sales of our high quality alcohol for the six months ended June 30, 2021 as compared to the first six months of 2020 during which we experienced an extreme negative margin environment for fuel-grade ethanol.

#### Three Months Ended June 30, 2021 and 2020

##### *Marketing Segment*

Our marketing segment's gross profit declined by \$1.4 million to \$1.4 million for the three months ended June 30, 2021 as compared to \$2.8 million for the same period in 2020. Of this reduction, \$0.9 million is attributable to lower marketing volumes of third-party fuel-grade ethanol and \$0.5 million is attributable to lower margins from sales of third-party fuel-grade ethanol for the three months ended June 30, 2021 as compared to the same period in 2020.

##### *Pekin Campus Production Segment*

Our Pekin Campus production segment's gross profit declined by \$22.6 million to a gross profit of \$11.6 million for the three months ended June 30, 2021 as compared to \$34.2 million for the same period in 2020. Of this decline, \$24.0 million is attributable to lower margins from our specialty alcohols, partially offset by \$1.4 million in additional gross profit attributable to increased sales volumes in the three months ended June 30, 2021 as compared to the same period in 2020.

##### *Other Production Segment*

Our other production segment's gross profit improved by \$8.0 million to a gross profit of \$2.2 million for the three months ended June 30, 2021 as compared to a gross loss of \$5.8 million for the same period in 2020. Of this improvement, \$7.6 million is attributable to higher margins for fuel-grade ethanol and \$0.4 million is attributable to increased volumes of fuel-grade ethanol for the three months ended June 30, 2021 as compared to the same period in 2020.

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#### Six Months Ended June 30, 2021 and 2020

##### *Marketing Segment*

Our marketing segment's gross profit improved by \$1.4 million to \$5.3 million for the six months ended June 30, 2021 as compared to \$3.9 million for the same period in 2020. Of this improvement, \$3.8 million is attributable to higher margins from sales of third-party fuel-grade ethanol, partially offset by \$2.4 million less in gross profit attributable to lower marketing volumes of third-party fuel-grade ethanol for the six months ended June 30, 2021 as compared to the same period in 2020.

##### *Pekin Campus Production Segment*

Our Pekin Campus production segment's gross profit declined by \$8.1 million to a gross profit of \$24.6 million for the six months ended June 30, 2021 as compared to \$32.7 million for the same period in 2020. Of this decline, \$5.4 million is attributable to lower sales volumes and \$2.7 million is attributed to lower margins from our specialty alcohols in the six months ended June 30, 2021 as compared to the same period in 2020.

##### *Other Production Segment*

Our other production segment's gross profit improved by \$17.5 million to a gross loss of \$0.8 million for the six months ended June 30, 2021 as compared to a gross loss of \$18.3 million for the same period in 2020. Of this improvement, \$15.9 million is attributable to higher margins and \$1.6 million is attributable to lower sales volumes at negative margins for the six months ended June 30, 2021 as compared to the same period in 2020.

### **Selling, General and Administrative Expenses**

The following table presents our selling, general and administrative, or SG&A, expenses in dollars and as a percentage of net sales (in thousands, except percentages):

	Three Months Ended				Six Months Ended			
	June 30,		Variance in		June 30,		Variance in	
	2021	2020	Dollars	Percent	2021	2020	Dollars	Percent
Selling, general and administrative expenses	\$ 7,230	\$ 8,629	\$ (1,399)	(16.2)%	\$ 14,244	\$ 18,841	\$ (4,597)	(24.4)%
Percentage of net sales	2.4%	4.1%			2.8%	3.6%		

Our SG&A expenses declined for the three and six months ended June 30, 2021 as compared to the same period in 2020. The period over period declines in SG&A expenses are primarily due to lower professional fees incurred in 2021, as compared to 2020 during which we were working extensively on our debt restructuring and asset sales efforts. We anticipate SG&A expenses of \$27.0 million to \$30.0 million for all of 2021.

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## Interest Expense, net

The following table presents our interest expense, net in dollars and as a percentage of net sales (in thousands, except percentages):

	Three Months Ended June 30,		Variance in		Six Months Ended June 30,		Variance in	
	2021	2020	Dollars	Percent	2021	2020	Dollars	Percent
	Interest Expense, net	\$ 1,045	\$ 4,647	\$ (3,602)	(77.5)%	\$ 2,930	\$ 9,954	\$ (7,024)
Percentage of net sales	0.4%	2.2%			0.6%	1.9%		

Our interest expense declined for the three and six months ended June 30, 2021 as compared to the same period in 2020. The declines are primarily due to lower debt balances for 2021 as compared to 2020 as we paid down high interest rate debt in the second half of 2020 and continuing into 2021.

## Net Income (Loss) Available to Common Stockholders

The following table presents our net income (loss) available to common stockholders in dollars and as a percentage of net sales (in thousands, except percentages):

	Three Months Ended June 30,		Variance in		Six Months Ended June 30,		Variance in	
	2021	2020	Dollars	Percent	2021	2020	Dollars	Percent
	Net income (loss) available to common stockholders	\$ 8,075	\$ 14,649	\$ (6,574)	(44.9)%	\$ 12,441	\$ (10,766)	\$ 23,207
Percentage of net sales	2.7%	6.9%			2.4%	(2.1)%		

The decline in net income available to common stockholders for the three months ended June 30, 2021 as compared to the same period in 2020 is primarily due to significantly higher spot margins from sales of our high quality alcohol in the prior year period compared to predominately fixed-price sales in the current year period. The increase in net income available to common stockholders for the six months ended June 30, 2021 as compared to the same period in 2020 is primarily due to significantly higher margins from sales of our high quality alcohol in the first quarter of 2021 as compared to the same period in 2020. The first quarter of 2020 also included substantial sales of low- or negative-margin fuel-grade ethanol.

## Liquidity and Capital Resources

During the six months ended June 30, 2021, we funded our operations primarily from cash generated by our operations, proceeds from the sale of our Madera facility, proceeds from lines of credit and cash on hand. These funds were also used to make payments on our term debt and our other credit facilities and for capital expenditures. As of June 30, 2021, we had \$50.8 million in cash and cash equivalents and \$15.0 million available for borrowing under Kinergy's operating line of credit. We believe we have sufficient liquidity to meet our anticipated working capital, debt service and other liquidity needs for the next twelve months from the date of this report.

## Quantitative Period-End Liquidity Status

We believe that the following amounts provide insight into our liquidity and capital resources. The following selected financial information should be read in conjunction with our consolidated financial statements and notes to consolidated financial statements included elsewhere in this report, and the other sections of "Management's Discussion and Analysis of Financial Condition and Results of Operations" contained in this report (dollars in thousands).

	June 30, 2021	December 31, 2020	Change
Cash and cash equivalents	\$ 50,796	\$ 47,667	6.6%
Current assets	\$ 244,250	\$ 214,046	14.1%
Property and equipment, net	\$ 221,327	\$ 229,486	(3.6)%
Current liabilities	\$ 110,744	\$ 86,927	27.4%
Long-term debt, noncurrent portion	\$ 56,848	\$ 71,807	(20.8)%
Working capital	\$ 133,506	\$ 127,119	5.0%
Working capital ratio	2.21	2.46	(10.2)%

## Restricted Net Assets

At June 30, 2021, we had approximately \$245.7 million of net assets at our subsidiaries that were not available for transfer to Alto Ingredients, Inc. in the form of dividends, distributions, loans or advances due to restrictions contained in the credit facilities of the subsidiaries.

## Changes in Working Capital and Cash Flows

Working capital improved to \$133.5 million at June 30, 2021 from \$127.1 million at December 31, 2020 as a result of an increase of \$30.2 million in current assets, partially offset by an increase of \$23.8 million in current liabilities.

Current assets increased primarily due to an increase in accounts receivable and higher inventory values due to increased commodity prices for both alcohol and corn from the prior period, partially offset by a reduction in assets held-for-sale as we completed the sale of our Madera facility.

Our current liabilities increased primarily due to an increase in accounts payable due to the timing of payments and an increase in derivative instruments, partially offset by a reduction in liabilities held-for-sale as we completed the sale of our Madera facility.

Our cash and cash equivalents increased by \$3.1 million primarily due to \$0.8 million in cash provided by our operating activities and \$15.3 million in cash provided by our investing activities, partially offset by \$13.0 million in cash used in our financing activities.

## Cash provided by our Operating Activities

We generated \$0.8 million in cash from our operating activities during the six months ended June 30, 2021, as compared to \$45.7 million for the same period in 2020. Specific factors that contributed to the change in cash from our operating activities include:

- a decrease of \$49.1 million related to higher accounts receivable balances due to the timing of payments and higher commodity sales prices;
- a decrease of \$32.8 million related to higher inventories due to increased commodity prices; and
- a net decrease of \$11.8 million of held-for-sale assets and liabilities as we completed the sale of our Madera facility.

These amounts were partially offset by:

- an increase of \$25.4 million in our consolidated net income due to higher margins from our sales of specialty alcohols;
- an increase of \$20.3 million related to accounts payable due to the timing of payments; and
- an increase in prepaid expenses of \$9.0 million related to operating activities.

*Cash provided by our Investing Activities*

We generated \$15.3 million of cash from our investing activities for the six months ended June 30, 2021, of which \$19.5 million in cash was generated from the sale of our Madera facility, partially offset by \$4.2 million for additions to property and equipment resulting from our capital expenditure projects.

*Cash used in our Financing Activities*

Cash used in our financing activities was \$13.0 million for the six months ended June 30, 2021, which reflected net payments on term debt of \$37.8 million, partially offset by proceeds of \$24.4 million from Kinergy's operating line of credit and \$0.5 million in stock option exercises.

***Kinergy's Operating Line of Credit***

Kinergy maintains an operating line of credit for an aggregate amount of up to \$100.0 million. The credit facility matures on August 8, 2023. Interest accrues under the credit facility at a rate equal to (i) the daily Secured Overnight Financing Rate, plus (ii) a specified applicable margin ranging from 1.75% to 2.25%. The credit facility's monthly unused line fee is 0.25% to 0.375% of the amount by which the maximum credit under the facility exceeds the average daily principal balance during the immediately preceding month. Payments that may be made by Kinergy to Alto Ingredients, Inc. as reimbursement for management and other services provided by Alto Ingredients, Inc. to Kinergy are limited under the terms of the credit facility to \$1.5 million per fiscal quarter. The credit facility also includes the accounts receivable of our wholly-owned subsidiary, Alto Nutrients, LLC, or Alto Nutrients, as additional collateral. Payments that may be made by Alto Nutrients to Alto Ingredients, Inc. as reimbursement for management and other services provided by Alto Ingredients, Inc. to Alto Nutrients are limited under the terms of the credit facility to \$0.5 million per fiscal quarter. Alto Nutrients, one of our indirect wholly-owned subsidiaries, markets our essential ingredients and also provides raw material procurement services to our subsidiaries.

For all monthly periods in which excess borrowing availability falls below a specified level, Kinergy and Alto Nutrients must collectively maintain a fixed-charge coverage ratio (calculated as a twelve-month rolling earnings before interest, taxes, depreciation and amortization divided by the sum of interest expense, capital expenditures, principal payments of indebtedness, indebtedness from capital leases and taxes paid during such twelve-month rolling period) of at least 2.0 and are prohibited from incurring certain additional indebtedness (other than specific intercompany indebtedness). The obligations of Kinergy and Alto Nutrients under the credit facility are secured by a first-priority security interest in all of their respective assets in favor of the lender.

We believe Kinergy and Alto Nutrients are in compliance with the fixed-charge coverage ratio covenant as of the filing of this report. The following table sets forth the fixed-charge coverage ratio financial covenant and the actual results for the periods presented:

	Three Months Ended June 30,		Years Ended December 31,	
	2021	2020	2020	2019
Fixed-Charge Coverage Ratio Requirement	2.00	2.00	2.00	2.00
Actual	7.92	4.84	5.35	5.71
Excess	5.92	2.84	3.35	3.71

Alto Ingredients, Inc. has guaranteed all of Kinergy's obligations under the credit facility. As of June 30, 2021, Kinergy had an outstanding balance of \$56.9 million and \$15.0 million of unused borrowing availability under the credit facility.

***Alto Pekin Credit Facilities***

On December 15, 2016, Alto Pekin, LLC, or Alto Pekin, one of our indirect wholly-owned subsidiaries and the entity that holds two of our production facilities in Pekin, Illinois, entered into a Credit Agreement, or the Pekin Credit Agreement, with 1<sup>st</sup> Farm Credit Services, PCA and CoBank, ACB, or CoBank. Under the terms of the Pekin Credit Agreement, Alto Pekin borrowed from 1<sup>st</sup> Farm Credit Services \$64.0 million under a term loan facility that matures on August 20, 2021, or the Pekin Term Loan, and up to \$32.0 million under a revolving term loan facility that matures on February 1, 2022, or the Pekin Revolving Loan, and together with the Pekin Term Loan, the Pekin Credit Facility. The Pekin Credit Facility is secured by a first-priority security interest in all of Alto Pekin's assets.

The Pekin Credit Facility and related agreements contain a variety of representations, warranties, covenants and events of default. Following a series of amendments and waivers among Alto Pekin, its lenders and their agent, certain terms of the agreements are as follows:

- Interest accrues under the Pekin Credit Facility at an annual rate equal to the 30-day London Interbank Offered Rate, or LIBOR, plus 5.00%.
- Alto Pekin is required to pay a monthly fee on any unused portion of the Pekin Revolving Loan at a rate of 0.75% per annum.

- Alto Pekin and Alto ICP, LLC, or ICP, one of our indirect wholly-owned subsidiaries and the entity that holds one of our production facilities in Pekin, Illinois, are collectively required to maintain working capital of not less than 50% of the combined outstanding revolving lines of credit, which was \$17.0 million at June 30, 2021; and an annual debt service coverage ratio of not less than 1.25 to 1.00, in addition to various other affirmative and negative covenants.

Net proceeds arising from a sale of any of our midwestern production facility assets will be allocated 33/34/33% among Alto Pekin's and ICP's lenders, collectively, our senior secured noteholders, and us, respectively. Net proceeds arising from the sale of any of our western production facility assets will be allocated first to the senior secured noteholders up to \$20.0 million and then allocated 33/34/33% among Alto Pekin's and ICP's lenders, collectively, our senior secured noteholders, and us, respectively.

As of the filing of this report, we believe we are in compliance with the terms and conditions of our Pekin Credit Facility.

### ***ICP Credit Facilities***

On September 15, 2017, ICP, Compeer Financial, PCA, or Compeer, and CoBank as agent, entered into a Credit Agreement, or the ICP Credit Agreement. Under the terms of the ICP Credit Agreement, ICP borrowed from Compeer \$24.0 million under a term loan facility that matures on September 20, 2021, or the ICP Term Loan, and up to \$18.0 million under a revolving term loan facility that matures on September 1, 2022, or the ICP Revolving Loan, and together with the ICP Term Loan, the ICP Credit Facility. The ICP Credit Facility is secured by a first-priority security interest in all of ICP's assets.

The ICP Credit Facility and related agreements contain a variety of representations, warranties, covenants and events of default. Following a series of amendments and waivers among ICP, its lenders and their agent, certain terms of the agreements are as follows:

- Interest accrues under the ICP Credit Facility at an annual rate equal to the 30-day LIBOR plus 3.75%.
- ICP is required to pay an annual nonrefundable commitment fee, calculated as 0.75% multiplied by the average daily positive difference between (i) the ICP Revolving Loan commitment (which may be reduced by ICP from time to time in increments of \$0.5 million), minus (ii) the aggregate principal amounts outstanding under the ICP Revolving Loan.
- ICP and Alto Pekin are collectively required to maintain working capital of not less than 50% of the combined outstanding revolving lines of credit, which was \$17.0 million at June 30, 2021; and an annual debt service coverage ratio of not less than 1.50 to 1.00, in addition to various other affirmative and negative covenants.

Net proceeds arising from the sale of any of our midwestern production facility assets will be allocated 33/34/33% among Alto Pekin's and ICP's lenders, collectively, our senior secured noteholders, and us, respectively. Net proceeds arising from the sale of any of our western production facility assets will be allocated first to the senior secured noteholders up to \$20.0 million and then allocated 33/34/33% among Alto Pekin's and ICP's lenders, collectively, our senior secured noteholders, and us, respectively.

As of the filing of this report, we believe we are in compliance with the terms and conditions of our ICP Credit Facility.

### ***Senior Secured Notes***

On December 12, 2016, we entered into a Note Purchase Agreement with five accredited investors and sold \$55.0 million in aggregate principal amount of senior secured notes to the investors in a private offering for aggregate gross proceeds of 97% of the principal amount of the notes sold. On June 26, 2017, we entered into a second Note Purchase Agreement with five accredited investors and sold an additional \$13.9 million in aggregate principal amount of senior secured notes to the investors in a private offering for aggregate gross proceeds of 97% of the principal amount of the notes sold, and collectively with the notes previously sold, the Notes. The Notes are secured by a first-priority security interest in all of our equity interests in Alto Op Co., our subsidiary that indirectly holds our West Coast production assets.

The Notes and related agreements contain a variety of representations, warranties, covenants and events of default. Following a series of amendments and waivers with the holders of our Notes, or the senior secured noteholders, and their agent, certain terms of the agreements are as follows:

- The Notes mature on December 15, 2021.
- Payments due under the Notes rank senior to all other indebtedness of Alto Ingredients, Inc. other than permitted senior indebtedness.
- Interest on the Notes accrues at a rate of 15% per annum.
- Any voluntary prepayments must be made at 102% of the principal amount prepaid.

The Notes also contain a variety of limitations, including a prohibition on parent company indebtedness; restrictions on redemption, repurchase or payment of any dividend or distribution in respect of our or our subsidiaries' equity interests; restrictions on asset sales and other dispositions; and restrictions on our or our subsidiaries' ability to issue equity for purposes other than to pay down a portion of the outstanding balance of the Notes.

In March 2020, ICP granted to the senior secured noteholders a security interest in certain of its personal property. In addition, Alto Central, LLC, or Alto Central, our subsidiary that indirectly holds our Pekin Campus assets, granted to the senior secured noteholders a security interest in certain of its personal property. Alto Central also pledged its equity interests in Alto Pekin and ICP in favor of the senior secured noteholders as additional collateral securing our obligations to the senior secured noteholders. Alto Op. Co also granted to the senior secured noteholders a security interest in certain of its personal property. We and certain subsidiaries also entered into intercreditor agreements with the ICP's and Alto Pekin's lenders, and the agent for our senior secured noteholders, to address issues of priority and the allocation of proceeds from asset sales.

On May 14, 2021, in connection with the sale of our Madera, California fuel-grade ethanol production facility, we repaid \$19.3 million in principal on these Notes. As of the filing of this report, a balance of approximately \$0.7 million remains on the Notes and we believe we are in compliance with the terms and conditions of the Notes.

### ***CARES Act Loans***

On May 4, 2020, Alto Ingredients, Inc. and Alto Pekin received loan proceeds from Bank of America, NA under the Coronavirus Aid, Relief, and Economic Security Act, or the CARES Act, through the Paycheck Protection Program administered by the U.S. Small Business Administration, or SBA. Alto Ingredients, Inc. received \$6.0 million and Alto Pekin received \$3.9 million in loan proceeds. The loans were to mature in two years and bear interest at a rate of 1.00% per annum. Under the terms of the loans, certain amounts may be forgiven if they are used for qualifying expenses as described in the CARES Act. We have applied for loan forgiveness for both loans. In June 2021, the SBA approved Alto Pekin's forgiveness application for the full amount of \$3.9 million. We can provide no assurance that we will be able to obtain forgiveness of all or any portion of the remaining loan.

#### **Effects of Inflation**

The impact of inflation was not significant to our financial condition or results of operations for the three and six months ended June 30, 2021 and 2020.

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.**

Not applicable.

### **ITEM 4. CONTROLS AND PROCEDURES.**

#### *Evaluation of Disclosure Controls and Procedures*

We conducted an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by the company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures also include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate, to allow timely decisions regarding required disclosure. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded as of June 30, 2021 that our disclosure controls and procedures were effective at a reasonable assurance level.

#### *Changes in Internal Control over Financial Reporting*

There has been no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the most recently completed fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

#### *Inherent Limitations on the Effectiveness of Controls*

Management does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent or detect all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control systems are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in a cost-effective control system, no evaluation of internal control over financial reporting can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, have been or will be detected.

These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of a simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of controls effectiveness to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

## **PART II - OTHER INFORMATION**

### **ITEM 1. LEGAL PROCEEDINGS.**

We are subject to legal proceedings, claims and litigation arising in the ordinary course of business. While the amounts claimed may be substantial, the ultimate liability cannot presently be determined because of considerable uncertainties that exist. Therefore, it is possible that the outcome of those legal proceedings, claims and litigation could adversely affect our quarterly or annual operating results or cash flows when resolved in a future period. However, based on facts currently available, management believes such matters will not adversely affect in any material respect our financial position, results of operations or cash flows.

### **ITEM 1A. RISK FACTORS.**

*Before deciding to purchase, hold or sell our common stock, you should carefully consider the risks described below in addition to the other information contained in this report and in our other filings with the Securities and Exchange Commission, including subsequent reports on Forms 10-Q and 8-K. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business. If any of these known or unknown risks or uncertainties actually occurs with material adverse effects on Alto Ingredients, our business, financial condition, results of operations and/or liquidity could be seriously harmed. In that event, the market price for our common stock will likely decline, and you may lose all or part of your investment.*

#### **Risks Related to our Business**

***The effects of the coronavirus pandemic, or its abatement, may materially and adversely affect our business, results of operations and liquidity.***

The coronavirus pandemic has resulted in businesses suspending or substantially curtailing operations and travel, quarantines, and an overall substantial slowdown of economic activity. Federal, state and foreign governments have implemented measures to contain the virus, including social distancing requirements, travel restrictions, border closures, limitations on public gatherings, work-from-home orders, and closure of non-essential businesses. Many of these measures remain or have been curtailed only

partially. Transportation fuels in particular, including fuel-grade ethanol, experienced significant price declines and reduced demand. A further or extended ongoing downturn in global economic activity, or recessionary conditions in general, would likely lead to poor demand for, and negatively affect the prices of, fuel-grade ethanol, materially and adversely affecting our business, results of operations and liquidity.

Furthermore, to protect the health and well-being of our employees and customers, we have implemented work-from-home requirements, made substantial modifications to employee travel policies, and cancelled or shifted marketing and other corporate events to virtual-only formats for the foreseeable future. While we continue to monitor our circumstances and may adjust our current policies as more information and public health guidance become available, these precautionary measures could negatively affect our sales and marketing efforts, delay and lengthen our sales cycles, or create operational or other challenges, any of which could harm our business and results of operations.

In addition, if one or more of our employees or customers becomes ill from coronavirus and attributes their infection to us, including through exposure at one of our offices or production facilities, we could be subject to allegations of failure to adequately mitigate the risk of exposure. Such allegations could harm our reputation and expose us to the risks of litigation and liability.

Our specialty alcohols business has benefitted significantly from the coronavirus pandemic due to a substantial increase in demand for alcohol-based sanitizers and disinfectants. As the coronavirus pandemic abates, demand for alcohol-based sanitizers and disinfectants may decline, ultimately exerting downward pressure on prices for our specialty alcohols used in those products. In addition, higher industry production levels in response to the coronavirus pandemic and any resulting oversupply of specialty alcohols for sanitizers and disinfectants would also exert downward pressure on prices. Reduced demand and prices for our specialty alcohols used in sanitizers and disinfectants, or industry oversupply of those specialty alcohols, may materially and adversely affect our business, results of operations and liquidity.

***Our results of operations and our ability to operate at a profit are largely dependent on our ability to manage the costs of corn, natural gas and other production inputs, with the prices of our alcohols and essential ingredients, all of which are subject to volatility and uncertainty.***

Our results of operations are highly impacted by commodity prices, including the cost of corn, natural gas and other production inputs that we must purchase, and the prices of alcohols and essential ingredients that we sell. Prices and supplies are subject to and determined by market and other forces over which we have no control, such as weather, domestic and global demand, supply shortages, export prices and various governmental policies in the United States and throughout the world.

Price volatility of corn, natural gas and other production inputs, and alcohols and essential ingredients, may cause our results of operations to fluctuate substantially. We may fail to generate expected levels of net sales and profits even under fixed-price and other contracts for the sale of specialty alcohols used in consumer products. Our customers may not pay us timely or at all, even under longer-term, fixed-price contracts for our specialty alcohols, and may seek to renegotiate prices under those contracts during periods of falling prices or high price volatility.

Over the past several years, for example, the spread between corn and fuel-grade ethanol prices has fluctuated significantly. Fluctuations are likely to continue to occur. A sustained narrow spread, whether as a result of sustained high or increased corn prices or sustained low or decreased alcohol or essential ingredient prices, would adversely affect our results of operations and financial position. Revenues from sales of alcohols, particularly fuel-grade ethanol, and essential ingredients could decline below the marginal cost of production, which may force us to further suspend production, particularly fuel-grade ethanol production, at some or all of our facilities.

In addition, some of our fuel-grade ethanol marketing activities will likely be unprofitable in a market of generally declining prices due to the nature of our business. For example, to satisfy customer demands, we maintain certain quantities of fuel-grade ethanol inventory for subsequent resale. Moreover, we procure much of our fuel-grade ethanol inventory outside of third-party marketing arrangements and therefore must buy fuel-grade ethanol at a price established at the time of purchase and sell fuel-grade ethanol at an index price established later at the time of sale that is generally reflective of movements in the market price of fuel-grade ethanol. As a result, our margins for fuel-grade ethanol sold in these transactions generally decline and may turn negative as the market price of fuel-grade ethanol declines.

We can provide no assurance that corn, natural gas or other production inputs can be purchased at or near current or any particular prices, or that our alcohols or essential ingredients will sell at or near current or any particular prices. Consequently, our results of operations and financial position may be adversely affected by increases in the prices of corn, natural gas and other production inputs or decreases in the prices of our alcohols and essential ingredients.

***Increased alcohol or essential ingredient production or higher inventory levels may cause a decline in prices for those products, and may have other negative effects, adversely impacting our results of operations, cash flows and financial condition.***

The prices of our alcohols and essential ingredients are impacted by competing third-party supplies of those products. For example, we believe that the most significant factor influencing the price of fuel-grade ethanol has been the substantial increase in production. According to the Renewable Fuels Association, domestic fuel-grade ethanol production capacity increased from an annualized rate of 1.5 billion gallons per year in January 1999 to a record 16.1 billion gallons in 2018. In addition, if fuel-grade ethanol production margins improve, we anticipate that owners of production facilities operating at below capacity, or owners of idled production facilities, will increase production levels, thereby resulting in more abundant fuel-grade ethanol supplies and inventories. Increases in the supply of alcohols and essential ingredients may not be commensurate with increases in demand for alcohols and essential ingredients, thus leading to lower prices. Moreover, higher industry production levels in response to the coronavirus pandemic and any resulting oversupply of alcohols for sanitizers and disinfectants, and corresponding oversupply of essential ingredient co-products, may also exert downward pressure on prices. Any of these outcomes could have a material adverse effect on our results of operations, cash flows and financial condition.

***The prices of our products are volatile and subject to large fluctuations, which may cause our results of operations to fluctuate significantly.***

The prices of our products are volatile and subject to large fluctuations. For example, the market price of fuel-grade ethanol is dependent upon many factors, including the supply of ethanol and the price of gasoline, which is in turn dependent upon the price of petroleum which itself is highly volatile and difficult to forecast. Our fuel-grade ethanol sales are tied to prevailing spot market prices rather than long-term, fixed-price contracts. Fuel-grade ethanol prices, as reported by the CBOT, ranged from \$0.81 to \$1.62 per gallon in 2020 and from \$1.25 to \$1.70 per gallon in 2019. In addition, even under longer-term, fixed-price contracts for our specialty alcohols, our customers may seek to renegotiate prices under those contracts during periods of falling prices or high price volatility. Fluctuations in the prices of our products may cause our results of operations to fluctuate significantly.

***Disruptions in our production or distribution may adversely affect our business, results of operations and financial condition.***

Our business depends on the continuing availability of rail, road, port, storage and distribution infrastructure. In particular, due to limited storage capacity at our production facilities and other considerations related to production efficiencies, our facilities depend on just-in-time delivery of water. The production of alcohols also requires a significant and uninterrupted supply of other raw materials and energy, primarily water, electricity and natural gas. Local water, electricity and gas utilities may fail to

reliably supply the water, electricity and natural gas that our production facilities need or may fail to supply those resources on acceptable terms. In the past, poor weather has caused disruptions in rail transportation, which slowed the delivery of fuel-grade ethanol by rail, the principal manner by which fuel-grade ethanol from our facilities located in the Midwest is transported to market. In addition, in 2020, we experienced closure of the Illinois River for lock repairs which required greater use of less cost-effective modes of product transport such as via rail and truck, which resulted in higher costs and negatively affected our results of operations.

Disruptions in production or distribution, whether caused by labor difficulties, unscheduled downtimes and other operational hazards inherent in the alcohol production industry, including equipment failures, fires, explosions, abnormal pressures, blowouts, pipeline ruptures, transportation accidents and natural disasters such as earthquakes, floods and storms, or human error or malfeasance or other reasons, could prevent timely deliveries of corn or other raw materials and energy, and could delay transport of our products to market, and may require us to halt production at one or more production facilities, any of which could have a material adverse effect on our business, results of operations and financial condition.

Some of these operational hazards may also cause personal injury or loss of life, severe damage to or destruction of property and equipment or environmental damage, and may result in suspension of operations and the imposition of civil or criminal penalties. Our insurance may not fully cover the potential hazards described above or we may be unable to renew our insurance on commercially reasonable terms or at all.

***We may engage in hedging transactions and other risk mitigation strategies that could harm our results of operations and financial condition.***

In an attempt to partially offset the effects of volatility of our product prices, in particular fuel-grade ethanol, corn and natural gas costs, we may enter into contracts to fix the price of a portion of our production or purchase a portion of our corn or natural gas requirements on a forward basis. In addition, we may engage in other hedging transactions involving exchange-traded futures contracts for corn, natural gas and unleaded gasoline from time to time. The financial statement impact of these activities is dependent upon, among other things, the prices involved and our ability to sell sufficient products to use all of the corn and natural gas for which forward commitments have been made. Hedging arrangements also expose us to the risk of financial loss in situations where the other party to the hedging contract defaults on its contract or, in the case of exchange-traded contracts, where there is a change in the expected differential between the underlying price in the hedging agreement and the actual prices paid or received by us. In addition, our open contract positions may require cash deposits to cover margin calls, negatively impacting our liquidity. As a result, our hedging activities and fluctuations in the price of corn, natural gas, fuel-grade ethanol and unleaded gasoline may adversely affect our results of operations, financial condition and liquidity.

***The industries in which we operate are extremely competitive. Many of our significant competitors have greater production and financial resources and could use their greater resources to gain market share at our expense.***

The industries in which we operate are extremely competitive. Many of our significant competitors have substantially greater production and financial resources than we do. As a result, our competitors may be able to compete more aggressively and sustain that competition over a longer period of time. Successful competition will require a continued high level of investment in facility maintenance. We may fail to anticipate or respond adequately to new industry developments and other competitive pressures due to our limited resources relative to many significant competitors. This failure could reduce our competitiveness and cause a decline in market share, sales and profitability. Even if sufficient funds are available, we may not be able to make the modifications and improvements necessary to compete successfully.

We also face competition from international suppliers, particularly of fuel-grade ethanol, many of whom have cost structures substantially lower than ours. An increase in domestic or foreign competition could force us to reduce our prices and take other steps to compete effectively, which could adversely affect our business, financial condition and results of operations.

***We incur significant expenses to maintain and upgrade our production facilities and operating equipment, and any interruption in our operations would harm our operating performance.***

We regularly incur significant expenses to maintain and upgrade our production facilities and operating equipment. The machines and equipment we use to produce our alcohols and manufacture our essential ingredients are complex, have many parts, and some operate on a continuous basis. We must perform routine equipment maintenance and must periodically replace a variety of parts such as motors, pumps, pipes and electrical parts. In addition, our production facilities require periodic shutdowns to perform major maintenance and upgrades. These scheduled shutdowns result in lower sales and increased costs in the periods during which a shutdown occurs and could result in unexpected operational issues in future periods as a result of changes to equipment and operational and mechanical processes made during shutdown.

**Risks Related to our Finances**

***We have incurred significant losses and negative operating cash flow in the past and we may incur losses and negative operating cash flow in the future, which may hamper our operations and impede us from expanding our business.***

We have incurred significant losses and negative operating cash flow in the past. For the years ended December 31, 2020 and 2019, we incurred consolidated net losses of approximately \$17.3 million and \$101.3 million, respectively. For the three months ended March 31, 2021 and for the year ended December 31, 2019, we incurred negative operating cash flow of approximately \$4.1 million and \$23.4 million, respectively. We may incur losses and negative operating cash flow in the future. We expect to rely on cash on hand, cash, if any, generated from our operations, borrowing availability under our lines of credit and proceeds from our future financing activities, if any, to fund all of the cash requirements of our business. Additional losses and negative operating cash flow may hamper our operations and impede us from expanding our business.

***Our indebtedness exposes us to many risks that could negatively impact our business, our business prospects, our liquidity and our cash flows and results of operations.***

Our Pekin Campus facilities have significant indebtedness. The terms of our loans associated with Pekin Campus facilities require amortizing payments of principal over the lives of the loans and our borrowing availability under our revolving credit facilities associated with those facilities periodically and automatically declines through the maturity dates of those facilities. Our indebtedness could:

- make it more difficult to pay or refinance our debts as they become due during adverse economic and industry conditions because those conditions could result in insufficient cash flows from operations to make our scheduled debt payments;
- limit our flexibility to pursue strategic opportunities or react to changes in our business and the industry in which we operate and, consequently, place us at a competitive disadvantage to our competitors who have less debt;
- require a substantial portion of our cash flow from operations, if any, to be used for debt service payments, thereby reducing our ability to fund working capital, capital expenditures, new business ventures, dividend payments and other general corporate purposes; and/or



- limit our ability to procure additional financing for working capital or other purposes.

Our term loans and credit facilities also require compliance with numerous financial and other covenants, the violation of which could result in an acceleration of our indebtedness.

Much of our indebtedness bears interest at variable rates. An increase in prevailing interest rates would likewise increase our debt service obligations and could materially and adversely affect our cash flows and results of operations.

Our ability to generate sufficient cash to make all principal and interest payments when due depends on our business performance, which is subject to a variety of factors beyond our control, including the supply of and demand for our alcohols and other products, product prices, the cost of key production inputs, and many other factors incident to the alcohol production and marketing industry. We cannot provide any assurance that we will be able to timely satisfy such obligations.

***We can provide no assurances that our remaining PPP loan will be forgiven, in whole or in part, or that any loan forgiven will not require repayment following an audit by the SBA.***

On May 4, 2020, Alto Ingredients, Inc. and Alto Pekin received loan proceeds from Bank of America, NA under the CARES Act through the Paycheck Protection Program administered by the SBA. Alto Ingredients, Inc. received \$6.0 million and Alto Pekin received \$3.9 million in loan proceeds. As of the filing of this report, the \$6.0 million loan to Alto Ingredients, Inc. remains outstanding. We can provide no assurances that we will be able to obtain forgiveness of all or any portion of the remaining loan. In addition, the SBA may audit our loan forgiveness applications and further examine our eligibility for forgiveness, including the facts and circumstances existing at the time the loans were made. We can provide no assurances that any loan forgiven will not require repayment following an audit by the SBA.

***Our ability to utilize net operating loss carryforwards and certain other tax attributes may be limited.***

Federal and state income tax laws impose restrictions on our use of net operating loss, or NOL, and tax credit carryforwards in the event that an “ownership change” occurs for tax purposes, as defined by Section 382 of the Internal Revenue Code, or Code. In general, an ownership change occurs when stockholders owning 5% or more of a corporation entitled to use NOL or other loss carryforwards have increased their ownership by more than 50 percentage points during any three-year period. The annual base limitation under Section 382 of the Code is calculated by multiplying the corporation’s value at the time of the ownership change by the greater of the long-term tax-exempt rate determined by the Internal Revenue Service in the month of the ownership change or the two preceding months. Our ability to utilize our NOL and other loss carryforwards may be substantially limited. These limitations could result in increased future tax obligations, which could have a material adverse effect on our financial condition and results of operations.

#### **Risks Related to Legal and Regulatory Matters**

***Future demand for fuel-grade ethanol is uncertain and may be affected by changes to federal mandates, public perception, consumer acceptance and overall consumer demand for transportation fuel, any of which could negatively affect demand for fuel-grade ethanol and our results of operations.***

Although many trade groups, academics and governmental agencies have supported fuel-grade ethanol as a fuel additive that promotes a cleaner environment, others have criticized fuel-grade ethanol production as consuming considerably more energy and emitting more greenhouse gases than other biofuels and potentially depleting water resources. Some studies have suggested that corn-based ethanol is less efficient than ethanol produced from other feedstock and that it negatively impacts consumers by causing increased prices for dairy, meat and other food generated from livestock that consume corn. Additionally, critics of fuel-grade ethanol contend that corn supplies are redirected from international food markets to domestic fuel markets. If negative views of corn-based ethanol production gain acceptance, support for existing measures promoting use and domestic production of corn-based ethanol as a fuel additive could decline, leading to a reduction or repeal of federal ethanol usage mandates, which would materially and adversely affect the demand for fuel-grade ethanol. These views could also negatively impact public perception of the fuel-grade ethanol industry and acceptance of ethanol as an alternative fuel.

There are limited markets for fuel-grade ethanol beyond those established by federal mandates. Discretionary blending and E85 blending (i.e., gasoline blended with up to 85% fuel-grade ethanol by volume) are important secondary markets. Discretionary blending is often determined by the price of fuel-grade ethanol versus the price of gasoline. In periods when discretionary blending is financially unattractive, the demand for fuel-grade ethanol may decline. Also, the demand for fuel-grade ethanol is affected by the overall demand for transportation fuel. Demand for transportation fuel is affected by the number of miles traveled by consumers and vehicle fuel economy. Lower demand for fuel-grade ethanol and co-products would reduce the value of our ethanol and related products, erode our overall margins and diminish our ability to generate revenue or to operate profitably. In addition, we believe that consumer acceptance of E15 and E85 fuels is necessary before fuel-grade ethanol can achieve any significant growth in market share relative to other transportation fuels.

***The United States fuel-grade ethanol industry is highly dependent upon various federal and state laws and any changes in those laws could have a material adverse effect on our results of operations, cash flows and financial condition.***

The Environmental Protection Agency, or EPA, has implemented the Renewable Fuel Standard, or RFS, under the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007. The RFS program sets annual quotas for the quantity of renewable fuels (such as fuel-grade ethanol) that must be blended into motor fuels consumed in the United States. The domestic market for fuel-grade ethanol is significantly impacted by federal mandates under the RFS program for volumes of renewable fuels (such as ethanol) required to be blended with gasoline. Future demand for fuel-grade ethanol will largely depend on incentives to blend ethanol into motor fuels, including the price of ethanol relative to the price of gasoline, the relative octane value of ethanol, constraints in the ability of vehicles to use higher ethanol blends, the RFS, and other applicable environmental requirements.

Under the provisions of the Clean Air Act, as amended by the Energy Independence and Security Act of 2007, the EPA has limited authority to waive or reduce the mandated RFS requirements, which authority is subject to consultation with the Secretaries of Agriculture and Energy, and based on a determination that there is inadequate domestic renewable fuel supply or implementation of the applicable requirements would severely harm the economy or environment of a state, region or the United States in general. Our results of operations, cash flows and financial condition could be adversely impacted if the EPA reduces the RFS requirements from the statutory levels specified in the RFS.

Various bills in Congress introduced from time to time are also directed at altering existing renewable fuels energy legislation, but none has passed in recent years. Some legislative bills are directed at halting or reversing expansion of, or even eliminating, the renewable fuel program, while other bills are directed at bolstering the program or enacting further mandates or grants that would support the renewable fuels industry. Our results of operations, cash flows and financial condition could be adversely impacted if any legislation is enacted that reduces the RFS volume requirements.

***We may be adversely affected by environmental, health and safety laws, regulations and liabilities***

We are subject to various federal, state and local environmental laws and regulations, including those relating to the discharge of materials into the air, water and ground, the generation, storage, handling, use, transportation and disposal of hazardous materials and wastes, and the health and safety of our employees. In addition, some of these laws and regulations require us to operate under permits that are subject to renewal or modification. These laws, regulations and permits often require expensive pollution control equipment or operational changes to limit actual or potential impacts to the environment. A violation of these laws and regulations or permit conditions can result in substantial fines, natural resource damages, criminal sanctions, permit revocations and/or production facility shutdowns. In addition, we have made, and expect to make, significant capital expenditures on an ongoing basis to comply with increasingly stringent environmental laws, regulations and permits.

We may be liable for the investigation and cleanup of environmental contamination at each of our production facilities and at off-site locations where we arrange for the disposal of hazardous substances or wastes. If these substances or wastes have been or are disposed of or released at sites that undergo investigation and/or remediation by regulatory agencies, we may be responsible under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or other environmental laws for all or part of the costs of investigation and/or remediation, and for damages to natural resources. We may also be subject to related claims by private parties alleging property damage and personal injury due to exposure to hazardous or other materials at or from those properties. Some of these matters may require us to expend significant amounts for investigation, cleanup or other costs.

In addition, new laws, new interpretations of existing laws, increased governmental enforcement of environmental laws or other developments could require us to make significant additional expenditures. Continued government and public emphasis on environmental issues will likely result in increased future investments for environmental controls at our production facilities. Present and future environmental laws and regulations, and interpretations of those laws and regulations, applicable to our operations, more vigorous enforcement policies and discovery of currently unknown conditions may require substantial expenditures that could have a material adverse effect on our results of operations and financial condition.

The hazards and risks associated with producing and transporting our products (including fires, natural disasters, explosions and abnormal pressures and blowouts) may also result in personal injury claims or damage to property and third parties. As protection against operating hazards, we maintain insurance coverage against some, but not all, potential losses. However, we could sustain losses for uninsurable or uninsured risks, or in amounts in excess of existing insurance coverages. Events that result in significant personal injury or damage to our property or third parties or other losses that are not fully covered by insurance could have a material adverse effect on our results of operations and financial condition.

**Risks Related to Ownership of our Common Stock**

***Future sales of substantial amounts of our common stock, or perceptions that those sales could occur, could adversely affect the market price of our common stock and our ability to raise capital.***

Future sales of substantial amounts of our common stock into the public market, including up to 8.9 million shares of our common stock that may be issued upon the exercise of outstanding warrants, or perceptions that those sales could occur, could adversely affect the prevailing market price of our common stock and our ability to raise capital.

***Our stock price is highly volatile, which could result in substantial losses for investors purchasing shares of our common stock and in litigation against us.***

The market price of our common stock has fluctuated significantly in the past and may continue to fluctuate significantly in the future. The market price of our common stock may continue to fluctuate in response to one or more of the following factors, many of which are beyond our control:

- fluctuations in the market prices of our products;
- fluctuations in the costs of key production input commodities such as corn and natural gas;

- the volume and timing of the receipt of orders for our products from major customers;
- the coronavirus pandemic, including governmental and public responses to the pandemic;
- competitive pricing pressures;
- anticipated trends in our financial condition and results of operations;
- changes in market valuations of companies similar to us;
- stock market price and volume fluctuations generally;
- regulatory developments or increased enforcement;
- fluctuations in our quarterly or annual operating results;
- additions or departures of key personnel;
- our ability to obtain any necessary financing;
- our financing activities and future sales of our common stock or other securities; and
- our ability to maintain contracts that are critical to our operations.

The price at which you purchase shares of our common stock may not be indicative of the price that will prevail in the trading market. You may be unable to sell your shares of common stock at or above your purchase price, which may result in substantial losses to you and which may include the complete loss of your investment. In the past, securities class action litigation has often been brought against a company following periods of high stock price volatility. We may be the target of similar litigation in the future. Securities litigation could result in substantial costs and divert management's attention and our resources away from our business.

Any of the risks described above could have a material adverse effect on our results of operations, the price of our common stock, or both.

***Because we do not intend to pay any cash dividends on our shares of common stock in the near future, our stockholders will not be able to receive a return on their***

*shares unless and until they sell them.*

We intend to retain a significant portion of any future earnings to finance the development, operation and expansion of our business. We do not anticipate paying any cash dividends on our common stock in the near future. The declaration, payment, and amount of any future dividends will be made at the discretion of our board of directors, and will depend upon, among other things, our results of operations, cash flows, and financial condition, operating and capital requirements, and other factors as our board of directors considers relevant. There is no assurance that future dividends will be paid, and, if dividends are paid, there is no assurance with respect to the amount of any such dividend. Unless our board of directors determines to pay dividends, our stockholders will be required to look to appreciation of our common stock to realize a gain on their investment. There can be no assurance that this appreciation will occur.

*Our bylaws contain an exclusive forum provision, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or agents.*

Our bylaws provide that, unless we consent in writing to the selection of an alternative forum, the Delaware Court of Chancery shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of us, (b) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of us to us or our stockholders, (c) any action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law, or (d) any action asserting a claim governed by the internal affairs doctrine.

For the avoidance of doubt, the exclusive forum provision described above does not apply to any claims arising under the Securities Act of 1933, as amended, or the Securities Act, or the Securities Exchange Act of 1934, as amended, or the Exchange Act. Section 27 of the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder, and Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder.

The choice of forum provision in our bylaws may limit our stockholders' ability to bring a claim in a judicial forum that they find favorable for disputes with us or our directors, officers, employees or agents, which may discourage such lawsuits against us and our directors, officers, employees and agents even though an action, if successful, might benefit our stockholders. The applicable courts may also reach different judgments or results than would other courts, including courts where a stockholder considering an action may be located or would otherwise choose to bring the action, and such judgments or results may be more favorable to us than to our stockholders. With respect to the provision making the Delaware Court of Chancery the sole and exclusive forum for certain types of actions, stockholders who do bring a claim in the Delaware Court of Chancery could face additional litigation costs in pursuing any such claim, particularly if they do not reside in or near Delaware. Finally, if a court were to find this provision of our bylaws inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could have a material adverse effect on us.

#### **General Risk Factors**

*Cyberattacks through security vulnerabilities could lead to disruption of business, reduced revenue, increased costs, liability claims, or harm to our reputation or competitive position.*

Security vulnerabilities may arise from our hardware, software, employees, contractors or policies we have deployed, which may result in external parties gaining access to our networks, data centers, cloud data centers, corporate computers, manufacturing systems, and/or access to accounts we have at our suppliers, vendors, and customers. External parties may gain access to our data or our customers' data, or attack the networks causing denial of service or attempt to hold our data or systems in ransom. The vulnerability could be caused by inadequate account security practices such as failure to timely remove employee access when terminated. To mitigate these security issues, we have implemented measures throughout our organization, including firewalls, backups, encryption, employee information technology policies and user account policies. However, there can be no assurance these measures will be sufficient to avoid cyberattacks. If any of these types of security breaches were to occur and we were unable to protect sensitive data, our relationships with our business partners and customers could be materially damaged, our reputation could be materially harmed, and we could be exposed to a risk of litigation and possible significant liability.

Further, if we fail to adequately maintain our information technology infrastructure, we may have outages and data loss. Excessive outages may affect our ability to timely and efficiently deliver products to customers or develop new products. Such disruptions and data loss may adversely impact our ability to fulfill orders and interrupt other processes. Delayed sales or lost customers resulting from these disruptions could adversely affect our financial results, stock price and reputation.

The State of California enacted the California Consumer Privacy Act of 2018, or CCPA, effective on January 1, 2020. Our and our business partners' or contractors' failure to fully comply with the CCPA and other laws could lead to significant fines and require onerous corrective action. In addition, data security breaches experienced by us or our business partners or contractors could result in the loss of trade secrets or other intellectual property, public disclosure of sensitive commercial data, and the exposure of personally identifiable information (including sensitive personal information) of our employees, customers, suppliers, contractors and others.

Unauthorized use or disclosure of, or access to, any personal information maintained by us or on our behalf, whether through breach of our systems, breach of the systems of our suppliers or vendors by an unauthorized party, or through employee or contractor error, theft or misuse, or otherwise, could harm our business. If any such unauthorized use or disclosure of, or access to, such personal information was to occur, our operations could be seriously disrupted, and we could be subject to demands, claims and litigation by private parties, and investigations, related actions, and penalties by regulatory authorities. In addition, we could incur significant costs in notifying affected persons and entities and otherwise complying with the multitude of foreign, federal, state and local laws and regulations relating to the unauthorized access to, or use or disclosure of, personal information. Finally, any perceived or actual unauthorized access to, or use or disclosure of, such information could harm our reputation, substantially impair our ability to attract and retain customers and have an adverse impact on our business, financial condition and results of operations.

## **ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS.**

### **Unregistered Sales of Equity Securities**

None.

### **Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

We granted to certain employees shares of restricted stock under our 2006 and 2016 Stock Incentive Plans pursuant to Restricted Stock Agreements dated and effective as of their respective grant dates by and between us and those employees.

We were obligated to withhold minimum withholding tax amounts with respect to vested shares of restricted stock and upon future vesting of shares of restricted stock granted to our employees. Each employee was entitled to pay the minimum withholding tax amounts to us in cash or to elect to have us withhold a vested amount of shares of restricted stock having a value equivalent to our minimum withholding tax requirements, thereby reducing the number of shares of vested restricted stock that the employee ultimately receives. If an employee failed to timely make such election, we automatically withheld the necessary shares of vested restricted stock.

For the three months ended June 30, 2021, in connection with satisfying our withholding requirements, we withheld the following number of shares of our common stock and remitted cash payments to cover the minimum withholding tax amounts, thereby effectively repurchasing from the employees such number of shares of our common stock at the following deemed purchase prices:

<u>Month</u>	<u>Number of Shares Withheld</u>	<u>Deemed Purchase Price Per Share</u>	<u>Aggregate Purchase Price</u>
April	457,597	\$ 5.66	\$ 2,590,000

**Dividends**

Our current and future debt financing arrangements may limit or prevent cash distributions from our subsidiaries to us, depending upon the achievement of specified financial and other operating conditions and our ability to properly service our debt, thereby limiting or preventing us from paying cash dividends.

For the three and six months ended June 30, 2021 and 2020, we accrued an aggregate of \$0.3 million and \$0.6 million, respectively, in dividends on our Series B Cumulative Convertible Preferred Stock, or Series B Preferred Stock, but did not declare or pay cash dividends, as permitted under an agreement with the holders of our Series B Preferred Stock, in an effort to preserve liquidity.

We have never declared or paid cash dividends on our common stock and do not currently intend to pay cash dividends on our common stock in the foreseeable future. We currently anticipate that we will retain any earnings for use in the continued development of our business.

The holders of our outstanding Series B Preferred Stock are entitled to dividends of 7% per annum, payable quarterly. Accrued and unpaid dividends in respect of our Series B Preferred Stock must be paid prior to the payment of any dividends in respect of shares of our common stock.

**ITEM 3. DEFAULTS UPON SENIOR SECURITIES.**

Not applicable.

**ITEM 4. MINE SAFETY DISCLOSURES.**

Not applicable.

**ITEM 5. OTHER INFORMATION.**

Not applicable.

**ITEM 6. EXHIBITS.**

<u>Exhibit Number</u>	<u>Description</u>
10.1	<a href="#"><u>Asset Purchase Agreement dated April 23, 2021 by and among Pacific Ethanol Madera LLC, Alto Ingredients, Inc. and Seaboard Energy California, LLC (*) (**)</u></a>
10.2	<a href="#"><u>First Amendment to Asset Purchase Agreement dated as of July 30, 2021 by and among Seaboard Energy California, LLC, Pacific Ethanol Madera LLC and Alto Ingredients, Inc. (*) (**)</u></a>
31.1	<a href="#"><u>Certifications Required by Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (*)</u></a>
31.2	<a href="#"><u>Certifications Required by Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (*)</u></a>
32.1	<a href="#"><u>Certification of Chief Executive Officer and Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (*)</u></a>
101.INS	Inline XBRL Instance Document (*)
101.SCH	Inline XBRL Taxonomy Extension Schema Document. (*)
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document. (*)
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document. (*)
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document. (*)
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document. (*)
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101). (*)

(\*) Filed herewith.

(\*\*) The agreements filed as exhibits to this report contain 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.

**SIGNATURES**

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

**ALTO INGREDIENTS, INC.**

Dated: August 10, 2021

By: /S/ BRYON T. MCGREGOR  
Bryon T. McGregor  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

## ASSET PURCHASE AGREEMENT

Dated as of April 23, 2021

By and Between

Seaboard Energy California, LLC

as Purchaser,

Pacific Ethanol Madera LLC

as Seller

and, for purposes of ARTICLE IV and ARTICLE IX,

Alto Ingredients, Inc.

as Seller Parent

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### Exhibits

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## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this “*Agreement*”), dated as of April 23, 2021 (the “*Agreement Date*”), is entered into by and between SEABOARD ENERGY CALIFORNIA, LLC, a Delaware limited liability company (“*Purchaser*”), PACIFIC ETHANOL MADERA LLC, a Delaware limited liability company (“*Seller*”) and, for purposes of Article IV and Article IX hereof, ALTO INGREDIENTS, INC. (formerly, PACIFIC ETHANOL, INC.), a Delaware corporation (the “*Seller Parent*”). Purchaser, Seller and (as provided above) Seller Parent are collectively referred to herein as the “*Parties*” and individually as a “*Party*”. For the purposes of this Agreement, capitalized terms used herein shall have the meanings set forth in Article XI.

### RECITALS

WHEREAS, Seller owns certain properties and assets located in Madera County, California, including rail infrastructure, an ethanol plant, a solar field and station, a feed mill which are located at 31470 Ave 12, Madera, California 93638 (collectively, the “*Site*”) and other tangible and intangible assets used in connection with the operations on the Site, which is currently idled and not in operation; and

WHEREAS, Purchaser desires to purchase the Purchased Assets and assume the Assumed Liabilities from Seller and Seller desires to sell, convey, assign and transfer to Purchaser the Purchased Assets together with the Assumed Liabilities, all in the manner and subject to the terms and conditions set forth in this Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Purchaser and Seller hereby agree as follows:

### ARTICLE I PURCHASE AND SALE OF THE PURCHASED ASSETS; ASSUMPTION OF ASSUMED LIABILITIES

1.1 Purchase and Sale of the Purchased Assets. On the terms and subject to the conditions set forth herein, at the Closing, Seller shall sell, transfer, assign, convey and deliver to Purchaser, and Purchaser shall purchase, acquire and accept from Seller, all of Seller’s right, title, and interest in and to, free and clear of any and all Encumbrances except for Permitted Encumbrances, the following assets of Seller, save and except any that is an Excluded Asset (collectively, the “*Purchased Assets*”):

- (a) the Site;
- (b) the Real Property (including the Water Wells associated therewith or located thereon);

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(c) all fixed assets, Furnishings and Equipment and other tangible personal property (i) located at the Site or on the Real Property as of September 30, 2020 and/or (ii) currently and/or previously used in connection with the operation of the Site (including any such assets that have been removed from the Site or the Real Property for repair but are, or have otherwise been, used in connection with the operation of the Site), which shall include, but not be limited to, the items described on Schedule 1.1(e) (collectively, the “*Fixed Assets*”);

(d) all Contracts listed on Schedule 1.1(d) (the “*Assigned Contracts*”);

(e) all unexpired Permits and all pending applications associated with the Site and/or the Real Property, but only if and to the extent transferrable under applicable Law, as set forth on Section 4.13(a) of the Disclosure Schedule (the “*Assumed Permits*”);

(f) all equipment parts and subassemblies located at the Site or on the Real Property as of September 30, 2020, and any raw materials, work in process and finished goods remaining at the Site or on the Real Property as of the Closing Date;

(g) all Vehicles and rolling stock and related parts, supplies and fuel located at the Site or on the Real Property as of September 30, 2020;

(h) except for software and software configurations that support the connection of computers and other equipment at the Site to Seller’s corporate network, which software and software configurations will be purged immediately prior to Closing, all computer hardware, data networks, servers, communication equipment, software,



discs and all stored data on any of the foregoing located at the Site as of September 30, 2020; and

(i) all Documents located at the Site or relating to the Purchased Assets as of the Closing Date.

1.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, (i) in no event shall Seller be deemed to sell, transfer, assign or convey to Purchaser, and Purchaser shall not purchase or otherwise acquire, any asset, or right or property not expressly included in the Purchased Assets, and (ii) the Purchased Assets shall not include any right, title and interest in or to any of the following assets, rights or properties of Seller or its Affiliates (including Seller Parent), whether or not the following would otherwise be included within the Purchased Assets (such assets, rights and properties in clauses (i) and (ii), collectively, the "**Excluded Assets**"):

(a) the Organizational Documents of Seller, Tax Returns, books of account or other records having to do with the corporate organization of Seller, all employee-related or employee benefit-related files or records;

(b) any insurance policies (including any directors and officers liability and other management liability insurance policies) related to the Purchased Assets operations of the Site, and all claims, demands, deposits, refunds, rebates, causes of action, choses in action, rights of recovery, rights of set-off and rights of recoupment relating to such policies;

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(c) all Benefit Plans;

(d) except for the Assigned Contracts, any Contract of Seller or Seller Parent;

(e) all Tax refunds, credits and claims with respect to the ownership of the Purchased Assets or operation of the Business for any Pre-Closing Tax Period and the portion of any Straddle Period ending on the Closing Date;

(f) all records, information and communications with respect to the other Excluded Assets, including those records, information and communications subject to an attorney/client privilege or accountant/client privilege;

(g) all goodwill and other intangible assets of the Business, in each case to the extent primarily related to any other Excluded Assets, the Excluded Liabilities or this Agreement; and

(h) any rights of Seller under this Agreement and the other Ancillary Documents.

1.3 Assumption of Liabilities. On the terms and subject to the conditions set forth in this Agreement, effective as of the Closing, Purchaser shall assume from Seller (and pay, perform, discharge or otherwise satisfy in accordance with their respective terms), and Seller shall irrevocably convey, transfer and assign to Purchaser the following Liabilities related to the Purchased Assets (collectively, the "**Assumed Liabilities**"):

(a) any Liabilities under the Assigned Contracts (other than obligations arising or accruing prior to the Closing Date or with respect to any breach or default existing prior to the Closing Date) including, without limitation, any and all amounts due and owing by Seller under the CleanFund Commercial PACE Capital, Inc. Financing; and

(b) all Liabilities for Taxes to the extent apportioned to Purchaser pursuant to Article VIII.

The assumption by Purchaser of the Assumed Liabilities shall not, in any way, enlarge the rights of any third parties relating thereto.

1.4 Excluded Liabilities. The Assumed Liabilities shall not include, and Seller shall retain and shall hereafter pay, perform, satisfy and discharge when due, all Liabilities of Seller other than those specifically set forth in Section 1.3 (the "**Excluded Liabilities**"). For the avoidance of doubt, the Excluded Liabilities include the following:

(a) any Indebtedness of Seller;

(b) any Liabilities of Seller that are caused by a breach or default by Seller occurring prior to the Closing Date under any Contract;

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(c) any Liabilities of Seller (i) arising, existing, or accruing prior to the Closing Date that are caused by failure to comply with an Environmental Law or Permit, including, but not limited to, Liabilities of Seller associated with San Joaquin Valley Unified Air Pollution Control District notices of violation dated January 1, 2020 and April 29, 2020, respectively, (ii) that are within the scope of the representations and warranties made by Seller in Section 4.12, (iii) for any personal injury, wrongful death or property or other damage arising under any common law, statutory law or tort law theory that are related to any release or disposal of Hazardous Materials at, on, under or migrating from the Purchased Assets, or (iv) related to the Business arising under any Environmental Laws with regard to the presence of Hazardous Substances at any third-party facility at which Seller, any Seller Affiliate or any predecessor of Seller disposed of, arranged for or permitted the disposal of, any Hazardous Substances prior to the Closing Date;

(d) any Liabilities of Seller (including, without limitation, Tax Liabilities) relating to or arising out of the Purchased Assets or the operation of the Site prior to the Closing Date;

(e) any Liabilities of Seller relating to or arising out of the Excluded Assets; and

(f) any Liabilities of Seller under this Agreement and the other Ancillary Documents.

## **ARTICLE II. CONSIDERATION**

### 2.1 Consideration.

(a) On the terms and subject to the conditions of this Agreement, Seller will sell, transfer, assign, convey and deliver to Purchaser, and Purchaser will purchase from Seller, the Purchased Assets for the aggregate consideration (collectively, the "**Purchase Price**") of: (i) the assumption of Assumed Liabilities, and (ii) the Cash Consideration.

(b) "**Cash Consideration**" means an amount equal to Nineteen Million Five Hundred Thousand Dollars (\$19,500,000).

2.2 Payments on the Closing Date.

(a) No later than three (3) Business Days prior to the Closing Date, Seller shall deliver to Purchaser a written statement, reasonably satisfactory to Purchaser (the "**Closing Statement**"). At the Closing (and as provided in the Closing Statement), Purchaser shall pay to Seller an amount equal to:

(i) the Cash Consideration;

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(ii) *plus* Purchaser's share of expenses (as set forth in Section 3.4(b)(i), Section 3.4(b)(ii), Section 3.4(b)(iii) and as provided in the Closing Statement); and

(iii) *less* any credits (including, but not limited to, any real and personal property Tax prorations in accordance with Section 8.1(b), and as otherwise provided in the Closing Statement).

The balance of the Purchase Price (the "**Closing Cash Payment**") shall be disbursed to Seller by wire transfer of immediately available funds to such account or accounts of Seller (or one or more of their designees) in accordance with the Closing Statement.

(b) Should either Party object to any of the amounts or calculations in the Closing Statement, the Parties shall cooperate in a diligent good faith manner to resolve such objections prior to the Closing, and the Closing Statement shall be adjusted prior to the Closing to reflect any changes agreed to by the Parties prior to the Closing Date.

2.3 Proration. Any charges for utilities of the Site or Purchased Assets shall be based on readings of the utility meters performed on the Closing Date or immediately thereafter. Relevant charges attributable to the reading of the meters on or immediately after the Closing Date shall be billed to and paid by Seller and such part of the relevant charges attributable to the period commencing after the Closing Date shall be billed to and paid by Purchaser.

**ARTICLE III.  
CLOSING AND TERMINATION**

3.1 Time of Closing. Subject to the terms and conditions of this Agreement, the closing of the transactions contemplated hereby (the "**Closing**") shall occur two (2) Business Days following the satisfaction or waiver of all conditions set forth in Article VII (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions), or on such other date as may be agreed upon in writing by the Parties through the delivery and exchange by electronic mail in PDF format between the Parties of all documents required to close the transactions contemplated by this Agreement. The date on which the Closing occurs is referred to in this Agreement as the "**Closing Date**". Unless otherwise agreed by the Parties in writing, the Closing shall be deemed effective as of 12:01 a.m. Pacific Time on the Closing Date.

3.2 Escrow Arrangements. An escrow for the purchase and sale contemplated by this Agreement shall be opened by Purchaser and Seller with the Title Company. No later than two (2) Business Days before the Closing Date, Seller and Purchaser shall each deliver escrow instructions to Title Company consistent with this Article III, and the Parties shall deposit in escrow (a) the funds payable by each Party as set forth in Section 2.2 and Section 3.4 and (b) the Deeds and any other documents to be recorded.

3.3 Closing. At Closing, the Title Company shall:

(a) record the Deed(s);

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(b) issue the Title Policy to Purchaser;

(c) deliver to Purchaser the physical assets set forth in Section 3.5(h); and

(d) deliver to Seller the funds in the amount of the Closing Cash Payment.

3.4 Closing Costs. At Closing:

(a) Seller shall pay (i) any county documentary transfer or transaction Taxes or fees due on the transfer of the Real Property, (ii) 50% of all escrow, recording or other fees (excluding endorsement fees) or costs charged by or reimbursable to Title Company, (iii) the base premium for an ALTA title insurance policy (but only for a liability amount equal to the Purchase Price), and (iv) all fees and expenses of its legal counsel, broker and other third party consultants engaged by or on behalf of Seller in connection with this transaction.

(b) Purchaser shall pay (i) the balance of the premium for the Title Policy (including costs of endorsements, extended coverage and related survey costs), (ii) any sales or use Taxes determined to be payable in connection with this transaction, (iii) 50% of all escrow, recording or other fees or costs charged by or reimbursable to Title Company; and (iv) all fees and expenses of its legal counsel and other third party consultants engaged by or on behalf of Purchaser in connection with this transaction.

(c) Any costs and expenses of Closing that are not expressly identified in subparagraph (a) or (b) above shall be allocated equally between Purchaser and Seller.

3.5 Closing Deliverables by Seller. At the Closing, Seller (and Seller Parent, as applicable) shall deliver, or cause to be delivered, to Purchaser the following closing deliverables:

(a) certificates of the Secretary (or equivalent officer) of Seller and Seller Parent, dated as of the Closing Date, (A) certifying, as applicable, that attached thereto is a true and complete copy of the resolutions adopted by the sole member of Seller and board of directors of Seller Parent, authorizing the execution, delivery and performance of this Agreement and the other Ancillary Documents to which Seller or Seller Parent is a party and the consummation by Seller or Seller Parent of the transactions contemplated hereby and thereby and (B) attesting to the satisfaction of the conditions set forth in Section 7.3(a) and Section 7.3(b) in form and substance reasonably acceptable to Purchaser;

(b) duly executed FIRPTA Certificate;

(c) one or more special warranty grant deeds duly executed by Seller, in form and substance reasonably acceptable to Purchaser and substantially in the form attached hereto as **Exhibit A**, conveying all right, title and interest of Seller in the Real Property, subject to the Permitted Encumbrances (the **Deeds**”);

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(d) counterpart, duly executed by Seller, of a bill of sale and assignment and assumption for the sale of the non-Real Property Purchased Assets, substantially in the form attached hereto as **Exhibit B** (the **“Bill of Sale”**);

(e) counterpart, duly executed by Seller, of an assignment and assumption agreement for the assignment of the Assigned Contracts, substantially in the form attached hereto as **Exhibit C** (the **“Assignment and Assumption Agreement”**);

(f) Seller Parent Letter of Credit, duly executed by Seller Parent for the benefit of Purchaser;

(g) (i) from each creditor with whom Seller has an outstanding Indebtedness immediately prior to the Closing (other than outstanding Indebtedness of Seller that is subject to any Assigned Contract), payoff letters or similar agreements, if any, in form and substance reasonably acceptable to Purchaser and the Title Company, and (ii) from any Person releasing and terminating (in whole or in part) any Encumbrances (whether represented by UCC financing statements or otherwise), other than Permitted Encumbrances, in favor of such Person with respect to any of the Purchased Assets, in each case, executed by the applicable parties thereto;

(h) possession of the Purchased Assets and the Site, including all keys, access cards, security passcodes and combinations;

(i) an owner’s affidavit, duly executed by Seller and delivered to the Title Company, in form and substance reasonably acceptable by the Title Company and Seller;

(j) the marked commitment of the Title Company to issue the Title Policy naming Purchaser as the insured;

(k) title to the Vehicles, duly endorsed by Seller,

(l) with respect to the Real Property, such other affidavits, transfer tax declarations, and certificates as may be reasonably and customarily required in Madera County, California in connection with sales of real property, and with respect to any Purchased Assets other than the Real Property, such other bills of sale, deeds, endorsements, assignments and other good and sufficient instruments of conveyance and transfer, in either case in a form reasonably satisfactory to Purchaser and Seller, as Purchaser may reasonably request to vest in Purchaser all of Seller’s right, title and interest in, to or under the Site and any or all the Purchased Assets; and

(m) all other certificates, agreements and other documents required by this Agreement (or as Purchaser may reasonably request that are customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement) to be delivered by Seller at or prior to the Closing in connection with the transactions contemplated by this Agreement.

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3.6 Closing Deliveries by Purchaser. At the Closing, Purchaser shall deliver, or cause to be delivered, to Seller the following closing deliverables:

(a) the Closing Cash Payment;

(b) certificate of the Secretary (or equivalent officer) of Purchaser, dated as of the Closing Date, (A) certifying that attached thereto is a true and complete copy of the resolutions adopted by the board of directors of Purchaser, authorizing the execution, delivery and performance of this Agreement and the other Ancillary Documents to which Purchaser is a party and the consummation by Purchaser of the transactions contemplated hereby and thereby and (B) attesting to the satisfaction of the conditions set forth in Section 7.2(a) and Section 7.2(b) in form and substance reasonably acceptable to Seller;

(c) counterpart, duly executed by Purchaser, of the Bill of Sale;

(d) counterpart, duly executed by Purchaser, of the Assignment and Assumption Agreement;

(e) Preliminary Change of Ownership Report, duly executed by Purchaser; and

(f) all other certificates, agreements and other documents required by this Agreement (or as Seller may reasonably request that are customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement) to be delivered by Purchaser at or prior to the Closing in connection with the transactions contemplated by this Agreement.

3.7 Termination of Agreement. This Agreement may be terminated only in accordance with this Section 3.7. This Agreement may be terminated at any time prior to the Closing, as follows:

(a) by the mutual written consent of Seller and Purchaser;

(b) by written notice of either Seller or Purchaser to such other Party, if the Closing shall not have been consummated on or prior to May 31, 2021 (the **“Outside Date”**); *provided, however*, that the Outside Date may be extended by the mutual written consent of Seller and Purchaser, for a period up to seven (7) days to the extent that all conditions to Closing set forth in this Agreement are capable of being satisfied as of such time; and *provided, further*, that the right to terminate this Agreement under this Section 3.7(b) shall not be available to any Party whose failure to fulfill any obligation under this Agreement shall have been the cause of, or shall have resulted in, the failure of the Closing to occur on or prior to such date.

(c) by written notice from Seller (but only so long as Seller is not in material breach of its obligations under this Agreement) to Purchaser, if Purchaser breaches or fails to perform in any respect any of its representations, warranties or covenants contained in this Agreement and such breach or failure to perform: (i) would give rise to the failure of a condition set forth in Section 7.2, (ii) cannot be or has not been cured within five (5) days following delivery of notice to Purchaser of such breach or failure to perform, and (iii) has not been waived by Seller;

(d) by written notice from Purchaser (but only so long as Purchaser is not in material breach of its obligations under this Agreement) to Seller, if Seller breaches or fails to perform in any respect any of its representations, warranties or covenants contained in this Agreement and such breach or failure to perform: (i) would give rise to the failure of a condition set forth in Section 7.3, (ii) cannot be or has not been cured within five (5) days following delivery of notice to Seller of such breach or failure to perform, and (iii) has not been waived by Purchaser;

(e) by written notice from Purchaser to Seller, if any event, change or occurrence in state of facts has had a Material Adverse Effect;

(f) by written notice from Purchaser to Seller no later than thirty (30) days after the Agreement Date, if Purchaser determines that the results of the Purchaser's Due Diligence are not satisfactory to Purchaser;

(g) by written notice from Purchaser to Seller if all or any portion of the Purchased Assets with a fair market value or replacement value, whichever is greater, in excess of \$2,000,000 individually, or in the aggregate, is (i) condemned or taken by eminent domain, or (ii) is damaged or destroyed by fire, flood or other casualty, in any case regardless of whether or not insured or Seller is otherwise entitled to receive compensation therefore; or

(h) by Seller in the event (i) all of the conditions set forth in Section 7.3 have been and continue to be satisfied (other than conditions with respect to actions the Parties shall take at the Closing itself or which, by their nature, cannot be satisfied until the Closing, but in each case are capable of being satisfied at or prior to the Closing), (ii) Seller has notified Purchaser in writing that it is ready, willing and able to consummate the transactions contemplated by this Agreement, (iii) the Due Diligence Period has lapsed; (iv) Purchaser has failed to complete the Closing when required pursuant to Section 3.1, and (v) Purchaser fails to complete the Closing within three (3) Business Days after the date of receipt of the notice contemplated by clause (ii) and Seller stood ready, willing and able to consummate the transactions contemplated by this Agreement through the end of such three (3) Business Day period.

Each condition set forth in this Section 3.7 pursuant to which this Agreement may be terminated shall be considered separate and distinct from each other such condition. If more than one of the termination conditions set forth in this Section 3.7 is applicable, the applicable Party shall have the right to choose the termination condition pursuant to which this Agreement is to be terminated.

**3.8 Procedures Upon Termination.** In the event of termination and abandonment by Purchaser or Seller pursuant to Section 3.7, written notice thereof shall forthwith be given to the other Party, and this Agreement shall terminate and the purchase of the Purchased Assets and the assumption of the Assumed Liabilities hereunder shall be abandoned, without further action by Purchaser or Seller. If this Agreement is terminated as provided herein, each Party shall return if requested all documents, work papers and other material of any other Party relating to the transactions contemplated hereby (including any Confidential Information), whether so obtained before or after the execution hereof, to the Party furnishing the same.

**3.9 Effect of Termination.** In the event of termination of this Agreement in accordance with Section 3.7, this Agreement shall become null and of no further force or effect, and there shall be no Liability on the part of any Party, except that (a) this Section 3.9, Section 6.7, Section 6.9 and Article X shall expressly survive the expiration or termination of this Agreement and (b) nothing herein shall relieve any Party hereto from Liability for any breach of this Agreement.

#### **ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF SELLER AND SELLER PARENT**

Seller and Seller Parent hereby represent and warrant, jointly and severally, to Purchaser as follows as of the date hereof and as of the Closing Date:

**4.1 Organization.** Seller is a limited liability company duly qualified, validly existing and in good standing under the laws of the State of Delaware. Seller has all necessary organizational power and authority to own and operate its properties and assets (including the Purchased Assets) and to carry on the operation of the Site as currently and/or previously conducted. Seller is duly licensed or qualified and in good standing as a foreign corporation in each jurisdiction in which the ownership of the Purchased Assets or the operation of the Site makes such licensing or qualification necessary. Seller has made available to Purchaser true and complete copies of its Organizational Documents. Seller Parent is a corporation duly qualified, validly existing and in good standing under the laws of the State of Delaware.

**4.2 Authority.** Seller and Seller Parent have all requisite power and authority to execute and deliver this Agreement and each of the Ancillary Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and each of the Ancillary Documents to which Seller or Seller Parent is a party, the performance by Seller and Seller Parent of their respective obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary action on the part of Seller and Seller Parent and does not require any authorization or consent of any manager, member, director, officer or equity owner that has not been obtained. This Agreement has been, and at or prior to the Closing, each of the Ancillary Documents to which Seller or Seller Parent is a party will be, duly and validly executed and delivered by Seller and Seller Parent and (assuming the due authorization, execution and delivery by the other Parties) this Agreement constitutes, and each Ancillary Document to which Seller or Seller Parent is a party when so executed and delivered (assuming the due authorization, execution and delivery by the other parties thereto) will constitute, legal, valid and binding obligations of Seller and Seller Parent, enforceable against Seller and Seller Parent in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium or similar laws affecting creditors' rights generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

**4.3 No Inconsistent Obligations.** Neither the execution and delivery of this Agreement or any other documents contemplated hereby, nor the consummation of the transactions contemplated herein, will, to Seller's Knowledge, result in a violation or breach of, or constitute a default under, (a) the Organizational Documents of Seller, (b) any ruling or order of any Governmental Body applicable to Seller or the Purchased Assets, (c) any term or provision of any Contract or agreement relating to or arising out of the operation of the Site, the Real Property or the Business (including any Assigned Contracts), (d) any writ, order, judgment, decree, law, rule, regulation or ordinance applicable to Seller or the Purchased Assets, or (e) any other commitment or restriction to which Seller is a party, nor will such actions result in the creation of a lien or Encumbrance, other than any Permitted Encumbrances.

**4.4 Consents.** Except for the notices, filings and consents set forth on Section 4.4 of the Disclosure Schedule and except for any consents where the failure to obtain such consents, either in any individual case or in the aggregate, would not reasonably be expected to be material to the Business, Seller is not required to give any notice to, make any registration, declaration or filing with or obtain any consent, waiver or approval from, any Person (including any Governmental Body) in connection with the

execution and delivery of this Agreement and each of the Ancillary Documents or the consummation or performance of any of the transactions contemplated hereby and thereby.

4.5 Title of the Non-Real Property Assets. Except for the Encumbrances set forth on Section 4.5 of the Disclosure Schedule, Seller has good and marketable title to all of the non-Real Property Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances. Seller has the right to transfer or assign (or cause to be transferred or assigned), in accordance with the terms of this Agreement, title to such owned non-Real Property Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances. The Purchased Assets owned and being transferred hereunder by Seller are not subject to any oral or written leases.

4.6 Operation of the Site: Sufficiency of Assets.

(a) Seller is the only entity through which the operation of the Site is or, for the past three (3) years, has been conducted.

(b) The Purchased Assets constitute all of the rights, properties and assets (i) that are used in the operation of the Site; and (ii) that are necessary, adequate and sufficient to conduct and operate the Site after Closing in substantially the same manner as conducted as of the last date of any production of ethanol on the Site in 2020, other than as set forth in Section 4.6(b) of the Disclosure Schedule. Seller has Water Wells and water supply as is necessary to operate the Site in the Ordinary Course of Business and to maintain the Real Property as currently held.

(c) To Seller's Knowledge, all Fixed Assets included in the Purchased Assets are (i) in good and operating condition, ordinary wear and tear excepted, and (ii) suitable for the uses to which they are currently being and/or were previously put. No Fixed Assets included in the Purchased Assets are in need of current maintenance or repairs except for routine maintenance and repairs in the Ordinary Course of Business that are not, individually or in the aggregate, material in nature or cost.

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(d) None of the Fixed Assets have been materially damaged since September 30, 2020 by fire, wind, tornado, flooding or any other casualty which have not been repaired.

4.7 Real Property.

(a) Section 4.7(a) of the Disclosure Schedule contains a true and complete list of all real property owned by Seller and used or held for use in the operation of the Site or otherwise being sold to Purchaser, together with all buildings, structures, fixtures and improvements erected thereon and all rights, privileges, easements, licenses and other appurtenances relating thereto (the "**Real Property**").

(b) Section 4.7(b) of the Disclosure Schedule contains a true and complete list of all water rights, water use permits, and well locations owned by Seller and associated with or located on the Real Property (the "**Water Wells**").

(c) Seller has good, valid and marketable title to all Real Property, free and clear of all Encumbrances other than Permitted Encumbrances.

(d) All buildings, structures, fixtures and improvements on the Real Property are in good operating condition and repair, ordinary wear and tear excepted, and are fit for occupancy and use consistent with past practice. There are no facts or conditions affecting any of the buildings, structures, fixtures or improvements on the Real Property that would reasonably be expected to interfere with the current occupancy or use thereof. The Real Property has access to public roads or valid easements over private property for ingress to and egress from the Real Property. To the extent consistent with industry standards in Seller's area of operations, all buildings and structures on the Real Property have access to water supply, storm and sanitary sewer or septic facilities, telephone, gas and electrical connections, drainage and other public utilities, in each case as is necessary for the operation of the Site in the manner conducted on the last day of any production of ethanol on the Site in 2020 and to maintain the Real Property. No building or structure on the Real Property encroaches upon real property of another Person, and no buildings or structure of any other Person encroaches upon any Real Property.

(e) There are currently in effect such insurance policies for the Real Property as are customarily maintained with respect to similar properties utilized for comparable purposes. All premiums due on such insurance policies have been timely paid by Seller. Seller has not received written notice from any insurance company concerning any defects or inadequacies in any Real Property, which, if not corrected, would result in any termination or increase in the cost of any insurance policies maintained for such Real Property.

(f) There are no pending or, to Seller's Knowledge, threatened condemnation proceedings relating to any of the Real Property.

(g) There are no outstanding options or rights of first refusal to purchase or lease the Real Property or any portion thereof or any interest therein.

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(h) Seller has not received any form of notice from any Governmental Body relating to (i) violations of building, zoning, safety and fire ordinances or regulations which have not been remedied or corrected; (ii) claims of any material defect or deficiency with respect to any of such properties which have not been remedied or corrected; or (iii) requests for the performance of any repairs, alterations or other work, other than any which Seller has remedied or corrected. The Real Property is not subject to any special assessment, assessment for improvements, municipal charge or other similar charge or assessment.

4.8 Intellectual Property. Seller does not have title to any Intellectual Property. Neither Seller nor its manufacture, use, sale or provision of any product or service by Seller infringes, misappropriates, or otherwise violates or has infringed, misappropriated or otherwise violated any Intellectual Property of any third-party or constitutes or has constituted unfair competition, false advertising or other unfair business practices, and Seller has not received notice of any such claim. No Action is pending in respect of any of the foregoing, nor is any Action pending or, to the Knowledge of Seller, threatened.

4.9 Compliance with Laws. Except for those matters set forth on Section 4.9 of the Disclosure Schedule, (i) Seller is not, and to Seller's Knowledge, has not been in violation of any Law applicable to Seller with respect to the operation of the Site and the Purchased Assets, and (ii) Seller has not received any written notice of violation of any laws or regulations applicable to the operation of the Site or the Purchased Assets.

4.10 Litigation and Proceedings. There is no Action, suit, claim or legal, administrative, arbitration, condemnation or other proceeding, including but not limited to any change in any zoning or building ordinance, affecting the properties or rights of Seller or relating to the Purchased Assets, pending or threatened since January 1, 2015, or injunction or orders entered, pending or threatened since January 1, 2015, against Seller in relation to the operation of the Site or the Purchased Assets, at law or in equity, before or by any Governmental Body, and to Seller's Knowledge, there exists no basis for the commencement of any of the foregoing.

4.11 Contracts.

(a) Section 4.11(a) of the Disclosure Schedule sets forth all Contracts (including any Assigned Contracts) that, to the Knowledge of Seller, relate to the operation of the Site, the Real Property or the Business. As of the date hereof, neither Seller or, to the Knowledge of Seller, any other party to an Assigned Contract disclosed on Section 4.11(a) of the Disclosure Schedule is in breach of, or default under, any such Assigned Contract and no event has occurred that, with the giving of notice or lapse of time, or both, would become a default (whether by lapse of time or notice or both). Furthermore, as of the date hereof, each Assigned Contract is in full force and effect and is valid, binding and enforceable against Seller, and, to the Knowledge of Seller, the other parties thereto, in accordance with its terms, in each case, subject to the effect of any applicable bankruptcy, reorganization, insolvency, moratorium, rehabilitation, liquidation, fraudulent conveyance, preferential transfer or similar Laws now or hereafter in effect relating to or affecting creditors' rights and remedies generally and subject, as to enforceability, to the effect of general equitable principles (regardless of whether enforcement is sought in a proceeding in equity or at law).

(b) Seller has not, and, to Seller's Knowledge, no other party to any Assigned Contract has, commenced any Action against any of the parties to any such Assigned Contract or given or received any written notice of any material default or violation under any such Assigned Contract that has not been withdrawn or dismissed. Subject to the rights of each counterparty to each Assigned Contract to consent to the assignment thereof, each Assigned Contract is, or will be upon the Closing, a valid and binding agreement enforceable against Seller and, to Seller's Knowledge, the other or parties thereto in accordance with its terms, in each case, subject to the effect of any applicable bankruptcy, reorganization, insolvency, moratorium, rehabilitation, liquidation, fraudulent conveyance, preferential transfer or similar Laws now or hereafter in effect relating to or affecting creditors' rights and remedies generally and subject, as to enforceability, to the effect of general equitable principles (regardless of whether enforcement is sought in a proceeding in equity or at law).

4.12 Environmental Matters. Except as disclosed on Section 4.12 of the Disclosure Schedule or as set forth in the Phase I Report and Phase II Report:

(a) No Hazardous Materials have been stored, produced, placed, Released or discharged on or from the Real Property or the operation of the Site by Seller or at Seller's direction, except in compliance with Environmental Laws.

(b) There are no above ground storage tanks, storage vessels, sumps, drums, containers or landfills, and, to Seller's Knowledge, no underground, buried, or partially buried storage tanks, located on the Real Property.

(c) No written warning, notice, notice of violation, administrative complaint, judicial complaint or other written notice or request for information has been issued to Seller by any federal, state or local environmental agency or other public agency within the last five (5) years alleging that conditions on the Real Property or related to the Purchased Assets, or related to the operation of the Site are in violation of any Environmental Law.

(d) No written demand, threat, notice of intent to sue or other communication alleging environmental harm or violation of Environmental Law has been issued to Seller by any other Person within the last five (5) years related to the Real Property, Purchased Assets or operation of the Site.

(e) To Seller's Knowledge, within the last five (5) years, Seller has not violated, and Seller is presently in compliance with, all Environmental Laws applicable to the Real Property or the operation of the Site.

4.13 Permits.

(a) Section 4.13(a) of the Disclosure Schedule sets forth a true and complete list of all Permits (including Assumed Permits) relating to the Purchased Assets held by Seller, true and complete copies of which have been provided to Purchaser.

(b) Except as set forth on Section 4.13(b) of the Disclosure Schedule, Seller possesses or previously possessed all material Permits necessary to entitle Seller to own, operate and use the Purchased Assets in compliance with all applicable laws and regulations and to carry on and conduct the operation of the Site substantially as currently and/or previously conducted in compliance with all applicable laws and regulations.

(c) Seller has fulfilled and performed its obligations under each of the Permits, and, to Seller's Knowledge, no event has occurred or condition or state of facts exists which constitutes or, after notice or lapse of time or both, would constitute a breach or default under any such Permit or which permits or, after notice or lapse of time or both, would permit revocation or termination of any such Permit, or which might adversely affect the rights of Seller under any such Permit, except in each case as would not reasonably be expected to have a Material Adverse Effect.

(d) Except as set forth on Section 4.13(d) of the Disclosure Schedule, no notice of violation, cancellation, default or any dispute concerning any Permit currently held by Seller, or of any event, condition or state of facts described in the preceding clause is known to exist by Seller within the last three (3) years. Each of the Permits is valid, existing and in full force and effect.

4.14 Employees: Labor Matters.

(a) Seller has no employees. A list of all current employees of Seller Parent working for or in connection with the operation of the Site (collectively, the "**Employees**") and independent contractors of Seller or Seller Parent working for or in connection with the operation of the Site and their respective titles, compensation and designation as either exempt or non-exempt from the overtime requirements of the Fair Labor Standards Act of 1938, as amended, will be provided to Purchaser prior to Closing and will be accurate and complete as of the date of the disclosure. Seller or Seller Parent has provided to Purchaser on or prior to the Closing the rate of all regular and special compensation and commissions payable to each such person in any and all capacities and any regular or special compensation or commissions that shall be payable to each such person in any and all capacities as of the Closing Date other than the then current accrual of regular payroll compensation, and such information is true, correct and complete.

(b) Seller is not a party to any labor or collective bargaining agreement. To the Knowledge of Seller, there are no Actions pending or threatened against Seller by any Person alleging they were or are a past or current employee of Seller. To the Knowledge of Seller, there are no unfair labor practice charges, arbitrations, grievances or complaints pending or threatened in writing against Seller relating to the alleged employment or termination of employment of any individual by Seller, except for such unfair labor practice charges, arbitrations, grievances or complaints that would not reasonably be expected to have a Material Adverse Effect. To the Knowledge of Seller, there are no complaints, charges, administrative proceedings or claims against Seller pending or threatened in writing to be brought or filed with any Governmental Body based on or arising out of the alleged employment by Seller Parent of any Employee. Seller has not incurred any liability or obligation under the WARN Act or similar state Laws, which remains unpaid or unsatisfied.

4.15 Absence of Certain Changes. Except as otherwise contemplated by this Agreement, from September 30, 2020 to the Agreement Date, there has not been a Material Adverse Effect and Seller has not:

- (a) sold, transferred, licensed, leased, subleased, assigned, abandoned or otherwise disposed of any of the Fixed Assets;
- (b) terminated, modified or amended any Assigned Contract or taken any action which violates, conflicts with or resulted in a breach of any provision of, or constitutes a default under, or give rise to the right of any counterparty to accelerate the obligations under or modify the terms of, any Assigned Contract;
- (c) purchased or otherwise acquired any properties or assets (tangible or intangible) or sold, leased, transferred or otherwise disposed of any Purchased Assets, except for disposal of personal property in the Ordinary Course of Business;
- (d) permitted, allowed or suffered any of the Purchased Assets to be subjected to any Encumbrance (other than Permitted Encumbrances);
- (e) waived or released any claim or rights included in or related to the Purchased Assets or the Site or revalued any of the Purchased Assets;
- (f) entered into any contractual relationship with any third party related to the Purchased Assets or the Site;
- (g) made any commitments for capital expenditures;
- (h) introduced any material change with respect to the Ordinary Course of Business of the Site;
- (i) suffered any damage or destruction to or loss of any assets or properties relating to the Purchased Assets or the Site;
- (j) changed in any way Seller's accounting methods, principles or practices other than required by changes in GAAP;
- (k) incurred any Indebtedness or paid, discharged or satisfied any claims, liabilities or obligations, other than the payment, discharge or satisfaction in the Ordinary Course of Business of Liabilities incurred in the Ordinary Course of Business;

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(l) requested any modification or termination of an Assumed Permit, or allowed any Assumed Permit held by Seller to terminate, expire or lapse relating to the Purchased Assets or the Site; or

(m) agreed or committed to do any of the foregoing.

4.16 Insurance. Section 4.16 of the Disclosure Schedule sets forth a list of all policies of insurance and bonds of any type presently in force with respect to the Purchased Assets (including any title insurance policies relating to the Real Property) and the operation of the Site. Such policies and bonds provide such coverage in such amounts and against such loss and risks as would be maintained by comparable businesses exercising prudent business practices, all such policies are in full force and effect, all premiums with respect thereto covering all periods up to and including the Closing Date have been paid and no written notice of cancellation or termination or non-renewal has been received by Seller with respect to any such policy. The insurance policies to which Seller is a party are sufficient for compliance with all material requirements of applicable law and will be maintained by Seller through Closing.

#### 4.17 Taxes.

(a) All Tax Returns required to be filed with any taxing authority by Seller on or before the Closing Date with respect to the Purchased Assets (A) have been timely and properly filed and (B) are true, correct and complete, in all material respects. All Taxes (whether or not shown as due and payable on any such tax return) with respect to the Purchased Assets have been timely paid or withheld and will be remitted to the appropriate taxing authority on or before the due date thereof.

(b) No deficiencies for Taxes or other assessments relating to Taxes have been claimed, threatened, proposed or assessed with respect to the Purchased Assets. There is no audit by a taxing authority or Tax Proceeding now pending or threatened in respect of any tax levied against Seller relating to the Purchased Assets.

4.18 Balance Sheet. Copies of Seller's (a) balance sheets as of December 31, 2019 and (b) balance sheets as of September 30, 2020 (collectively, the "**Financial Statements**") have been made available to Purchaser. The Financial Statements have been prepared from the books and records of Seller and have been prepared in accordance with GAAP on a consistent basis throughout the periods covered thereby. The Financial Statements fairly present the financial condition of the operation of the Site as of the respective dates thereof.

4.19 Seller Documents. The Documents of Seller are in all material respects true, complete and accurate and have been maintained in accordance with reasonable standard business practices on a basis consistent with prior years, and state in reasonable detail and accurately reflect the matters covered by such records.

4.20 No Brokers. No broker, finder, or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Ancillary Document based upon arrangements made by or on behalf of Seller or any of its Affiliates.

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4.21 No Other Representations or Warranties. EXCEPT AS AND TO THE EXTENT SET FORTH IN THIS ARTICLE IV AND IN THE DEED(S), (A) PURCHASER ACKNOWLEDGES AND AGREES THAT THE PURCHASED ASSETS ARE BEING SOLD BY SELLER ON AN "AS IS, WHERE IS" BASIS, AND (B) NONE OF SELLER, SELLER PARENT OR ANY OF THEIR AFFILIATES, MEMBERS, OFFICERS, MANAGERS, EMPLOYEES, DIRECTORS OR AGENTS MAKE OR HAVE MADE ANY OTHER REPRESENTATION, WARRANTY OR STATEMENTS OF ANY KIND, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF SELLER OR SELLER PARENT, THE PURCHASED ASSETS, THE SITE, THE REAL PROPERTY, THE BUSINESS, THE ASSIGNED CONTRACTS OR THE ASSUMED LIABILITIES, THEIR FINANCIAL CONDITION, RESULTS OF OPERATIONS, FUTURE OPERATING OR FINANCIAL RESULTS, ESTIMATES, PROJECTIONS, FORECASTS, PLANS OR PROSPECTS (INCLUDING THE REASONABLENESS OF THE ASSUMPTIONS UNDERLYING SUCH ESTIMATES, PROJECTIONS, FORECASTS, PLANS OR PROSPECTS) OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION REGARDING SELLER, SELLER PARENT, THE PURCHASED ASSETS, THE SITE, THE REAL PROPERTY, THE BUSINESS, THE ASSIGNED CONTRACTS OR THE ASSUMED LIABILITIES, AND

SELLER AND SELLER PARENT EXPRESSLY DISCLAIM ANY SUCH REPRESENTATION, WARRANTY OR STATEMENTS OF ANY KIND (OR ERRORS THEREIN OR OMISSIONS THEREFROM). NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, EXCEPT AS SET FORTH IN THIS ARTICLE IV AND THE DEED(S), NONE OF SELLER, SELLER PARENT OR ANY OF THEIR AFFILIATES, MEMBERS, OFFICERS, MANAGERS, EMPLOYEES, DIRECTORS OR AGENTS MAKE OR HAVE MADE ANY OTHER REPRESENTATION, WARRANTY OR STATEMENTS OF ANY KIND, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF THE EXCLUDED LIABILITIES INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**ARTICLE V.**  
**REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser represents and warrants to Seller as follows as of the date hereof and as of the Closing Date:

5.1 Organization and Qualification. Purchaser is a limited liability company duly qualified, validly existing and in good standing under the laws of the State of Delaware. Purchaser has all requisite power and authority to purchase the Purchased Assets.

5.2 Authority. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate or similar action on the part of Purchaser. Purchaser has duly executed and delivered this Agreement, and assuming due authorization, execution and delivery by Seller, this Agreement constitutes a valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium or similar Laws affecting creditors' rights generally and to general principles of equity.

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5.3 No Inconsistent Obligations. Neither the execution and delivery of this Agreement or any other documents contemplated hereby, nor the consummation of the transactions contemplated herein, will, to Purchaser's actual knowledge, result in a violation or breach of, or constitute a default under, (a) the certificate of formation, the operating agreement, or other organizational instruments of Purchaser, (b) any applicable ruling or order of any Governmental Body, (c) any term or provision of any contract or agreement, (d) any writ, order, judgment, decree, law, rule, regulation or ordinance, or (e) any other commitment or restriction to which Purchaser is a party, nor will such actions result in the creation of a lien or Encumbrance except for Permitted Encumbrances.

5.4 Sufficiency of Funds. Purchaser has, and on the Closing Date will have, sufficient funds available to it to pay the Closing Cash Payment to Seller at the Closing.

5.5 No Litigation. To Purchaser's actual knowledge, there are no material pending suits, asserted claims, hearings, or proceedings instituted against Purchaser challenging the legality of the transactions contemplated in this Agreement.

5.6 No Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any of the other Ancillary Documents based upon arrangements made by or on behalf of Purchaser.

5.7 Independent Investigation. Purchaser has conducted its own independent investigation, review and analysis of the operation of the Site, the Purchased Assets and the Assumed Liabilities. Purchaser acknowledges and agrees that (a) in making its decision to enter into this Agreement, Purchaser has relied solely upon its own investigation, review and analysis and not on any factual representations or opinions of Seller or its representatives, except the representations and warranties of Seller expressly set forth in Article IV; and (b) none of Seller or any of its Affiliates, members, officers, employees or representatives make or have made any other representation, warranty or statement of any kind, express or implied, at law or in equity, in respect of Seller, the Purchased Assets, the Assumed Liabilities, the Site or the Business, their financial condition, results of operations, future operating or financial results, estimates, projections, forecasts, plans or prospects (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, plans or prospects). Notwithstanding anything to the contrary contained in this Agreement, none of Seller or any of its Affiliates, members, officers, employees or representatives make or have made any other representation, warranty or statements of any kind, express or implied, at law or in equity, in respect of the Excluded Assets or Excluded Liabilities.

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5.8 No Other Representations or Warranties. Except for the representations and warranties contained in this Article V, neither Purchaser nor any of its representatives has made or makes any other representation or warranty, whether express or implied, written or oral, on behalf of Purchaser. Purchaser hereby disclaims any such other representations or warranties, whether made by Purchaser or any of its Affiliates or any of its or their respective members, officers, employees or representatives.

**ARTICLE VI.**  
**COVENANTS AND AGREEMENTS**

6.1 Conduct of Business.

(a) From the date hereof and continuing until the earlier of the termination of this Agreement or the Closing Date, except (i) as required by applicable Law, (ii) as contemplated by or required to implement this Agreement, the Disclosure Schedule or any Ancillary Agreement or (iii) as otherwise waived or consented to by Purchaser in writing (which consent shall not be unreasonably withheld, conditioned or delayed), Seller shall:

(i) use commercially reasonable efforts to carry on the Business in the Ordinary Course of Business; *provided, however*, that no action by Seller with respect to matters addressed by any other provision of Section 6.1(b) shall be deemed a breach of this Section 6.1(a) unless such action would constitute a breach of such other provision;

(ii) use commercially reasonable efforts to (A) maintain the current state of the Purchased Assets (normal wear and tear excepted) and (B) comply with all Laws applicable to the operation of the Site and the Purchased Assets;

(iii) except as may be agreed between Purchaser and Seller, maintain and preserve all Assumed Permits set forth on Section 4.13(a) of the Disclosure Schedule, and Seller agrees to cooperate with Purchaser to obtain or transfer to Purchaser all requisite Permits;

(iv) preserve in full force and effect all Assigned Contracts; and

(v) obtain or keep, or cause to be kept, in full force and effect all insurance policies set forth on Section 4.16 of the Disclosure Schedule.



(b) From the date hereof and continuing until the earlier of the termination of this Agreement or the Closing Date, except (i) as required by applicable Law, (ii) as contemplated by or required to implement this Agreement, the Disclosure Schedule or any Ancillary Agreement or (iii) as otherwise waived or consented to by Purchaser in writing (which consent shall not be unreasonably withheld, conditioned or delayed), Seller shall not do any of the following with respect to the Business:

(i) permit, allow or suffer any of the Purchased Assets to be subjected to any Encumbrance, other than Permitted Encumbrances; or

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(ii) make any sale, assignment, transfer or other conveyance of any of the Purchased Assets.

6.2 Due Diligence. From the date hereof and continuing until the earlier of the termination of this Agreement or the Closing Date, Purchaser shall have the right to undertake a review of such diligence, test or studies with respect to the Purchased Assets and the operation of the Site (collectively, the “Due Diligence”) that Purchaser deems necessary, during normal business hours, on advance notice to Seller’s General Counsel, including the following:

(a) Seller shall give Purchaser access to the Purchased Assets to inspect them to whatever extent Purchaser believes is necessary or helpful, including but not limited to the inspection of all Fixed Assets to ensure mechanical fitness and useful operating condition;

(b) to review all existing surveys and deeds or to conduct such additional surveys as Purchaser may desire; and

(c) to review all Permits and licenses, and consult with permitting authorities as necessary for Purchaser to engage in the operation of the Site and own and operate the Purchased Assets post-Closing, as applicable; *provided, however*, that the Due Diligence activities of Purchaser pursuant to this Section 6.2(c) shall be completed within thirty (30) days after the Agreement Date (the “Due Diligence Period”).

### 6.3 Assignability of Certain Contracts: Assumed Permits

(a) Purchaser and Seller shall use their commercially reasonable efforts to obtain, prior to the Closing, any consents of third parties and any authorizations or permits from any Governmental Body required in connection with the consummation of the transactions contemplated herein. Notwithstanding the foregoing, to the extent that the assignment to Purchaser of any Assigned Contract pursuant to this Agreement is not permitted without the consent of a third party or Governmental Body, then this Agreement will not be deemed to constitute an assignment of or an undertaking or attempt to assign such Assigned Contract or any right or interest therein unless and until such consent is obtained; *provided, however*, that the Parties will use their commercially reasonable efforts, before the Closing, to obtain all such consents *provided, further*, that if any such consents are not obtained prior to the Closing Date, then Seller shall provide and extend the full benefit of such Assigned Contract to Purchaser to the extent permitted therein and by applicable Law and shall cooperate with Purchaser in any commercially reasonable and lawful arrangement mutually agreed to between Purchaser and Seller to give Purchaser the full benefit of such Assigned Contract accruing on or after the Closing in a way that is permissible under the terms thereunder and that does not violate applicable Law, *provided, however*, that Purchaser and Seller shall continue to use their commercially reasonable efforts to obtain any such required consent as promptly as practicable. Seller shall pay all costs reasonably necessary to effectuate the assignment of all Assigned Contracts. Notwithstanding the foregoing, it is understood that in no event shall Seller be required to commence, defend, join or participate in any litigation, expend money in connection thereto, incur any obligation in favor of, or offer or grant any accommodation (financial or otherwise) to any third party in connection with the performance of its obligations pursuant to this Section 6.3(a).

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(b) Purchaser and Seller (and Seller Parent, as applicable) shall use commercially reasonable efforts to cooperate with one another with respect to the transfer or reissuance of the Assumed Permits, including executing any necessary forms as required.

### 6.4 Title Approval

(a) Within twenty (20) days after the execution of this Agreement, Seller will furnish to Purchaser for its review a commitment to issue an ALTA owner’s title insurance policy in favor of Purchaser showing merchantable title of the Real Property in Seller, free and clear of all Encumbrances other than Permitted Encumbrances. For any Real Property for which a survey is not available, Purchaser may cause a survey to be conducted.

(b) If the surveys or title examination show that good, marketable and merchantable title to the Real Property cannot be conveyed to Purchaser or shows Encumbrances, then within ten (10) days after the receipt of the title commitment, Purchaser shall notify Seller in writing of any matters that it objects to, and Seller shall, at its sole cost and expense, make a good faith effort to eliminate such unacceptable matters to the reasonable satisfaction of Purchaser. In the event Seller is unable to satisfy any such objections within thirty (30) days after receipt of the notice of the objection, Purchaser may, at its own option, (i) accept title subject to the objections, or (ii) terminate this Agreement. If Purchaser proceeds with the Closing, any objection to the surveys or title examination that is not previously waived or satisfied prior to the Closing Date shall be deemed to be waived as of the Closing Date.

6.5 Employment Matters. (a) As of immediately after the Closing, Purchaser may, in its sole discretion, offer employment to certain Employees of Seller Parent (collectively, the “Transferred Employees”), subject to the satisfaction of Purchaser’s customary pre-employment/post-offer procedures and qualifications, including any applicable drug screening, background checks and employment authorization verification. Purchaser shall not be responsible for any salary or wage, severance obligation, employee benefit or health insurance claims, accident or worker’s compensation injuries, claims or expenses accruing, paid or relating to the period prior to the date any of such Transferred Employees may become employees of Purchaser, all of which shall continue to be owing by Seller Parent. Without limiting the generality of the foregoing sentence, Seller Parent shall (i) provide all notices required under applicable law to the Transferred Employees with respect to the transactions contemplated herein; and (ii) be and remain responsible for any required compliance with respect to the Transferred Employees under the WARN Act (including the giving of any notice required thereunder), any state or local laws regarding plant closing, layoffs or similar matters relating to periods prior to the Closing Date, and any notices or compliance required under COBRA or similar state or local laws. The Parties agree that the liability for benefits accrued and claims incurred under any of the Benefit Plans shall remain the responsibility of the Benefit Plans and Seller Parent. The Parties agree that Purchaser shall have no Liability under any of the Benefit Plans, including, without limitation, benefits accrued or claims incurred under such plans or with respect to the administration of the Benefit Plans. Seller Parent shall solely be responsible for the provision of COBRA continuation coverage under Section 4980B of the Code or other applicable law to all Employees who are not Transferred Employees, former Employees or their beneficiaries entitled to such continuation coverage under any Benefit Plan related to the operation of the Site.

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6.6 Notification of Certain Matters. Seller shall give prompt notice to Purchaser, and Purchaser shall give prompt notice to Seller, of (i) any notice or other communication from any Person alleging that the consent of such Person which is or may be required in connection with the transactions contemplated by this Agreement or the Ancillary Documents is not likely to be obtained prior to Closing, (ii) any written objection or proceeding that challenges the transactions contemplated herein, and (iii) the status of matters relating to the completion of the transactions contemplated hereby, including promptly furnishing the other with copies of notices or other communications received by Seller or Purchaser or by any of their respective Affiliates (as the case may be), from any third party and/or any Governmental Body with respect to the transactions contemplated by this Agreement. Furthermore, Seller shall have the continuing obligation until the Closing to disclose promptly to Purchaser any matter hereafter arising or discovered which, if existing or known at the date of this Agreement, would have been required to be disclosed herein.

6.7 Confidentiality. The Parties hereby acknowledge and agree that the terms and conditions of the Confidentiality Agreement, as has been and may be amended in writing by the Parties, are incorporated by reference herein. The Parties further acknowledge and agree that the existence of this Agreement, and the terms and conditions set forth herein, shall be deemed "Confidential Information" as that term is defined in the Confidentiality Agreement. Accordingly, except as may be required by Law, applicable rules of the SEC or any stock exchange on which any Party lists securities, court Order or as otherwise agreed in writing, no Party shall, without the prior written consent of the other Parties, release, publish or otherwise distribute (and shall not authorize or permit any other person or entity to release, publish or otherwise distribute) any information concerning this Agreement or the transaction contemplated herein to any person or entity other than the Parties' respective legal and financial advisors, each of whom shall agree to hold such information strictly confidential as if such persons were bound by the provisions of this Section 6.7.

6.8 Seller Documents. On the Closing Date, Seller shall deliver or cause to be delivered to Purchaser copies of the Documents in its possession. Purchaser and Seller agree that Seller may maintain copies of any Documents that are included in the Purchased Assets and that are delivered to Purchaser hereunder and Seller may prepare a comprehensive index and file plan of such Documents.

6.9 Publicity. No Party shall issue any press release or public announcement concerning this Agreement or the transactions contemplated hereby without obtaining the prior written approval of the other Parties hereto, which approval will not be unreasonably withheld or delayed, unless, in the sole judgment of any Party, disclosure is otherwise required by applicable Law or by the applicable rules of any stock exchange on which any Party lists securities.

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6.10 Material Adverse Effect. Purchaser and Seller shall promptly inform the other Party in writing of the occurrence of any event that has had, or is reasonably expected to have, a Material Adverse Effect.

6.11 Casualty Loss. Notwithstanding any provision of this Agreement to the contrary, if, before the Closing, all or any portion of the Purchased Assets is (a) condemned or taken by eminent domain, or (b) is damaged or destroyed by fire, flood or other casualty, Seller shall notify Purchaser promptly in writing of such fact, (i) in the case of condemnation or taking, Seller shall assign or pay, as the case may be, any proceeds thereof to Purchaser at the Closing, and (ii) in the case of fire, flood or other casualty, Seller shall assign the insurance rights and proceeds therefrom to Purchaser at Closing, *provided, however* that any proceeds in excess of the amounts allocated to such affected Purchased Assets in Section 8.2 herein will be property of and paid to the Seller; *provided further*, that in either case (i) or (ii), any proceeds in excess of the Purchase Price will be property of and paid to the Seller. Notwithstanding the foregoing, the provisions of this Section 6.11 shall not in any way modify Purchaser's other rights under this Agreement, including any applicable right to terminate the Agreement pursuant to Section 3.7 as a result of any condemnation, taking, damage or other destruction.

6.12 Litigation Support. In the event that and for so long as Seller or any of its Affiliates is prosecuting, contesting or defending any Action by a third party in connection with (a) the transactions contemplated under this Agreement, or (b) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction relating to, in connection with or arising from the Business, the Site, Purchased Assets, Assumed Liabilities, Excluded Assets or Excluded Liabilities, Purchaser shall, and shall cause its Affiliates (and its and their officers and employees) to, reasonably cooperate with Seller and its counsel in such prosecution, contest or defenses, including making available its personnel, and providing such testimony and access to its books and records, subject to confidentiality restrictions, as shall be reasonably necessary in connection with such prosecution, contest or defense.

6.13 Payments. Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks exclusively related to the Business that have been sent to Seller or any of its Affiliates on or after the Closing Date by customers, suppliers or other contracting parties of the Business to the extent that they are in respect of any Purchased Assets or Assumed Liabilities hereunder. Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser (including the Business) on or after the Closing Date to the extent that they are not due to the Business or are in respect of an Excluded Asset or Excluded Liability hereunder.

6.14 Misallocated Assets. In the event that the Parties determine that certain assets, rights or properties which properly constitute Purchased Assets were not transferred to Purchaser at Closing, subject to Section 6.3, Seller shall promptly take all steps reasonably necessary to transfer and deliver any and all of such assets (and any Liability related to such assets that arose on or after the Closing Date) to Purchaser without the payment by Purchaser of any further consideration therefor. In the event that the Parties determine that certain Excluded Assets were transferred to Purchaser at Closing, then Purchaser shall promptly take all steps reasonably necessary to transfer and deliver any and all of such Excluded Assets (and any related Liability) to Seller without the payment by Seller of any further consideration therefor.

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6.15 Documents. Purchaser and Seller agree that Seller may maintain copies of any Documents that are included in the Purchased Assets and that are delivered to Purchaser hereunder and Seller may prepare a comprehensive index and file plan of such Documents.

6.16 Names Following Closing. Neither Purchaser nor any of its Affiliates shall use, or have the right to use the "Pacific Ethanol," "Kinergy," "Pacific Ethanol Madera," "Illinois Corn Processing," "ICP," "Driven by Demand" or "Pacific Ag" names or marks, the corn kernel and sun logo, or any other name or mark owned or controlled by Seller or any of its Affiliates, or any name or mark that is similar to, derived from or embodies any of the foregoing.

6.17 Insurance. From and after the Closing, the Business, the Transferred Employees, the Purchased Assets, the Assumed Liabilities, shall cease to be insured by Seller's or its Affiliates' insurance policies or by any of their self-insured programs, and neither Purchaser nor its Affiliates (including the Business) shall have any access, right, title or interest to or in any such insurance policies (including to all claims and rights to make claims and all rights to proceeds) to cover the Business, the Transferred Employees, the Purchased Assets, the Assumed Liabilities. Seller or its Affiliates may amend any insurance policies in the manner it deems appropriate to give effect to this Section 6.17. From and after the Closing, Purchaser shall be responsible for securing all insurance it considers appropriate for the Business, the Transferred Employees (as applicable), the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof. Purchaser further covenants and agrees not to seek to assert or to exercise any rights or claims of, or in respect of, the Business, the Transferred Employees, the Purchased Assets, the Assumed Liabilities, under or in respect of any past or current insurance policy under which any of the foregoing is a named insured.

6.18 Termination of Intercompany Arrangements. Immediately prior to the Closing, except for the Ancillary Agreements and any cooperation reasonably necessary to effectuate the transfer of Assigned Contracts and/or the transfer or reissuance of Permits as provided in Section 6.3, all arrangements, understandings or Contracts, including all obligations to provide goods, services or other benefits, between Seller and its Affiliates, on the one hand, and the Business, on the other hand, shall automatically be

terminated without further payment or performance and cease to have any further force and effect, such that no party thereto shall have any further obligations therefor or thereunder.

6.19 No Solicitation of Other Bids; Exclusivity. From the date hereof and continuing until the earlier of the termination of this Agreement or the Closing Date, neither Seller nor any of its members, officers, agents or other representatives, will discuss, negotiate or deal with any other corporation, firm, or other Person, or entertain, solicit, accept or consider any inquiries, offers or proposals relating to the possible sale of any of the Purchased Assets, or furnish any non-public information to any party other than Purchaser relating to Seller, the Purchased Assets or the operation of the Site, except in the Ordinary Course of Business.

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6.20 Seller Parent Letter of Credit. At the Closing, Seller shall, at its cost, deliver to Purchaser the Seller Parent Letter of Credit. Seller shall cause the Seller Parent Letter of Credit to remain in full force and effect in accordance with its terms and with this Section 6.20. The Seller Parent Letter of Credit shall expire, and Purchaser shall cooperate to implement such expiry, upon the date that is fifteen (15) months and twenty (20) days after the Closing Date (the "Expiry Date"), at which such time Purchaser shall return the Seller Parent Letter of Credit to Seller; *provided, however*, (A) if there are no pending Claims pursuant to Section 9.3 (each, a "Pending Claim") that remain outstanding as of the date that is fifteen (15) months after the Closing Date (the "Survival Expiration Date"), then Purchaser shall cooperate to implement expiry of the Seller Parent Letter of Credit as soon as practicable after such Survival Expiration Date; and (B) if any Pending Claims remain outstanding on the Survival Expiration Date, the Seller Parent Letter of Credit shall be renewed or replaced with a letter of credit in an amount equal to the aggregate amount of the remaining Seller Parent Letter of Credit existing on the Survival Expiration Date from an Acceptable Bank (the "Replacement Letter of Credit"), until all such Pending Claims have been satisfied or otherwise resolved. Such Replacement Letter of Credit shall be delivered to Purchaser by the date that is ten (10) days prior to the Expiry Date. In the event such Replacement Letter of Credit is not delivered to Purchaser by such date, then Purchaser shall have the right to draw on the Seller Parent Letter of Credit pursuant to the terms thereof the amount of the Pending Claims, in which case Purchaser shall retain such drawn funds until the Pending Claims are resolved pursuant to the terms hereof.

6.21 CARB Compliance. Within five (5) Business Days of Purchaser's notice to Seller of the establishment of Purchaser's Compliance Instrument Tracking System Services ("CITSS") account, Seller shall purchase, transfer, and supply to Purchaser all Environmental Attributes sufficient for Purchaser, on behalf of Seller, or the Site to meet Seller's reporting, verification, allowance, and all other compliance requirements under CARB's regulations and requirements associated with the California Cap-and-Trade Program and the California Regulation for the Mandatory Reporting of Greenhouse Gas Emissions related to the period of time Seller owned the Site, free and clear of all Encumbrances (the "CARB Attributes") (such reporting, verification, allowance, and compliance requirements, the "CARB Compliance Requirements"); *provided, however*, that Seller shall make best efforts prior to Closing to complete all CARB Compliance Requirements so as to eliminate or minimize Purchaser's obligations under this Section 6.21, including, but not limited to, correcting reporting errors and purchasing Environmental Attributes to sufficiently fund Seller's CITSS account. At the Closing, Seller shall identify the type and number of CARB Attributes to be transferred from a compliance account under Seller's CITSS account to Purchaser's CITSS account (to be established after Closing), accounting for any remaining balance(s) of annual compliance obligations from previous years, any remaining balance(s) of previous compliance periods and any over-allocation assessed by the responsible reporting agency. If Purchaser, on behalf of Seller, or the Site owes Environmental Attributes in excess of the Environmental Attributes Seller submitted or surrendered to CARB or transferred to Purchaser for the years related to the period of time Seller owned the Site, Seller shall purchase, transfer and supply to Purchaser within ten (10) days of Purchaser's notice to Seller additional Environmental Attributes to satisfy the CARB Compliance Requirements. If Seller transfers to Purchaser Environmental Attributes in excess of the amount Purchaser, on behalf of Seller, or the Site needs to meet Seller's CARB Compliance Requirements, Purchaser shall transfer back to Seller's CITSS account such excess Environmental Attributes promptly after Purchaser determines the amount of such excess Environmental Attributes. Within ten (10) Business Days following the Closing and at any other time as requested by CARB or Purchaser, Seller shall provide to Purchaser accurate and complete information, including all identification numbers, accounts and Documents necessary to satisfy the CARB Compliance Requirements related to the period of time Seller owned the Site. Seller shall bear all costs, fees, and expenses incurred by Purchaser in connection with the CARB Compliance Requirements related to the period of time Seller owned the Site, including, but not limited to, reasonable consultant fees incurred to assist with satisfying the CARB Compliance Requirements; *provided, however*, that Seller shall not bear any costs, fees, or expenses with respect to any CARB Compliance Requirements that arise as a result of any action or inaction on the part of Purchaser that results in any unreasonable increase in such costs, fees or expenses. In accordance with Section 9.3(b) of this Agreement, Seller shall defend and indemnify Purchaser for any Losses, including, but not limited to, penalties and enforcement by CARB related to or arising from the CARB Compliance Requirements.

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6.22 Equipment Removal. Within sixty (60) days after the Closing (or such later period as mutually agreed in writing by Seller and Purchaser), Seller will, and will cause its Affiliates and/or third party contractors to remove the Whitefox Technologies Limited equipment located on the Site, including the structure which consists of two prefabricated process assemblies and a dedicated power distribution building (the "Equipment Removal"). Seller shall minimize any disruption to Purchaser or the operation of the Site at all times until completion of the Equipment Removal. Seller shall be responsible for procuring and supervising all labor, including any third party contractors, required in connection with the Equipment Removal. Seller shall bear all costs incurred in connection with the Equipment Removal. If Seller does not complete the Equipment Removal within sixty (60) days of Closing (or such later period as mutually agreed in writing by Seller and Purchaser), Purchaser may complete the Equipment Removal at its sole cost and Seller shall reimburse Purchaser for any such costs incurred in connection with Purchaser's completion of the Equipment Removal. In connection with its obligations under this Section 6.22, Seller shall require all personnel engaged by Seller to perform the Equipment Removal to comply with all applicable Laws and any applicable rules and protocols reasonably prescribed by Purchaser for the Site, as in effect from time to time. Seller understands and agrees that Purchaser has the right to deny access to the Site to any such personnel that Purchaser reasonably believes are not in compliance with the foregoing or present a hazard or a material disruption to the Site. Seller shall, and shall cause its contractors to, execute and deliver such agreements or acknowledgments in favor of Purchaser with respect to the access granted to Seller or its personnel in connection with the performance of the Equipment Removal, as may be reasonably requested by Purchaser from time to time. Seller shall, and shall cause its contractors performing the Equipment Removal to, carry and maintain insurance with coverages and amounts reasonably required by Purchaser from time to time.

6.23 Materials Removal. Prior to the Closing, Seller will (i) inspect, sweep clean, remove and properly dispose or reuse all materials contained within the following above ground storage tanks located on the Site: sulfuric acid tank (TK-7702), caustic tank (TK-7701), urea tank (TK-7704) and the corn oil tanks and (ii) drain and properly dispose of all materials within all connecting lines and pipes to the above ground storage tanks referenced immediately above, each in compliance with all Environmental Laws and in accordance with prudent industry practice (collectively, the "Materials Removal"); *provided, however*, that in the event that the removal of the materials contained in the urea tank (TK-7704) and within any related connecting lines and pipes (collectively, the "Urea Tank Materials Removal") is not completed prior to the Closing, Seller and Purchaser agree that the Urea Tank Materials Removal shall be completed on or prior to June 15, 2021. To the extent the Urea Tank Materials Removal is not completed prior to the Closing, Seller shall minimize any disruption to Purchaser or the operation of the Site at all times until completion of such Urea Tank Materials Removal. Seller shall be responsible for procuring and supervising all labor, including any third-party contractors, required in connection with the Materials Removal. Seller shall bear all costs incurred in connection with the Materials Removal. If Seller does not complete the Urea Tank Materials Removal by June 15, 2021 (or such later period as mutually agreed in writing by Seller and Purchaser), Purchaser may complete the Urea Tank Materials Removal at its sole cost and Seller shall reimburse Purchaser for any such costs incurred in connection with Purchaser's completion of the Urea Tank Materials Removal. In connection with its obligations under this Section 6.23, Seller shall require all personnel, contractors, transporters, and other representatives engaged by Seller to perform the Materials Removal to comply with all applicable Laws, including Environmental Laws, and any applicable rules and protocols reasonably prescribed by Purchaser for the Site, as in effect from time to time. Seller understands and agrees that in connection with the performance of the Urea Tank Materials Removal Purchaser has the right to deny access to the Site to any such personnel that Purchaser reasonably believes are not in compliance with the foregoing or present a hazard or a material disruption to the Site. Seller shall, and shall cause its contractors to, execute and deliver such agreements or acknowledgments in favor of Purchaser with respect to the access granted to Seller or its personnel, contractors, transporters, and other representatives in connection with the

performance of the Urea Tank Materials Removal, as may be reasonably requested by Purchaser from time to time. Seller shall, and shall cause it contractors performing the Urea Tank Materials Removal to, carry and maintain insurance with coverages and amounts reasonably required by Purchaser from time to time. Seller further acknowledges that other above-ground storage tanks on the Site, including the connecting lines and pipes, shall be emptied and contain no liquid material prior to the Closing Date. Such above-ground storage tanks shall include, but not be limited to, the following: TK-6101, TK-6102, TK-6104A, TK-6104B, TK-6105 and TK-6106.

6.24 Further Assurances. From time to time, as and when requested by any Party hereto, the other Party shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions, as such other Party may reasonably deem necessary or desirable to consummate the transactions contemplated by, or give effect to the agreements set forth in, this Agreement or any of the Ancillary Documents.

## ARTICLE VII CONDITIONS TO CLOSING

7.1 Conditions Precedent to the Obligations of Purchaser and Seller. The respective obligations of each Party to this Agreement to consummate the transactions contemplated by this Agreement are subject to the requirement (or to the extent permitted by Law, written waiver by each of Seller and Purchaser) on or prior to the Closing Date, that there shall not be in effect any order, writ, injunction, judgment or decree entered by a Governmental Body of competent jurisdiction, or any Law preventing, enjoining, restraining, making illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement or the Ancillary Documents.

7.2 Conditions Precedent to the Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions, any of which may be waived in writing by Seller in its sole discretion:

(a) the representations and warranties made by Purchaser in this Agreement or in any Ancillary Document shall be true and correct in all material respects, in each case as of the Agreement Date and as of the Closing Date, with the same force and effect as though all such representations and warranties had been made as of the Closing Date (other than representations and warranties that by their terms address matters only as of another specified date, which shall be so true and correct only as of such other specified date);

(b) Purchaser shall have performed and complied in all material respects with all obligations and agreements required by this Agreement to be performed or complied with by Purchaser on or prior to the Closing Date; and

(c) Purchaser shall have delivered, or caused to be delivered, to Seller all of the deliverables set forth in Section 3.6.

7.3 Conditions Precedent to the Obligations of Purchaser. The obligations of Purchaser to consummate the transactions contemplated by this Agreement are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions, any of which may be waived in writing by Purchaser in its sole discretion:

(a) the representations and warranties made by Seller in this Agreement or in any Ancillary Document shall be true and correct in all material respects, in each case as of the Agreement Date and as of the Closing Date, with the same force and effect as though all such representations and warranties had been made as of the Closing Date (other than representations and warranties that by their terms address matters only as of another specified date, which shall be so true and correct only as of such other specified date);

(b) Seller shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by it on or prior to the Closing Date;

(c) the Title Company shall have issued to Purchaser an ALTA owner's title insurance policy respecting the Real Property in the amount of \$19,000,000 (the "Title Policy"), insuring Purchaser that Seller is the owner of good and marketable title to the Real Property free and clear of all Encumbrances, other than Permitted Encumbrances, with all general exceptions other than survey exceptions (unless Purchaser has obtained and delivered a survey) deleted and including such endorsements as Purchaser shall reasonably request;

(d) Seller shall have received the waivers, consents and approvals specified on Section 4.4 of the Disclosure Schedule, and no such waiver, consent or approval shall have been revoked;

(e) Seller shall have terminated authorization or Permits issued by the Alcohol and Tobacco Tax and Trade Bureau related to the storage and sale of ethanol, including but not limited to Permit Number AFP-CA-15046 and any distilled spirits permit or permit application;

(f) Seller shall have terminated, closed or taken other action with respect to the Permits listed on Section 4.13(a) of the Disclosure Schedule;

(g) Seller shall have returned the cooling tower pump, currently being stored at Seller's Boardman facility, to the Site;

(h) Purchaser shall have completed its Due Diligence within the Due Diligence Period, with the results of such Due Diligence satisfactory to Purchaser;

(i) Purchaser (or any representatives thereof) shall have had the opportunity to conduct a Site visit together with Seller no later than two (2) Business Days prior to the Closing Date and Purchaser shall be satisfied that the Purchased Assets remaining on the Site and subject to this Agreement are substantially the same as to what was located on the Site or Real Property as of September 30, 2020; and

(j) Seller shall have delivered, or caused to be delivered, to Purchaser, all of the items set forth in Section 3.5.

## ARTICLE VIII TAXES

### 8.1 Certain Taxes.

(a) Any sales Taxes and any use, purchase, transfer, franchise, deed, fixed asset, stamp, documentary stamp or other Taxes and recording charges, which may be payable by reason of the sale of the Purchased Assets or the assumption of the Assumed Liabilities under this Agreement or the transactions contemplated hereby, shall be borne and timely paid one-half (1/2) by Purchaser and one-half (1/2) by Seller. Seller shall, at its own expense, timely file any Tax Return or other document required to be filed with respect to such Taxes, and Purchaser shall join in the execution of any such Tax Return if required by Law.

(b) In the case of any taxable period that begins before, and ends after, the Closing Date (a "**Straddle Period**"), any real property, general and special city and/or county (including Madera County California real property Taxes), personal property, ad valorem and similar Taxes allocable to the portion of such Straddle Period ending with the end of the day on the Closing Date shall be equal to the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that is in the Pre-Closing Tax Period and the denominator of which is the number of days in the entire Straddle Period. At Closing, such taxes shall be prorated based upon 100% of the amount of such taxes for the 2020-2021 tax year, which proration shall be a final settlement between Purchaser and Seller. Any such prorated amount that is allocated to Seller shall reduce the Closing Cash Payment, and Purchaser shall be responsible for, and shall pay when due, all such Taxes for the portion of the Straddle Period prior to Closing.

8.2 Allocation of Purchase Price. Purchaser and Seller agree that the final Purchase Price and the Assumed Liabilities (plus other relevant items for income Tax purposes) shall be allocated (the "**Asset Allocation**") among the Purchased Assets for all income Tax purposes in accordance with the methodology provided on the allocation schedule attached hereto as Schedule 8.2 (the "**Allocation Schedule**"). Purchaser and Seller acknowledge and agree that the Allocation Schedule has been prepared in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder. Within thirty (30) days of the Closing Date, Seller shall provide to Purchaser the Asset Allocation, which shall be prepared consistent with the Allocation Schedule. Purchaser and Seller agree (A) to prepare and timely file all income Tax Returns, including, but not limited to IRS Form 8594 (and all supplements thereto) in a manner consistent with the Asset Allocation and (B) in the course of any examination, audit or other Action with respect to any income Tax Return or income Tax, take no position, and cause its Affiliates to take no position, inconsistent with the Asset Allocation for income Tax purposes, unless required by applicable Law; *provided, however*, that (i) Purchaser's cost for the Purchased Assets may differ from the total amount allocated thereunder to reflect the inclusion in the total cost of items (for example, capitalized acquisition costs) not included in the total amount so allocated and (ii) the amount realized by Seller may differ from the total amount allocated thereunder to reflect transaction costs that reduce the amount realized for income Tax purposes. In the event of a dispute resulting from a claim that the Asset Allocation is inconsistent with the Allocation Schedule, Purchaser and Seller shall work in good faith to resolve any such disputed items. In the event that any Governmental Body disputes the allocation set forth in the Asset Allocation, the affected party shall promptly notify the other party of the nature of such dispute, and shall cooperate in good faith to preserve the effectiveness of the allocation, to the extent consistent with applicable Law and the final decisions of such Governmental Body. The Asset Allocation shall be updated to reflect any subsequent adjustments to the final Purchase Price (pursuant to this Agreement) in a manner consistent with the Allocation Schedule, and there shall be no other revisions to the Asset Allocation unless required by applicable Law.

8.3 Cooperation on Tax Matters. Purchaser and Seller agree to provide each other with such information and assistance as is reasonably necessary, including reasonable access to records, Tax Returns and personnel, for the preparation of any Tax Returns or for the defense of any Tax claim or assessment, whether in connection with a Tax Proceeding or otherwise. The Parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Purchaser.

8.4 FIRPTA Certificate. Seller shall deliver to Purchaser on the Closing Date a properly executed affidavit of non-foreign status, reasonably satisfactory to Purchaser, that complies with Section 1445 of the Code and Section 1.1445-2(b)(2) of the Treasury Regulations (the "**FIRPTA Certificate**").

8.5 Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by applicable Law.

## ARTICLE IX. INDEMNIFICATION

### 9.1 Survival.

(a) The representations and warranties of the Parties contained in this Agreement shall survive the Closing for a period of fifteen (15) months from the Closing Date and shall expire thereafter; *provided, however*, that (i) each of the Seller Fundamental Representations and Purchaser Fundamental Representations shall survive the Closing until expiration of the applicable statute of limitations and (ii) the representations and warranties contained in Section 4.12 (Environmental Matters) shall survive the Closing for a period of thirty (30) months from the Closing Date. Notwithstanding the foregoing, any representation or warranty that would otherwise expire in accordance with this Section 9.1 that is the subject of a Third-Party Claim Notice or a Direct Claim Notice that has been timely given after the Closing Date under Section 9.5(a) or Section 9.5(b), respectively, within the survival period specified in this Section 9.1 will survive until, but only for the purposes of, the related claim for indemnification set forth in such notice has been satisfied or otherwise resolved as provided in Section 9.5(a) or Section 9.5(b).

(b) All covenants and agreements that by their terms are to be performed at or prior to Closing shall not survive the Closing *provided, however*, that the covenants and agreements that contemplate actions to be taken or not taken or obligations in effect after the Closing shall survive in accordance with their terms.

(c) Any claim or notice thereof under this Article IX required to be made on or prior to the expiration of the applicable survival period set forth in this Article IX and not made, or notice thereof not provided, on or prior to such expiration as described herein shall be irrevocably and unconditionally released and waived by the party seeking indemnification with respect thereto. It is the express intent of the Parties that, if the applicable period for an item as contemplated by this Article IX is shorter than the statute of limitations that would otherwise have been applicable to such item, then, by contrast the applicable statute of limitations with respect to such item shall be reduced to the shortened survival period contemplated hereby.

9.2 Indemnification by Purchaser. Subject to the other provisions of this Article IX, from and after the Closing, Purchaser shall indemnify the Seller Indemnified Parties for any and all Losses which any Seller Indemnified Parties may suffer or incur to the extent arising out of or related to:

(a) any breach of or inaccuracy in any representation or warranty of the Purchaser contained in Article V of this Agreement;

(b) any breach by Purchaser of, or failure by Purchaser to perform, any of its covenants or other agreements set forth in this Agreement; and

(c) the Assumed Liabilities.

9.3 Indemnification by Seller and Seller Parent. Subject to the other provisions of this Article IX, from and after the Closing, Seller and Seller Parent shall, jointly and severally, indemnify the Purchaser Indemnified Parties for any and all Losses which any Purchaser Indemnified Parties may actually suffer or incur to the extent arising out of or related to:

(a) any breach of or inaccuracy in any warranty or representation of Seller or Seller Parent contained in Article IV of this Agreement;

(b) any breach by Seller or Seller Parent of, or failure by the Seller or Seller Parent to perform, any of their respective covenants or other agreements set forth in this Agreement; and

(c) the Excluded Liabilities.

9.4 Limitations on Indemnification. Notwithstanding anything to the contrary contained in this Agreement, the indemnity obligations of Seller under this Article IX shall be limited as follows:

(a) no indemnity shall be payable by Seller or Seller Parent under Section 9.3(a) until and only to the extent that the aggregate amount of Losses exceeds \$150,000; and

(b) Seller and Seller Parent shall have no further indemnity obligations under Section 9.3(a) once the aggregate amount of Losses paid by Seller and/or Seller Parent equals \$2,000,000; *provided, however*, that the limitation contained in this Section 9.4(b) shall not apply to any Seller Fundamental Representations.

9.5 Claims for Indemnification. All claims for indemnification by any Indemnified Party shall be asserted and resolved as set forth in this Section 9.5:

(a) Third-Party Claims.

(i) In the event that any written claim or demand for which, in the reasonable determination of the Indemnified Party, an Indemnifying Party may be liable to any Indemnified Party hereunder is asserted against or sought to be collected from any Indemnified Party by a third party (which, for purposes of this Article IX, shall mean any party that is not a Seller Indemnified Party or Purchaser Indemnified Party), such Indemnified Party shall promptly, but in no event later than thirty (30) days following such Indemnified Party's receipt of such claim or demand (including a copy of any related written third party demand, claim or complaint) (a "Third Party-Claim") deliver a written notification of the Third-Party Claim, describing in reasonable detail the nature of and basis for such Third-Party Claim, together with the amount or, if not then reasonably determinable, the estimated amount, determined in good faith, of the Losses arising from such Third-Party Claim, and such other information as the Indemnifying Party may reasonably request ("Third-Party Claim Notice"). Notwithstanding the foregoing, the Indemnifying Party shall not be relieved of its obligations to indemnify the Indemnified Party with respect to such Third-Party Claim if the Indemnified Party fails to timely deliver the Third-Party Claim Notice except to the extent that such failure materially or adversely prejudices the rights of the Indemnifying Party.

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(ii) Within thirty (30) days after receipt by the Indemnifying Party of a Third-Party Claim Notice, such Indemnifying Party may deliver to the Indemnified Party a written response (the "Response Notice") in which such Indemnifying Party: (i) agrees that the Indemnified Party is entitled to the full amount of the Third-Party Claim as set forth in the Third-Party Claim Notice, (ii) agrees that the Indemnified Party is entitled to part, but not all, of the full amount of the Third-Party Claim as set forth in the Third-Party Claim Notice (such amount agreed to under (i) or (ii), the "Agreed Amount"), or (iii) indicates that the Indemnifying Party disputes the entire full amount of the Third-Party Claim as set forth in the Third-Party Claim Notice. Any part of the full amount of the Third-Party Claim as set forth in the Third-Party Claim Notice that is not agreed to pursuant to the Response Notice shall be the "Contested Amount." If a Response Notice is not received within such thirty (30) day period, then the Indemnifying Party shall be conclusively deemed to have agreed that the Indemnified Party is entitled to the full amount of the Third-Party Claim as set forth in the Third-Party Claim Notice (and such amount shall be the Agreed Amount). If the Parties are unable to resolve the dispute relating to any Contested Amount within thirty (30) days after the delivery of the Response Notice, then the Parties shall be entitled to resort to any legal remedy available to such Parties, subject to the terms of this Agreement, to resolve such dispute including obtaining a final and non-appealable order of any court of competent jurisdiction directing the Indemnifying Party to pay the Indemnified Party all or a portion of the Contested Amount (the "Final Contested Amount"). The Indemnifying Party shall pay any Agreed Amount and/or any Final Contested Amount within five (5) Business Days after determination thereof, it being understood that the Indemnified Party shall be entitled to draw upon the Seller Parent Letter of Credit for any Agreed Amounts and/or Final Contested Amounts owed to the Indemnified Party by the Indemnifying Party in connection with any Indemnification Claims pursuant to Section 9.1 and this Section 9.5(a)(ii) within five (5) Business Days after determination of such Agreed Amount and/or Final Contested Amount.

(iii) If a Third-Party Claim is made against an Indemnified Party, the Indemnifying Party shall be entitled to participate therein and, to the extent that the Indemnifying Party shall wish, to assume the defense thereof at the Indemnifying Party's own expense; *provided, however*, that the Third-Party Claim involves only monetary damages and (i) does not seek an injunction or other equitable relief against the Indemnified Party, (ii) does not, in the good faith judgment of the Indemnified Party, based on the advice of counsel, involve a conflict of interest or (iii) the amount of monetary Losses sought in connection with such Third-Party Claim (when combined with all other outstanding claims for indemnification) is not reasonably likely to exceed the remaining amount the Indemnified Party would be entitled to recover from the Indemnifying Party pursuant to this Article IX as a result of the limitations set forth herein. After written notice from the Indemnifying Party to the Indemnified Party of such election to so assume the defense thereof, the Indemnifying Party shall not be liable to the Indemnified Party for any legal expenses of other counsel or any other expenses subsequently incurred by the Indemnified Party in connection with the defense thereof; *provided, however*, that in the event the Indemnifying Party fails to actively and diligently conduct the defense of such Third-Party Claim, then in such event, upon twenty (20) days' notice during which time such failure to so conduct the defense of such Third-Party Claim is not cured, the Indemnified Party may hire separate counsel, and reasonable fees and expenses of such counsel shall be borne by the Indemnifying Party. If the Indemnifying Party assumes the defense and control of a Third-Party Claim as provided in this Section 9.5(a)(ii), the Indemnified Party shall have the right to participate in the defense of any Third-Party Claim with its own counsel and at its own expense.

(iv) If the Indemnifying Party assumes the defense of any Third-Party Claim as provided herein, the Indemnified Party shall not settle such Third-Party Claim unless the Indemnifying Party consents in writing (which consent shall not be unreasonably withheld, conditions or delayed). If the Indemnifying Party assumes the defense of any Third-Party Claim as provided herein, the Indemnifying Party shall not, without the prior written consent of the Indemnified Party (which may be withheld in the Indemnified Party's sole discretion), enter into any settlement or compromise or consent to the entry of any judgment with respect to such Third-Party Claim unless such settlement, compromise or judgment (x) includes an unconditional release of the Indemnified Party and its Affiliates from all Liability on claims that are the subject matter of such Third-Party Claim and (y) does not impose equitable remedies or any obligation on the Indemnified Party or any of its Affiliates other than solely the payment of money damages for which the Indemnified Party will be indemnified in full hereunder. If the Indemnified Party is conducting the defense of any Third-Party Claim, the Indemnified Party shall not settle such Third-Party Claim without the prior written consent of the Indemnifying Party (such consent not to be unreasonably withheld, conditioned or delayed).

(v) In the event that the Indemnifying Party does not elect to assume the defense of any Third-Party Claim, then (a) the Indemnified Party shall have the right to undertake the defense of such Third-Party Claim; and (b) any failure of the Indemnified Party to defend or to participate in the defense of any such Third-Party Claim shall not relieve the Indemnifying Party of its obligations hereunder or, notwithstanding any other provision of this Agreement, otherwise impose an obligation to defend the Indemnified Party hereunder.

(vi) Each Party shall cooperate in the defense of any Third-Party Claim, including by delivering copies of all written notices and documents received from the third party relating to such Third-Party Claim and by providing without expense (other than reimbursement of actual out-of-pocket expenses) such books and records, personnel and witnesses as may be reasonably requested in connection therewith (subject to confidentiality restrictions).

(b) Direct Claims.

(i) In the event any Indemnified Party determines that it may have a claim under Section 9.2 or Section 9.3 against any Indemnifying Party that does not involve a Third-Party Claim (the “*Direct Claim*”), the Indemnified Party shall promptly deliver a written notification to the Indemnifying Party describing in reasonable detail the nature of and basis for such claim, together with the amount or, if not then reasonably determinable, the estimated amount, determined in good faith, of the Losses arising from such claim (the “*Direct Claim Notice*”). Notwithstanding the foregoing, the Indemnifying Party shall not be relieved of its obligations to indemnify the Indemnified Party with respect to a Direct Claim if the Indemnified Party fails to timely deliver the Direct Claim Notice except to the extent that such failure materially or adversely prejudices the rights of the Indemnifying Party.

(ii) Within thirty (30) days after receipt by the Indemnifying Party of a Direct Claim Notice, such Indemnifying Party may deliver to the Indemnified Party a written response (the “*Direct Claim Response Notice*”) in which such Indemnifying Party: (i) agrees that the Indemnified Party is entitled to the full amount of the Direct Claim as set forth in the Direct Claim Notice, (ii) agrees that the Indemnified Party is entitled to part, but not all, of the full amount of the Direct Claim as set forth in the Direct Claim Notice (such amount agreed to under (i) or (ii), the “*Direct Claim Agreed Amount*”), or (iii) indicates that the Indemnifying Party disputes the entire full amount of the Direct Claim as set forth in the Direct Claim Notice. Any part of the full amount of the Direct Claim as set forth in the Direct Claim Notice that is not agreed to pursuant to the Direct Claim Response Notice shall be the “*Direct Claim Contested Amount*.” If a Direct Claim Response Notice is not received within such thirty (30) day period, then the Indemnifying Party shall be conclusively deemed to have agreed that the Indemnified Party is entitled to the full amount of the Direct Claim as set forth in the Direct Claim Notice (and such amount shall be the Direct Claim Agreed Amount). If the Parties are unable to resolve the dispute relating to any Direct Claim Contested Amount within thirty (30) days after the delivery of the Direct Claim Response Notice, then the Parties shall be entitled to resort to any legal remedy available to such Parties, subject to the terms of this Agreement, to resolve such dispute including obtaining a final and non-appealable order of any court of competent jurisdiction directing the Indemnifying Party to pay the Indemnified Party all or a portion of the Direct Claim Contested Amount (the “*Final Direct Claim Contested Amount*”). The Indemnifying Party shall pay any Direct Claim Agreed Amount within five (5) Business Days after determination thereof, it being understood that the Indemnified Party shall be entitled to draw upon the Seller Parent Letter of Credit for any Direct Claim Agreed Amounts and/or Final Direct Claim Contested Amounts owed to the Indemnified Party by the Indemnifying Party in connection with any Indemnification Claims pursuant to Section 9.1 and this Section 9.5(b)(ii) within five (5) Business Days after determination of such Direct Claim Agreed Amount and/or Final Direct Claim Contested Amount.

9.6 Tax Effect. The amount of any Losses that are subject to any indemnification obligation of an Indemnifying Party under this Agreement shall be adjusted so as to give effect to any net reduction in federal, state, local or foreign income or franchise tax liability accrued or realized (either by decrease in Taxes paid or increase in a refund due) at any time by the Indemnified Party in connection with the satisfaction by the Indemnifying Party of any such indemnification obligation.

9.7 Calculation of Indemnification Payments.

(a) If any Purchaser Indemnified Party is entitled to indemnification pursuant to this Article IX, subject to the applicable limitations contained in this Article IX, including Section 9.4, the Losses indemnifiable thereunder shall be satisfied first from the Seller Parent Letter of Credit, and, to the extent the funds available under the Seller Parent Letter of Credit are not sufficient, Seller and/or Seller Parent shall pay such amounts directly to such Purchaser Indemnified Party (or its designee) by wire transfer of immediately available funds within five (5) Business Days after the final determination hereof to an amount designated by the applicable Purchaser Indemnified Party.

(b) If any Losses sustained by an Indemnified Party are covered by an insurance policy or an indemnification, contribution, warranty, refund or similar obligation of another Person (other than an Affiliate of such Indemnified Party), the Indemnified Party shall use commercially reasonable efforts to collect such insurance proceeds or indemnity, contribution, warranty, refund or similar payments. If the Indemnified Party receives such insurance proceeds or indemnity, contribution, warranty, refund or similar payments prior to being indemnified under Section 9.2 or Section 9.3, as applicable, with respect to such Losses, the payment by an Indemnifying Party under this Article IX with respect to such Losses shall be reduced by the net amount of such insurance proceeds or indemnity, contribution, warranty, refund or similar payments to the extent related to such Losses, less reasonable attorney’s fees and other expenses incurred in connection with such recovery. If the Indemnified Party receives such insurance proceeds or indemnity, contribution, warranty or similar payments after being indemnified by an Indemnifying Party with respect to such Losses, the Indemnified Party shall pay to the Indemnifying Party the net amount of such insurance proceeds or indemnity, contribution, warranty or similar payment to the extent related to such Losses, less reasonable attorney’s fees and other expenses incurred in connection with such recovery. If any Indemnified Party receives payment for Losses under this Article IX on account of a claim that an Indemnifying Party believes in good faith is covered by an insurance policy or an indemnification, contribution, warranty, refund or similar obligation of another Person (other than an Affiliate of such Indemnified Party), that Indemnified Party shall (i) on written request of the Indemnifying Party assign, to the extent assignable and to the extent that Indemnified Party does not in good faith dispute such written request, its rights under such insurance policy or indemnification, contribution or similar obligation with respect to such claim to the Indemnifying Party up to the amount of Losses claimed by the Indemnified Party hereunder and (ii) be relieved of any further obligation to pursue collection of such insurance or indemnification, contribution, warranty or similar obligation (except that, if requested to do so by the Indemnifying Party, the Indemnified Party shall reasonably cooperate with the Indemnifying Party at the Indemnifying Party’s sole expense, to collect any such insurance or indemnification, contribution, warranty or similar obligation). The Indemnifying Party shall remain responsible for any amount of Losses subject to indemnification under this Article IX that are not paid from any insurance proceeds or indemnity, contribution, warranty, refund or similar payment.

9.8 Exclusive Remedy. After the Closing, the indemnities set forth in this Article IX shall be the sole and exclusive remedy of the Parties, their successors and assigns, and their respective officers, managers or directors, employees, agents, members and Affiliates with respect to this Agreement, the events giving rise to this Agreement and the transactions contemplated hereby, except with respect to claims for specific enforcement for breaches of covenants and agreements contained in this Agreement and claims relating to fraud, willful misconduct, or intentional misrepresentation. Without limiting the foregoing, Purchaser, for itself and its Affiliates, does hereby irrevocably release, hold harmless and forever discharge Seller and its Affiliates (including Seller Parent) from any and all Liabilities arising out of or in connection with the Assumed Liabilities except for the remedies expressly set forth in this Agreement. The indemnities set forth in this Article IX apply only to matters arising out of this Agreement and any Losses arising under or pursuant to an Ancillary Agreement entered into hereunder. The Parties shall not be entitled to a rescission of this Agreement or to any further indemnification rights or claims of any nature whatsoever in respect hereof (whether by Contract, Law or otherwise, all of which the Parties hereby waive).

9.9 Treatment of Indemnification Payments. To the extent permitted by Law, any amounts payable pursuant to this Article IX shall be considered adjustments to the

Purchase Price for all income Tax purposes, unless otherwise required by applicable Law, and the Parties and their respective Affiliates agree to take no position inconsistent with such treatment in any Tax Return, in any refund claim, in any litigation, or otherwise unless required by a final determination by an applicable taxing authority.

9.10 Mitigation. The Indemnified Party will use its commercially reasonable efforts to mitigate any Losses with respect to which it may be entitled to seek indemnification pursuant to this Agreement, *provided, however*, that nothing in this Section 9.10 shall (a) expand or extend an Indemnified Party's common law obligation to mitigate damages or (b) require an Indemnified Party to commence or undertake any litigation, arbitration or similar proceeding against any third party.

9.11 Additional Limitations on Liability. Notwithstanding anything to the contrary contained in this Agreement (including this Article IX), no Indemnifying Party shall be liable to any Indemnified Party, whether in contract, tort (including negligence and strict liability) or otherwise, at law or in equity, and Losses under this Article IX shall not include (A) consequential, indirect, exemplary, special or punitive damages, (B) losses or damages based upon a multiple of profits or earnings, (C) losses or damages caused by diminution of value or loss of use, profits, revenue, opportunity or reputation or (D) interest charges or cost of capital, except, in each case, to the extent any such damages are reasonably foreseeable or are awarded against or otherwise payable or incurred by an Indemnified Party in connection with a Third-Party Claim.

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9.12 Limitations on Environmental Claims. Notwithstanding anything to the contrary in this Agreement, Seller and Seller Parent shall not be obligated to indemnify the Purchaser Indemnified Parties for Losses pursuant to Environmental Laws to the extent such Losses are incurred due to (a) Purchaser Indemnified Parties' development of the portion of the Site formerly operated by Norby Lumber (the "Norby Lumber Site") or (b) environmental remedial actions taken by Purchaser Indemnified Parties with regard to the Norby Lumber Site that are not in response to a demand, request for information, inspection, claim, action, suit, directive or order of a Governmental Body.

9.13 No Personal Liability. Notwithstanding any provision to the contrary in this Agreement, with respect to a Person which is an entity other than a natural person, (a) no officer, director, manager, employee, agent or representative of either Party shall have personal liability to any Purchaser Indemnified Party or Seller Indemnified Party, as the case may be, for any Losses arising under, related to, or in connection with (i) this Agreement, (ii) any certificate or other document delivered by any Party in connection with this Agreement, or (iii) otherwise with the transactions contemplated hereby (whether a contract claim, tort claim, statutory claim or otherwise and regardless of whether any Losses claimed arise as a result of negligence, strict liability or any other liability under any theory of claimed law or equity), nor shall the personal assets of any such individual Person be subject to any losses, and (b) the only recourse available under this Agreement to any Purchaser Indemnified Party or Seller Indemnified Party arising out of Section 9.2 or Section 9.3 shall be in accordance with this Article IX.

#### ARTICLE X. MISCELLANEOUS

10.1 Notices. Unless otherwise set forth herein, any notices, consents, waivers and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a Party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid), or (b) sent by e-mail if sent during the normal business hours of the recipient, with confirmation of transmission by the transmitting equipment confirmed with a copy delivered as provided in clause (a), in the case of each of clauses (a) and (b), to the following addresses or e-mail addresses and marked to the attention of the person (by name or title) designated below (or to such other address, e-mail address or person as a Party may designate by notice to the other Parties):

If to Seller, to:

Pacific Ethanol Madera, LLC  
c/o Alto Ingredients, Inc.  
400 Capital Mall, Suite 2060  
Sacramento, CA 95814  
Phone No.: (916) 403-2130  
Attention: Christopher W. Wright, General Counsel  
E-mail address: cwright@pacificethanol.com

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With a copy (which shall not constitute effective notice) to:

Troutman Pepper Hamilton Sanders LLP  
5 Park Plaza, 14<sup>th</sup> Floor  
Irvine, California 92614  
Attention: Larry A. Cerutti  
E-mail address: larry.cerutti@troutman.com

If to Purchaser, to:

Seaboard Energy California, LLC  
9000 West 67th St., Suite 200  
Shawnee Mission, KS 66202  
Phone No.: (913) 676-8800  
Attention: Gary F. Louis  
E-mail address: gary.louis@seaboardeenergy.com

With a copy (which shall not constitute effective notice) to:

Seaboard Corporation  
9000 West 67th St., Suite 300  
Shawnee Mission, KS 66202  
Attention: David M. Becker  
E-mail address: david.becker@seaboardcorp.com

10.2 Payment of Expenses. Except as set forth in Section 3.4, and whether or not the transactions contemplated hereby are consummated, Seller and Purchaser shall bear their own expenses incurred or to be incurred in connection with the negotiation and execution of this Agreement and the Ancillary Documents and the consummation of



the transactions contemplated hereby and thereby.

10.3 Entire Agreement; Amendments and Waivers. This Agreement, together with the Confidentiality Agreement and the Ancillary Documents, represents the entire understanding and agreement between the Parties with respect to the subject matter hereof. This Agreement may be amended, supplemented or changed, and any provision hereof may be waived, only by written instrument making specific reference to this Agreement signed by the Party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Agreement, including any investigation by or on behalf of any Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, condition, covenant or agreement contained herein. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

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10.4 Execution of Agreement; Counterparts; Electronic Signatures.

(a) This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Parties; it being understood that all Parties need not sign the same counterparts.

(b) The exchange of copies of this Agreement and of signature pages by electronic mail in PDF format or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

10.5 Governing Law. THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF.

10.6 Jurisdiction, Waiver of Jury Trial.

(a) THE FEDERAL OR STATE COURTS IN THE STATE OF DELAWARE WILL HAVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER AT LAW OR IN EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY.

(b) EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

10.7 Binding Effect; Assignment. This Agreement shall be binding upon Purchaser, Seller and Seller Parent and shall inure to the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Agreement shall create or be deemed to create any third-party beneficiary rights in any Person or entity not a party to this Agreement except as provided below. No assignment of this Agreement or of any rights or obligations hereunder may be made by Seller or Purchaser (by operation of law or otherwise) without the prior written consent of the other Parties and any attempted assignment without such required consents shall be void; *provided, however*, that Purchaser may assign any or all of its rights hereunder, in whole or in part, to any Affiliate of Purchaser without the prior consent of Seller for so long as Purchaser remains responsible for the performance of its financial obligations hereunder, including any indemnification obligations.

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10.8 Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction and in lieu of such invalid, illegal or unenforceable provision or portion of any provision, there will be added automatically as a part of this Agreement a valid legal and enforceable provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible.

10.9 Negotiated Transactions. The provisions of this Agreement were negotiated by the Parties hereto and said Agreement shall be deemed to have been drafted by all Parties hereto.

10.10 Bulk Sales Laws. Each Party hereby waives compliance by the other Party or any of its Affiliates with any applicable bulk sale or bulk transfer laws of any jurisdiction in connection with the sale of the Purchased Assets to Purchaser.

10.11 Disclosure Schedules. No representation or warranty of Seller contained in Article IV shall be deemed untrue or incorrect, and Seller shall not be deemed to have breached any such representation or warranty, as a consequence of the existence of any fact, circumstance or event of which is expressly disclosed in the Disclosure Schedules to Article IV, subject to the following sentence. The information contained in the Disclosure Schedules to Article IV constitutes exceptions to the applicable representations and warranties in Article IV only so long as a Disclosure Schedule with respect to such representation and warranty contains an explicit reference to the representation or warranty for which an exception is intended to apply, or it is reasonably apparent from the plain text of a particular Disclosure Schedule that the disclosure also applies to another representation or warranty.

**ARTICLE XI**  
**DEFINITIONS**

11.1 Definitions. As used herein:

(a) “*Acceptable Bank*” means any United States commercial bank(s) or financial institution(s) or a United States branch of a foreign commercial bank(s) or financial institution(s) having a long-term unsecured senior debt rating of at least A2 or better by Moody’s and A or better by S&P.

(b) “*Action*” means any action, claim, complaint, grievance, summons, suit, litigation, arbitration, mediation, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation by or before any Governmental Body.

(c) “*Affiliate*” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term “control” (including the terms “controlled by” and “under common control with”) means (i) the possession,

directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by Contract or otherwise or (ii) an officer, director, or any Person that has the power, directly or indirectly, to more than fifty percent (50%) of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person.

(d) “**Agreed Amount**” shall have the meaning set forth in Section 9.5(a)(ii).

(e) “**Agreement**” shall have the meaning set forth in the preamble.

(f) “**Agreement Date**” shall have the meaning set forth in the preamble.

(g) “**Allocation Schedule**” shall have the meaning set forth in Section 8.2.

(h) “**Ancillary Documents**” means any certificate, agreement, document or other instrument (other than this Agreement) to be executed and delivered by a Party in connection with the consummation of the transactions contemplated this Agreement.

(i) “**Asset Allocation**” shall have the meaning set forth in Section 8.2

(j) “**Assigned Contracts**” shall have the meaning set forth in Section 1.1(d).

(k) “**Assumed Liabilities**” shall have the meaning set forth in Section 1.3.

(l) “**Benefit Plan**” means (i) all “**employee benefit plans**” (including, without limitation, as defined in Section 3(3) of ERISA), including all employee benefit plans which are “**pension plans**” (including, without limitation, as defined in Section 3(2) of ERISA) and any other employee benefit arrangements or payroll practices (including severance pay, vacation pay, company awards, salary continuation for disability, sick leave, death benefit, hospitalization, welfare benefit, group or individual health, dental, medical, life, insurance, fringe benefit, deferred compensation, profit sharing, retirement, retiree medical, supplemental retirement, bonus or other incentive compensation, stock purchase, equity-based, stock option, stock appreciation rights, restricted stock and phantom stock arrangements or policies) and (ii) all other employment, termination, bonus, severance, change in control, collective bargaining or other similar plans, programs, contracts, or arrangements (whether written or unwritten), in each case, maintained, contributed to, or required to be contributed to by Seller Parent or any ERISA Affiliate for the benefit of any current or former Employee or under which Seller Parent or any ERISA Affiliate has any liability with respect to any Employee.

(m) “**Bill of Sale**” shall have the meaning set forth in Section 3.5(d).

(n) “**Business**” means the maintenance of the Site and the Purchased Assets by Seller.

(o) “**Business Day**” means any day other than a Saturday, Sunday or other day on which banks in New York City, New York are authorized or required by Law to be closed.

(p) “**CARB**” means the California Air Resources Board or any successor body politic or corporate.

(q) “**CARB Attributes**” shall have the meaning set forth in Section 6.21.

(r) “**CARB Compliance Requirements**” shall have the meaning set forth in Section 6.21.

(s) “**CITSS**” shall have the meaning set forth in Section 6.21.

(t) “**CleanFund Commercial PACE Capital, Inc. Financing**” means that certain commitment letter dated September 14, 2016 (the “**Commitment Letter**”) by and between Seller and CleanFund Commercial PACE Capital, Inc. in the amount of \$10,000,000 and the related Restrictive Covenant Agreement dated September 21, 2016 by Seller in favor of Clean Fund Titling Trust (the “**Restrictive Covenant Agreement**”), which Restrictive Covenant Agreement provides, among other things, that so long as the financing under the Commitment Letter remains outstanding, neither parcel of land located on the Site shall be (i) subdivided, split or be the subject of any lot line adjustment or (ii) sold, encumbered or otherwise transferred unless such sale, encumbrance or other transfer involves both parcels of land located on the Site.

(u) “**Closing**” shall have the meaning set forth in Section 3.1.

(v) “**Closing Date**” shall have the meaning set forth in Section 3.1.

(w) “**Closing Cash Payment**” shall have the meaning set forth in Section 2.2(a).

(x) “**Closing Statement**” shall have the meaning set forth in Section 2.2(a).

(y) “**Code**” means the United States Internal Revenue Code of 1986, as the same may be amended from time to time.

(z) “**Confidentiality Agreement**” means that certain Confidentiality Agreement dated August 17, 2020 by and between Purchaser and Seller.

(aa) “**Contested Amount**” shall have the meaning set forth in Section 9.5(a)(ii).

(bb) “**Contract**” means any written or oral contract, purchase order, service order, sales order, indenture, note, bond, lease, sublease, license, understanding, instrument or other agreement, arrangement or commitment that is binding upon a Person or its property, whether express or implied.

(cc) “**Deed**” shall have the meaning set forth in Section 3.5(c).

- (dd) “**Direct Claim**” shall have the meaning set forth in Section 9.5(b).
- (ee) “**Direct Claim Agreed Amount**” shall have the meaning set forth in Section 9.5(b)(ii).
- (ff) “**Direct Claim Notice**” shall have the meaning set forth in Section 9.5(b).
- (gg) “**Direct Claim Response Notice**” shall have the meaning set forth in Section 9.5(b)(ii).
- (hh) “**Direct Claim Contested Amount**” shall have the meaning set forth in Section 9.5(b)(ii).

(ii) “**Documents**” means all of Seller’s written files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, plans, operating records, safety and environmental plans and reports, data, Permits and Permit applications, studies and documents, ledgers, journals, title policies, customer lists, regulatory filings, operating data and plans, research material, technical documentation (design specifications, engineering information, test results, maintenance schedules, functional requirements, operating instructions, logic manuals, processes, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials, in each case whether or not in electronic form relating to the Business.

- (jj) “**Due Diligence**” shall have the meaning set forth in Section 6.2.
- (kk) “**Due Diligence Period**” shall have the meaning set forth in Section 6.2(c).
- (ll) “**Employees**” shall have the meaning set forth in Section 4.14(a).

(mm) “**Encumbrance**” means any lien (including, but not limited to, any Tax lien), encumbrance, claim, right, demand, charge, mortgage, deed of trust, option, pledge, security interest or similar interests, title defects, hypothecations, easements, rights of way, restrictive covenants, encroachments, rights of first refusal, preemptive rights, judgments, conditional sale or other title retention agreements and other impositions, imperfections or defects of title or restrictions on transfer or use of any nature whatsoever.

(nn) “**Environment**” means soil, water (including navigable waters, oceans, streams, ponds, reservoirs, drainage basins, wetlands, playa lakes, surface waters, underground waters, drinking waters and water vapor), land, sediments, surface or subsurface strata, ambient air, indoor air, noise, plant life, animal life and all other environmental media or natural resources including any material or substance used in the physical structure of any building or improvement.

(oo) “**Environmental Attributes**” means any emissions or renewable energy credits, energy conservation credits, benefits, offsets and allowances, emission reduction credits or words of similar import or regulatory effect (including emissions reduction credits or allowances under all applicable emission trading, compliance or budget programs, or any other federal, state or regional emission, renewable energy or energy conservation trading or budget program) that have been held, allocated to or acquired for the development, construction, ownership, lease, operation, use, maintenance, or compliance of Seller or the Site, or that need to be acquired for the development, construction, ownership, lease, operation, use, maintenance, or compliance of Seller or the Site.

(pp) “**Environmental Law(s)**” means any health, safety, land use, ecological, environmental, and natural resource laws and orders, including all laws, orders, and private land use restrictions (such as covenants, conditions, and restrictions) relating to the following: (i) noise and odors; (ii) the pollution or protection of the air, soil, surface water, ground water, or other elements of the environment; (iii) the use, Release, storage, disposal, emission, handling, discharge, transport, treatment, processing, distribution, or manufacturing of any Hazardous Materials; (iv) the registration, labeling of Hazardous Materials; and (v) the cleanup, removal, recovery, assessment, or remediation of any damage, abandonment, leak, emission, discharge, pollution, or contamination of or into air, soil, buildings, surface water or groundwater; in each case, whether previously, presently or hereafter in effect, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. Section 2701 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), the Clean Water Act (33 U.S.C. Section 1251 et seq.), the Clean Air Act (42 U.S.C. Section 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.), the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), the Emergency Planning and Community Right to Know Act (42 U.S.C. 11001 et seq.), the Endangered Species Act (16 U.S.C. Section 1531 et seq.), Export Administration Regulations (15 C.F.R. Parts 730–774) and the Occupational Safety and Health Act (29 U.S.C. Section 651 et seq.) and all such laws adopted by any other Governmental Body, and any and all implementing rules, regulations and guidance relating to any of the foregoing.

- (qq) “**Equipment Removal**” shall have the meaning set forth in Section 6.22.
- (rr) “**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

(ss) “**ERISA Affiliate**” means any entity which is a member of (A) a controlled group of corporations (as defined in Section 414(b) of the Code), (B) a group of trades or businesses under common control (as defined in Section 414(c) of the Code), (C) an affiliated service group (as defined under Section 414(m) of the Code) or (D) any group specified in Treasury Regulations promulgated under Section 414(o) of the Code, any of which includes or included Seller.

- (tt) “**Excluded Assets**” shall have the meaning set forth in Section 1.2.
- (uu) “**Expiry Date**” shall have the meaning set forth in Section 6.20.

- (vv) “**Final Contested Amount**” shall have the meaning set forth in Section 9.5(a)(ii).
- (ww) “**Final Direct Claim Contested Amount**” shall have the meaning set forth in Section 9.5(b)(ii).
- (xx) “**Financial Statements**” shall have the meaning set forth in Section 4.18.

(yy) “**FIRPTA Certificate**” shall have the meaning set forth in Section 8.4.

(zz) “**Fixed Assets**” shall have the meaning set forth in Section 1.1(c).

(aaa) “**Furnishings and Equipment**” means, except for any Excluded Assets, any and all machinery, equipment, furniture, furnishings, hardware, materials, fixtures, trade fixtures, shelving, storage units, tractors, and related tangible assets maintained or owned by Seller.

(bbb) “**GAAP**” means United States generally accepted accounting principles as in effect from time to time.

(ccc) “**Governmental Body**” means any government, quasi-governmental entity, or other governmental or regulatory body, agency or political subdivision thereof of any nature, whether foreign, federal, state or local, or any agency, branch, department, official, entity, instrumentality or authority thereof, or any court or arbitrator (public or private) of applicable jurisdiction.

(ddd) “**Hazardous Material**” means any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, contaminant, petroleum or petroleum containing materials, asbestos and asbestos containing materials, radiation or radioactive materials, leaded paints, toxic mold and other harmful biological agents, soil gases, including petroleum and chemical vapors, and polychlorinated biphenyls or any other material which could otherwise give rise to Liability under any Environmental Law.

(eee) “**Indebtedness**” of any Person means, without duplication, (i) the interest in respect of, principal of and premium (if any) in respect of (x) indebtedness of such Person for money borrowed and (y) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (ii) all obligations of such Person with respect to any Contracts relating to the deferred and unpaid purchase price of property or services, including any interest accrued thereon and prepayment or similar penalties and expenses; (iii) all obligations of such Person under leases required to be capitalized in accordance with GAAP; (iv) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction; (v) all obligations of the type referred to in clauses (i) through (iv) of any Persons for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations; and (vi) all obligations of the type referred to in clauses (i) through (v) of other Persons secured by any Encumbrance (other than Permitted Encumbrances), on any property or asset of such Person (whether or not such obligation is assumed by such Person).

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(fff) “**Indemnified Party**” means any Person asserting a claim for indemnification under any provision of Article IX.

(ggg) “**Indemnifying Party**” means any Person against whom a claim for indemnification is being asserted under any provision of Article IX.

(hhh) “**Intellectual Property**” means all intellectual property and proprietary rights of any kind, including the following: (i) trademarks, service marks, trade names, slogans, logos, designs, symbols, trade dress, internet domain names, uniform resource identifiers, rights in design, brand names, any fictitious names, d/b/a’s or similar filings related thereto, or any variant of any of them, and other similar designations of source or origin, together with all goodwill, registrations and applications related to the foregoing; (ii) copyrights and copyrightable subject matter (including any registration and applications for any of the foregoing); (iii) trade secrets and other confidential or proprietary business information (including manufacturing and production processes and techniques, research and development information, technology, intangibles, drawings, specifications, designs, plans, proposals, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans, customer and supplier lists and information), know how, proprietary processes, formulae, algorithms, models, industrial property rights, and methodologies; (iv) computer software, computer programs, and databases (whether in source code, object code or other form); (v) inventions, discoveries and patents (including any registration and applications for any of the foregoing); and (vi) all rights to sue for past, present and future infringement, misappropriation, dilution or other violation of any of the foregoing and all remedies at law or equity associated therewith, but not including intellectual property or proprietary rights of any kind arising under licenses of Intellectual Property.

(iii) “**Knowledge**” or “**Knowledge of Seller**” or “**Seller’s Knowledge**” means the actual knowledge of Michael D. Kandris, Bryon McGregor, Brian Fish, Patrick McKenzie, Rob Olander, Jeff Unsinger and Christopher W. Wright and the knowledge that each such person would reasonably be expected to obtain in the course of diligently performing his or her duties for Seller, or in connection with entering into this Agreement.

(jjj) “**Law**” means any federal, state, local, municipal, foreign or international, multinational or other law, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body, in each case as in effect as of the Closing Date.

(kkk) “**Liability**” or “**Liabilities**” means, as to any Person, any debt, adverse claim, liability (including any liability that results from, relates to or arises out of tort or any other product liability claim), duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.

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(lll) “**Licensed Intellectual Property**” mean all Intellectual Property licensed to Seller by a third party.

(mmm) “**Loss**” or “**Losses**” means any and all claims, damages, deficiencies, fines, fees, losses, Liabilities, obligations, penalties, payments (including those arising out of any settlement, judgment or compromise relating to any legal Proceeding), and reasonable costs and expenses (including, without limitation, court costs, reasonable fees of attorneys, accountants and other experts or other expenses incurred in investigating, preparing, defending, avoiding or settling any claim, default or assessment).

(nnn) “**Material Adverse Effect**” means any event, change, occurrence or state of facts that, individually or in the aggregate, has or would reasonably be expected to have a material adverse effect on the Purchased Assets taken as a whole; *provided, however*, that in no event shall any of the following, alone or in combination, be deemed to constitute, or be taken into account, in determining whether there has been, or would be, a Material Adverse Effect: (a) any adverse change attributable to (i) the disclosure or execution of this Agreement, (ii) the disclosure or consummation of the transactions contemplated by this Agreement or any of the Ancillary Agreements, or (iii) the business or activities in which Purchaser or its Affiliates are, or are proposed to be, engaged, or the identity of Purchaser or its Affiliates as Purchaser of the Business, including the loss or departure of Business Employees, or other service providers of the Business, or the termination, reduction (or potential reduction) or any other adverse development (or potential adverse development) in the Business’ relationship with any of its customers, suppliers, distributors or other business partners, in each case in clause (a)(iii) as a result of the announcement or pendency of this Agreement; (b) any event, change or effect (i) in the domestic or international financial, credit, securities or commodities markets (including interest rates, currency exchanges rates, and securities price levels or trading volumes), or domestic or international economic, regulatory or political conditions or (ii) in the industries and markets in which the Business operates, including competition in any of the geographic areas in which the Business operates; (c) fluctuations in sales and earnings or failure of the Business to meet internal or published sales, earnings or other financial or non-financial projections and estimates; (d) global,

national, regional, military or governmental action (or the escalation of any of the foregoing); (f) manmade disasters, natural disasters, weather developments, pandemics (including the novel coronavirus, COVID-19), and acts of God, including earthquakes, hurricanes, tsunamis, typhoons, lightning, hail storms, blizzards, tornadoes, droughts, crop shortages, floods, rising sea levels, cyclones, arctic frosts, mudslides and wildfires, manmade disasters or acts of God; (g) any event, change or effect resulting from any changes or anticipated or proposed changes including repeal or anticipated or proposed repeal, of any (i) Law or any other law, treaty, legislative or political conditions, or policy or practices of any governmental entity applicable to the Business, including and without limiting the generality of the foregoing, the Renewable Fuel Standard and other programs, quotas, and regulations under the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007, or (ii) applicable accounting regulations or principles, in each case of clauses (g)(i) or (ii), including any change in the interpretation or enforcement thereof; (h) any action required or permitted to be taken pursuant to this Agreement or any Ancillary Agreement; or (i) any action or inaction by Purchaser or its Affiliates, or action or inaction approved or consented to by Purchaser or its Affiliates after the date hereof.

(ooo) "**Materials Removal**" shall have the meaning set forth in [Section 6.23](#).

(ppp) "**Norby Lumber Site**" shall have the meaning set forth in [Section 9.12](#).

(qqq) "**Order**" means any award, writ, injunction, judgment, order, ruling, decision, subpoena, mandate, precept, command, directive, consent, approval, award, decree or similar determination or finding entered, issued, made or rendered by any Governmental Body.

(rrr) "**Ordinary Course of Business**" means the ordinary and usual course of maintenance of the Purchased Assets by Seller as of the date hereof.

(sss) "**Organizational Documents**" means, with respect to a particular entity Person, (i) if a corporation, the articles or certificate of incorporation and bylaws, (ii) if a general partnership, the partnership agreement and any statement of partnership, (iii) if a limited partnership, the limited partnership agreement and certificate of limited partnership, (iv) if a limited liability company, the articles or certificate of organization or formation and any limited liability company or operating agreement, (v) if another type of Person, all other charter and similar documents adopted or filed in connection with the creation, formation or organization of the Person, and (vi) all amendments or supplements to any of the foregoing.

(ttt) "**Outside Date**" shall have the meaning set forth in [Section 3.7\(b\)](#).

(uuu) "**Party**" shall have the meaning set forth in the preamble.

(vvv) "**Pending Claim**" shall have the meaning set forth in [Section 6.20](#).

(www) "**Permits**" means to the fullest extent permitted under applicable law, all notifications, licenses, permits, franchises, certificates, approvals, consents, waivers, clearances, exemptions, classifications, registrations, declarations, variances, orders, tariffs, rate schedules and other similar documents and authorizations (including those for environmental, business, construction and operation purposes) issued by any Governmental Body to Seller and used, or held for use, in connection with the operation of the Site or applicable to ownership of the Purchased Assets or assumption of the Assumed Liabilities.

(xxx) "**Permitted Encumbrances**" means (i) Encumbrances for utilities and current Taxes not yet due and payable or being contested in good faith; (ii) all matters of record encumbering title to the Purchased Assets as of the date hereof; (iii) applicable zoning Laws, building codes, land use restrictions and other similar restrictions imposed by Law and (iv) such other Encumbrances or title exceptions as set forth in the Title Policy which have been accepted or waived in writing by Purchaser on the Closing Date.

(yyy) "**Person**" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization, labor union, estate, Governmental Body or other entity or group.

(zzz) "**Phase I Report**" means the Phase I Environmental Site Assessment prepared for Purchaser by SCS Engineers with respect to the Real Property, dated December 22, 2020.

(aaaa) "**Phase II Report**" means the Phase II Environmental Site Assessment prepared for Purchaser by SCS Engineers with respect to the Real Property, dated March 19, 2021.

(bbbb) "**Pre-Closing Tax Period**" means any taxable period (or portion thereof) ending on or before the Closing Date.

(cccc) "**Proceeding**" means any demand, action, suit, litigation, hearing, examination, notice of investigation, notice of violation, arbitration, mediation, written citation, complaint, claim or audit

(dddd) "**Purchase Price**" shall have the meaning set forth in [Section 2.1\(a\)](#).

(eeee) "**Purchased Assets**" shall have the meaning set forth in [Section 1.1](#).

(ffff) "**Purchaser**" shall have the meaning set forth in the preamble.

(gggg) "**Purchaser Fundamental Representations**" means the representations and warranties of Purchaser set forth in [Section 5.1](#), [Section 5.2](#) and [Section 5.6](#) of this Agreement.

(hhhh) "**Purchaser Indemnified Parties**" means Purchaser, its Affiliates and their respective directors, officers, agents, successors and permitted assigns.

(iiii) "**Real Property**" shall have the meaning set forth in [Section 4.7\(a\)](#).

(jjjj) "**Release**" or "**Released**" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, disposing, abandoning or dumping of a Hazardous Material into the Environment and any condition that results in the exposure of a person to Hazardous Material.

(kkkk) "**Replacement Letter of Credit**" shall have the meaning set forth in [Section 6.20](#).



Title: President and Chief Executive Officer

**SELLER:**

PACIFIC ETHANOL MADERA LLC

By: /s/ Michael D. Kandris

Name: Michael D. Kandris

Title: President and Chief Executive Officer

**SELLER PARENT:**

ALTO INGREDIENTS, INC.

By: /s/ Michael D. Kandris

Name: Michael D. Kandris

Title: President and Chief Executive Officer

*[Signature Page to Asset Purchase Agreement]*

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## FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT

This First Amendment to Asset Purchase Agreement (this “Amendment”) is made and entered into this 30th day of July, 2021 (the “Execution Date”), by and between SEABOARD ENERGY CALIFORNIA, LLC, a Delaware limited liability company (“Purchaser”), PACIFIC ETHANOL MADERA LLC, a Delaware limited liability company (“Seller”), and ALTO INGREDIENTS, INC. (formerly, PACIFIC ETHANOL, INC.), a Delaware corporation (“Seller Parent”). Purchaser, Seller and Seller Parent may hereinafter be referred to individually as a “Party” and collectively as the “Parties.”

### Recitals

WHEREAS, the Parties entered into that certain Asset Purchase Agreement dated April 23, 2021 (the “Agreement”);

WHEREAS, the Parties closed on the transactions set forth in the Agreement on May 14, 2021 (the “Closing Date”); and

WHEREAS, the Parties desire to amend the terms of the Agreement as set forth herein.

### Agreement

NOW, THEREFORE, in consideration of the terms, conditions and covenants contained herein, the Parties mutually agree to amend the terms and conditions of the Agreement as follows:

1. **Effective Date**. The Parties acknowledge and agree that the terms of this Amendment are made effective as of the Closing Date.

2. **Definitions**.

a. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

b. The following definitions set forth in this Amendment shall be added (in alphabetical order) to Article XI of the Agreement:

“**Corn Oil System**” means certain assets of the Corn Oil System, including a centrifuge assembly packaged skid which includes mechanical and controls, PCOSS disk stack centrifuge, brush screen, syrup return tank and a syrup discharge pump, a tank assembly packaged skid which includes mechanical and controls, an intermediate tank, clean oil tank, decant pump and syrup transfer pump, and a main control distribution panel which includes the primary HMI control screen.

“**PG&E Rule 21 Study Liability**” shall have the meaning set forth in Section 1.3(c).

“**Whitefox Equipment (Other)**” means the following equipment included within “PEM0527 Commercial Whitefox” as referred to in Schedule 1.1(c) that is subject to the Equipment Removal as set forth in Section 6.22 of the Agreement: (i) one (1) stripper column as a whole, including all internals, (ii) one (1) kettle reboiler, and (iii) one (1) superheater, all of which are depicted in images in Exhibit E attached hereto.

“**Whitefox Equipment (Pickup)**” means the following equipment that is subject to the Equipment Removal as set forth in Section 6.22 of the Agreement: (i) two (2) prefabricated process assemblies, a dedicated power distribution building and a feed tank, all of which are depicted in the images in Exhibit F attached hereto, and (ii) certain assets of the equipment included within “PEM0527 Commercial Whitefox” as referred to in Schedule 1.1(c), namely eleven (11) membrane cartridges model MB2 and three (3) vapor permeation membrane modules type MB6, all of which are depicted in images in Exhibit G attached hereto (and, together with the Whitefox Equipment (Other), the “**Whitefox Equipment**”).

3. **Excluded Assets**. The Parties hereby amend Section 1.2 of the Agreement to add the following provisions:

“(i) the Corn Oil System; and

(j) the Whitefox Equipment.”

4. **Fixed Assets**. The Parties hereby amend Schedule 1.1(c) attached to the Agreement to reflect the removal of the Corn Oil System and the Whitefox Equipment from such Schedule 1.1(c). The amended Schedule 1.1(c) is attached hereto.

5. **Assumption of Liabilities**. The Parties hereby amend Section 1.3 of the Agreement to add the following provision:

“(c) solely with respect to that certain Assigned Contract, Rule 21 Detailed Study Agreement by and between Pacific Gas & Electric Company (PG&E) and Seller dated as of April 4, 2017, the Liabilities of Seller as specifically set forth on Schedule 1.3 (the “**PG&E Rule 21 Study Liability**”). For clarification purposes, with respect to such Assigned Contract, ‘Assumed Liabilities’ shall not include any other obligations arising or accruing prior to the Closing Date or with respect to any breach or default existing prior to the Closing Date.”

6. **Equipment Removal**. The Parties hereby amend and restate Section 6.22 of the Agreement in its entirety as follows:

“Within ninety (90) days after the Closing (or such later period as mutually agreed in writing by Seller and Purchaser), Seller will, and will cause its Affiliates and/or third party contractors to remove the Corn Oil System and the Whitefox Equipment located on the Site (the “**Equipment Removal**”). Seller shall minimize any disruption to Purchaser or the operation of the Site at all times until completion of the Equipment Removal. Seller shall be responsible for procuring and supervising all labor, including any third party contractors, required in connection with the Equipment Removal. Seller shall bear all costs incurred in connection with the Equipment Removal. If Seller does not complete the Equipment Removal within ninety (90) days of Closing (or such later period as mutually agreed in writing by Seller and Purchaser), Purchaser may complete the Equipment Removal at its sole cost and Seller shall reimburse Purchaser for any such costs incurred in connection with Purchaser’s completion of the Equipment Removal. In connection with its obligations under this Section 6.22, Seller shall require all personnel engaged by Seller to perform the Equipment Removal to comply with all applicable Laws and any applicable rules and protocols reasonably prescribed by Purchaser for the Site, as in effect from time to time. Seller understands and agrees that Purchaser has the right to deny access to the Site to any such personnel that Purchaser reasonably believes are not in compliance with the foregoing or present a hazard or a material disruption to the Site. Seller shall, and shall cause its contractors to, execute and deliver such agreements or acknowledgments in favor of Purchaser with respect to the access granted to Seller or its personnel in connection with the performance of the Equipment Removal, as may be reasonably requested by Purchaser from time to time. Seller shall, and shall cause its contractors performing the Equipment Removal to, carry and maintain insurance with coverages and amounts reasonably required by Purchaser from time to time.”



7. **Additional Exhibits and Schedule.** The Parties hereby add a new "Exhibit E", "Exhibit F", "Exhibit G" and "Schedule 1.3", copies of which are attached to this Amendment.

8. **Purchase Price Adjustment.** Based on the amendments to the Agreement set forth herein, the Parties acknowledge and agree that an adjustment to the Purchase Price equal to \$384,192.84 shall be paid by Seller to the account of Purchaser by a wire transfer of immediately available funds on the Execution Date. Such Purchase Price adjustment shall consist of the following:

- a. \$200,000 for the Corn Oil System; *plus*
- b. \$50,000 for the Whitefox Equipment (Other); *plus*
- c. \$134,192.84 for the PG&E Rule 21 Study Liability.

9. **Miscellaneous.**

a. This Amendment amends and modifies the Agreement only to the extent of the items expressly noted herein. Except for those items expressly modified, deleted or amended herein, all the terms, conditions, covenants and warranties contained in the Agreement are ratified as of the date hereof, are incorporated herein by this reference and remain in full force and effect, unaltered and unchanged by this Amendment.

b. This Amendment and the Agreement shall be binding upon the legal representatives, successors and assigns of the parties hereto.

c. The Parties acknowledge and agree that any further modification, deletion, amendment or extension of the Agreement shall be the subject of separate negotiations between the parties, and that the Agreement and this Amendment shall not be further modified or extended, except by written instrument executed by all parties hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment by their authorized representatives.

**PURCHASER:**

**SEABOARD ENERGY CALIFORNIA, LLC**

By: /s/ Gary F. Louis  
Name: Gary F. Louis  
Title: President and Chief Executive Officer

**SELLER:**

**PACIFIC ETHANOL MADERA LLC**

By: /s/ Patrick McKenzie  
Name: Patrick McKenzie  
Title: Vice President

**SELLER PARENT:**

**ALTO INGREDIENTS, INC.**

By: /s/ Patrick McKenzie  
Name: Patrick McKenzie  
Title: Vice President

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Michael D. Kandris, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Alto Ingredients, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 10, 2021

/s/ MICHAEL D. KANDRIS

Michael D. Kandris  
President and Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Bryon T. McGregor, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Alto Ingredients, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 10, 2021

/S/ BRYON T. MCGREGOR

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Bryon T. McGregor  
Chief Financial Officer  
(Principal Financial Officer)

**CERTIFICATION OF  
CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Alto Ingredients, Inc. (the "Company") for the period ended June 30, 2021 (the "Report"), the undersigned hereby certify in their capacities as Chief Executive Officer and Chief Financial Officer of the Company, respectively, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: August 10, 2021

By: /S/ MICHAEL D. KANDRIS  
Michael D. Kandris  
President and Chief Executive Officer  
(Principal Executive Officer)

Dated: August 10, 2021

By: /S/ BRYON T. MCGREGOR  
Bryon T. McGregor  
Chief Financial Officer  
(Principal Financial Officer)

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signatures that appear in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.