

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

FORM 8-K

CURRENT REPORT  
Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): September 15, 2017

**PACIFIC ETHANOL, INC.**

(Exact Name of Registrant as Specified in Charter)

**Delaware**

(State or Other Jurisdiction  
of Incorporation)

**000-21467**

(Commission File  
Number)

**41-2170618**

(IRS Employer  
Identification No.)

**400 Capitol Mall, Suite 2060  
Sacramento, California**

(Address of Principal Executive Offices)

**95814**

(Zip Code)

Registrant's Telephone Number, Including Area Code:

**(916) 403-2123**

(Former Name or Former Address, if Changed Since Last Report)

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

- Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communication pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

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

**Item 1.01. Entry into a Material Definitive Agreement.**

*Credit Agreement*

On September 15, 2017, Pacific Ethanol, Inc.'s subsidiary, Illinois Corn Processing, LLC ("ICP"), Compeer Financial, PCA ("Lender"), and CoBank, ACB ("Agent") entered into a Credit Agreement dated September 15, 2017 ("Credit Agreement").

Pursuant to the Credit Agreement, the Lender agreed to extend to ICP a term loan in the amount of \$24,000,000 and a revolving loan in an amount of up to \$18,000,000.

Interest on the unpaid principal amounts of the loans is payable monthly and accrues, at ICP's election, at either the LIBOR Index Option or the Quoted Rate Option. Interest accrues under the LIBOR Index Option at a rate equal to the rate in the applicable loan note plus the higher of (i) 0.000%, or (ii) the rate reported at 11:00 a.m. London time for the offering of one-month U.S. dollar deposits by Bloomberg Information Services ("LIBOR Index Rate"). Interest accrues under the Quoted Rate Option at a rate equal to a fixed rate per annum quoted to ICP by the Agent ("Quoted Rate"). ICP has not received a Quoted Rate and has elected the LIBOR Index Option. In the event of default the applicable rate will increase by an additional 4% per annum.

The Credit Agreement also contains numerous customary representations and warranties, affirmative and negative covenants, including limitations on ICP's right to make or pay dividends, and events of default and applicable remedies.

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

*Term Note*

On September 15, 2017, ICP executed a Term Note dated September 15, 2017 in favor of the Lender in the principal amount of \$24,000,000.

Pursuant to the Term Note, ICP is to use the proceeds of the Term Note to refinance ICP's existing indebtedness. ICP is to make amortizing principal payments in sixteen equal consecutive quarterly installments of \$1,500,000 each until September 20, 2021, at which time the entire remaining indebtedness is due and payable.

Interest on the unpaid principal amount of the term loan accrues, pursuant to ICP's election of the LIBOR Index Option, at a rate equal to 3.75% plus the LIBOR Index Rate.

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

*Revolving Term Note*

On September 15, 2017, ICP executed a Revolving Term Note dated September 15, 2017 in favor of the Lender in the principal amount of up to \$18,000,000. The Revolving Term Note matures on September 1, 2022.

Pursuant to the Revolving Term Note, ICP is to use the proceeds of the revolving term facility to refinance ICP's existing indebtedness and for working capital.

The Revolving Term Note gives ICP the right, in ICP's sole discretion, to permanently reduce from time to time the revolving term commitment in increments of \$500,000 by giving the Agent ten days prior written notice.

The Revolving Term Note requires ICP to pay the Agent a nonrefundable commitment fee equal to 0.75% per annum multiplied by the average daily positive difference between the amount of (i) the revolving term commitment, minus (ii) the aggregate principal amount of all loans outstanding under the Revolving Term Note.

Interest on the unpaid principal amount of the loan accrues, pursuant to ICP's election of the LIBOR Index Option, at a rate equal to 3.75% plus the LIBOR Index Rate.

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

#### *Illinois Future Advance Real Estate Mortgage*

On September 15, 2017, ICP entered into an Illinois Future Advance Real Estate Mortgage ("Real Estate Mortgage"), dated September 15, 2017 in favor of the Agent.

The Real Estate Mortgage secures all of ICP's obligations to the Lender and the Agent, including under the Credit Agreement, Term Note and Revolving Term Note, and grants the Lender and Agent a mortgage on ICP's real property.

The Real Estate Mortgage contains numerous customary representations, warranties, and covenants of ICP.

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

#### *Security Agreement*

On September 15, 2017, ICP entered into a Security Agreement dated September 15, 2017 in favor of the Agent. The Security Agreement grants the Agent a security interest in all of ICP's personal property. The security interest secures all of ICP's obligations to the Lender and Agent, including under the Credit Agreement, Term Note and Revolving Term Note.

The Security Agreement also contains numerous customary representations, warranties, covenants and other customary terms and conditions.

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

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

(a) On September 15, 2017, ICP, Lender and Agent entered into a Credit Agreement; ICP executed a Term Note and Revolving Term Note in favor of the Lender; ICP entered into an Illinois Future Advance Real Estate Mortgage in favor of the Agent; and ICP entered into a Security Agreement in favor of the Agent, all dated September 15, 2017, and all as described under Item 1.01. The disclosures contained above under Item 1.01 are incorporated herein by reference.

(b) Not applicable.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

<u>Number</u>	<u>Description</u>
10.1	<u><a href="#">Credit Agreement dated September 15, 2017 by and between Illinois Corn Processing, LLC, Compeer Financial, PCA and CoBank, ACB</a></u> (*)
10.2	<u><a href="#">Term Note dated September 15, 2017 by Illinois Corn Processing, LLC in favor of Compeer Financial, PCA</a></u> (*)
10.3	<u><a href="#">Revolving Term Note dated September 15, 2017 by Illinois Corn Processing, LLC in favor of Compeer Financial, PCA</a></u> (*)
10.4	<u><a href="#">Illinois Future Advance Real Estate Mortgage dated September 15, 2017 by Illinois Corn Processing, LLC in favor of CoBank, ACB</a></u> (*)
10.5	<u><a href="#">Security Agreement dated September 15, 2017 by Illinois Corn Processing, LLC in favor of CoBank, ACB</a></u> (*)

(\*) Filed herewith. All of 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.

**SIGNATURE**

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

Date: September 21, 2017

PACIFIC ETHANOL, INC.

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

## EXHIBITS FILED WITH THIS REPORT

<u>Number</u>	<u>Description</u>
10.1	<u><a href="#">Credit Agreement dated September 15, 2017 by and between Illinois Corn Processing, LLC, Compeer Financial, PCA and CoBank, ACB</a></u>
10.2	<u><a href="#">Term Note dated September 15, 2017 by Illinois Corn Processing, LLC in favor of Compeer Financial, PCA</a></u>
10.3	<u><a href="#">Revolving Term Note dated September 15, 2017 by Illinois Corn Processing, LLC in favor of Compeer Financial, PCA</a></u>
10.4	<u><a href="#">Illinois Future Advance Real Estate Mortgage dated September 15, 2017 by Illinois Corn Processing, LLC in favor of CoBank, ACB</a></u>
10.5	<u><a href="#">Security Agreement dated September 15, 2017 by Illinois Corn Processing, LLC in favor of CoBank, ACB</a></u>

**CREDIT AGREEMENT**

**by and between**

**ILLINOIS CORN PROCESSING, LLC**

**as Company,**

**COMPEER FINANCIAL, PCA**

**as Lender**

**and**

**COBANK, ACB**

**as Cash Management Provider and Agent**

**Dated as of September 15, 2017**

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Annex A	–	Definitions and Rules of Construction
Annex B	–	Real Property Collateral
Schedule 5.2	–	Subsidiaries
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Exhibit A	–	Form of Term Note
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## CREDIT AGREEMENT

THIS CREDIT AGREEMENT (as amended, restated, modified or supplemented from time to time, the “**Agreement**”) is dated as of September 15, 2017, and is entered into by and between ILLINOIS CORN PROCESSING, LLC, a limited liability company organized and existing under the laws of Delaware (“**Company**”), COMPEER FINANCIAL, PCA, a federally-chartered instrumentality of the United States (“**Lender**”), and COBANK, ACB, a federally-chartered instrumentality of the United States (“**Cash Management Provider**” or “**Agent**”).

Upon the request of the Company, Lender has agreed to provide the Company with the credit facilities described below and Cash Management Provider has agreed to provide the other financial accommodations described below. In consideration thereof and of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company, Lender, Cash Management Provider and Agent hereby agree as follows:

**ARTICLE 1 Certain Definitions and Rules of Construction.** In addition to definitions established elsewhere in this Agreement, certain capitalized words and terms used in this Agreement are defined in Annex A to this Agreement, which is incorporated herein by reference and made a part hereof. In addition, Annex A sets forth the rules of construction and certain accounting principles applicable to this Agreement.

**ARTICLE 2 The Credit Facilities.** Subject to the terms and conditions of this Agreement and relying on the representations and warranties set forth herein, Lender hereby establishes in favor of the Company the credit facilities, loans, and other financial accommodations described below (collectively, the “**Facilities**”). The Facilities shall be subject to and governed and secured by the terms and conditions contained in this Agreement, the Notes, and the other Loan Documents. The terms of each Note shall set forth the amount and duration of each Facility, the interest thereon, the fees applicable thereto, and the purpose thereof, as well as any other terms and conditions Agent may elect to set forth therein, and the Company shall be subject thereto.

**2.1 The Term Loan.** Lender agrees to make a term loan to the Company in a principal amount not to exceed the Term Loan Amount set forth in the Term Note (the “**Term Loan**”) upon the request of the Company made in accordance with the terms of the Term Note and this Agreement; provided, however, that the Term Loan shall be made in a single advance on or before the Term Loan Availability Expiration Date.

(a) **The Term Note.** The Term Loan shall be evidenced by a promissory note of the Company, substantially in the form of Exhibit A hereto and otherwise in form and substance satisfactory to Agent, payable to the order of Lender (as amended, restated, modified, supplemented, replaced, refinanced or renewed from time to time, the “Term Note”). The terms and provisions of the Term Note are incorporated herein by reference and made a part hereof. In the event of irreconcilable inconsistency between the terms hereof and the terms of the Term Note, the terms of the Term Note shall control.

(b) **Payments.** All principal, interest and fees outstanding under the Term Loan shall be due and payable pursuant to the Term Note except to the extent otherwise provided for in this Agreement.

**2.2 The Revolving Term Loan.** Lender hereby establishes in favor of the Company a revolving term credit facility as described below (the “**Revolving Term Facility**”).

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(a) **Loans; Limitations.** Subject to the terms and conditions of this Agreement, the Revolving Term Note and the other Loan Documents, prior to the Revolving Term Facility Expiration Date, upon the request of the Company, Lender shall make loans to the Company under the Revolving Term Facility (each, a “**Revolving Term Loan**”); provided, that in no event shall Lender be obligated to make a Revolving Term Loan that, when added to the then-current Revolving Term Facility Usage, would exceed at any time the Revolving Term Commitment. Within such limits and subject to the other terms and conditions of this Agreement and the other Loan Documents, the Company may borrow, repay, and reborrow under the Revolving Term Facility.

(b) **Revolving Term Note.** Amounts owed under the Revolving Term Facility shall be evidenced by a promissory note of the Company, substantially in the form of Exhibit B hereto and otherwise in form and substance satisfactory to Agent, payable to the order of Lender (as amended, restated, modified, supplemented, replaced, refinanced or renewed from time to time, the “**Revolving Term Note**”). The terms and provisions of the Revolving Term Note are incorporated herein by reference and made a part hereof. In the event of irreconcilable inconsistency between the terms hereof and the terms of the Revolving Term Note, the terms of the Revolving Term Note shall control.

(c) **Payment Dates.** All principal, interest and fees outstanding under the Revolving Term Facility shall be due and payable pursuant to the Revolving Term Note except to the extent otherwise provided for in this Agreement.

(d) **Protective Advances.** Lender is authorized by the Company (but shall have absolutely no obligation to), from time to time in Lender’s sole discretion, to make Revolving Term Loans to or on behalf of the Company that Lender and Agent deem necessary or desirable (i) to preserve or protect the Collateral, or any portion thereof, (ii) to enhance the likelihood of, or maximize the amount of, repayment of the Loans and other Obligations, or (iii) to pay any other amount chargeable to or required to be paid by the Company pursuant to the terms of this Agreement, including payments of reimbursable expenses (including reasonable costs, fees, and expenses as described in Section 11.2) and other sums payable under the Loan Documents (any of such Revolving Term Loans are herein referred to as “**Protective Advances**”). Protective Advances may be made even if the conditions precedent set forth in Section 4.2 have not been satisfied. The Protective Advances shall be secured by the Collateral and shall constitute Obligations hereunder. All Protective Advances shall be Libor Index Rate Loans.

(e) **Cash Management Arrangements.** The Company and Cash Management Provider may enter into a CoBank Cash Management Agreement providing for the automatic advance by Cash Management Provider of Revolving Term Loans under the conditions set forth in such agreement, which conditions shall be in addition to the conditions set forth herein.

### **2.3 Availability and Payments Generally.**

(a) **Availability.** Loans and advances will be made available by wire transfer of immediately available funds to such account or accounts as may be authorized or directed by the Company on forms supplied or approved by Agent. Agent shall be entitled to rely on (and shall incur no liability to the Company in acting on) any request, delegation or direction furnished by the Company in accordance with the terms of this Agreement, any Note, a Delegation Form or any other Loan Document.

(b) **Payments Generally.** All payments and prepayments to be made in respect of the Obligations shall be payable prior to 3:00 p.m. (Mountain time) on the date when due without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Company, and without set-off, counterclaim or other deduction of any nature, and an action therefor shall immediately accrue. Such payments or prepayments of Obligations shall be made (i) by wire transfer of immediately available funds to ABA No. 307088754 for advice to and credit of Agent for the account of Lender (or to such other account as Agent may direct by written notice) or (ii) by check or ACH transfer, to Agent for the account of Lender at its office located at 6340 S. Fiddlers Green Circle, Greenwood Village, Colorado 80111 (or at such other place of payment designated by Agent to the Company) in U.S. dollars and in immediately available funds. In the event that any payment on any Obligation is made by check by the Company, credit for payment by check shall be given as of the Business Day on which Agent receives the check at the address designated by Agent from time to time for delivery of payments by check. All notices by the Company to Agent of payment or prepayment shall be irrevocable. Agent's statement of account, ledger, or other relevant record shall, in the absence of manifest error, be conclusive as the statement of the amount of principal, interest, and other Obligations owing under this Agreement, the Notes, and the other Loan Documents and shall be deemed an "account stated." Any payment received by Agent after 3:00 p.m. (Mountain time) shall be deemed received by Agent on the next succeeding Business Day. All payments hereunder and under any Note, including all amounts designated as principal prepayments, shall be credited first to interest, costs, and lawful charges then accrued and the remainder to principal as provided herein or in any applicable Note or otherwise as Agent in its sole discretion may determine.

**2.4 Interest Payment Dates.** Interest on principal amounts subject to the Quoted Rate Option or LIBOR Index Option shall be: (a) calculated monthly in arrears as of the last day of each month and on the final maturity date of the Loans; and (b) due and payable monthly in arrears on the twentieth (20th) day of the following month (or on such other day in such month as Agent shall require in a written notice to the Company) and at maturity (whether at stated maturity, by acceleration or otherwise) and after maturity on demand, and on the date of any payment or prepayment of any principal amount on the amount paid. Interest based on the Quoted Rate Option or LIBOR Index Option will be calculated in each case on the basis of the actual number of days elapsed in a year of 360 days.

**2.5 Interest After Default.** To the extent permitted by Law and notwithstanding any other term or condition of this Agreement, any Note or any other Loan Document, upon the occurrence of an Event of Default and until the time such Event of Default shall have been cured or waived in writing by Agent on behalf of Lender: (a) each Loan outstanding hereunder shall bear interest at a rate per annum equal to the sum of (i) the rate of interest that would otherwise be applicable pursuant to each Note or this Agreement plus (ii) an additional 4.0% per annum; (b) all fees otherwise applicable pursuant to this Agreement, any Note or any other Loan Document shall be increased by an additional 4.0% per annum; (c) each other Obligation hereunder if not paid when due shall bear interest at a rate per annum equal to the sum of (i) the rate of interest applicable under the LIBOR Index Option plus (ii) an additional 4.0% per annum from the time such Obligation becomes due and payable and until it is paid in full; and (d) the Company acknowledges that the increase in rates referred to in this paragraph reflects, among other things, the fact that the Loans outstanding and other Obligations have become a substantially greater risk given their default status and that Lender is entitled to additional compensation for such risk. All such interest shall be payable by the Company upon demand by Agent.

**2.6 Right to Prepay.** The Company shall have the right at its option from time to time to prepay any of the Loans in whole or in part without premium or penalty, except as may be otherwise set forth in a Note and except as provided in Sections 3.1, 3.4 and 11.2; provided, that the Company agrees, upon any prepayment of the Loans or reduction or termination of the Revolving Term Commitment prior to September 1, 2019 in connection with third party financing received by the Company, to pay Agent for the account of Lender a prepayment penalty equal to 2.0% of the amount of such prepayment, reduction or termination. Whenever the Company desires to prepay all or any part of the Loans, it shall provide a prepayment notice to Agent by 1:00 p.m. (Mountain time) at least three (3) Business Days prior to the date of prepayment of any Loans to which Quoted Rate Option applies and by 1:00 p.m. (Mountain time) on the same Business Day of prepayment of any Loans to which the LIBOR Index Option applies, setting forth in each case the following information: (a) the date, which shall be a Business Day, on which the proposed prepayment is to be made; (b) a statement indicating the application of the prepayment between the various Facilities (if more than one hereunder); (c) a statement indicating the application of the prepayment among Loans to which the Quoted Rate Option applies and Loans to which the LIBOR Index Option applies; and (d) the principal amount of such prepayment, which shall be in the minimum principal amount of the lesser of (i) \$100,000 for each Loan or (ii) the then outstanding amount of the Loan being prepaid. Unless otherwise agreed to by Agent, all prepayment notices shall be irrevocable. The principal amount of the Loans for which a prepayment notice is given, together with interest on such principal amount except with respect to Loans to which the LIBOR Index Option applies, shall be due and payable on the date specified in such prepayment notice as the date on which the proposed prepayment is to be made. If a Term Loan is included among the Facilities, all prepayments made under any Term Loan shall be applied (a) first, to the unpaid installments of principal thereunder scheduled to be paid within 365 days after such prepayment, in the order of scheduled maturities, and (b) second, to the unpaid installments of principal thereunder scheduled to be paid 366 days or more after such prepayment, in the inverse order of scheduled maturities. Except as otherwise provided in this Agreement or a Note, if the Company prepays a Loan but fails to specify the applicable Loan which the Company is prepaying, the prepayment shall be applied (i) first to Loans made under the Revolving Term Facility, and then to the Term Loan; and (ii) after giving effect to the allocations in clause (i) above and in the preceding sentence, first to Loans to which the LIBOR Index Option applies and then to Loans to which the Quoted Rate Option applies. Any prepayment of a Loan under the Quoted Rate Option shall be subject to the Company's obligation to indemnify Lender for break funding damages and costs to the extent provided in Section 3.4.

**2.7 Fees.** The Company shall pay Agent: (a) an administrative fee of \$10,000 on the Closing Date and on each July 1 thereafter, commencing on July 1, 2018; (b) an origination fee of \$315,000 on the Closing Date; and (c) the Unused Commitment Fees in accordance with the terms of the Revolving Term Note. Any such fees shall be fully earned when paid and shall not be refundable for any reason.

**ARTICLE 3 Increased Costs; Taxes; Illegality; Indemnity.**

**3.1 Increased Costs.**

- (a) **Increased Costs Generally.** If any Change in Law shall:
- (i) impose, modify, or deem applicable any reserve, special deposit, compulsory loan, insurance charge, or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lending Party;
  - (ii) subject any Lending Party to any Taxes of any kind whatsoever with respect to this Agreement, any Note, or any other Loan Document, or any Loan hereunder or any other Obligation, or change the basis of taxation of payments to a Lending Party in respect thereof (except for Indemnified Taxes or Other Taxes covered below and the imposition of, or any change in the rate of, any Excluded Tax payable by a Lending Party); or
  - (iii) impose on any Lending Party or the London interbank market any other condition, cost, or expense (other than Taxes) affecting this Agreement, any Note, or any other Loan Document, or any Loan made by Lender;

and the result of any of the foregoing shall be to reduce the amount of any sum received or receivable by any Lending Party hereunder (whether of principal, interest or any other amount) then, upon request of Agent, the Company will pay to Agent for the account of each applicable Lending Party such additional amount or amounts as will compensate such a Lending Party for such additional costs incurred or reduction suffered.

(b) **Certificates for Reimbursement.** A certificate of Agent setting forth the amount or amounts necessary to compensate each Lending Party as specified in this Section 3.1 and delivered to the Company shall be conclusive absent manifest error. The Company shall pay Agent for the account of each applicable Lending Party the amount shown as due on any such certificate within ten (10) Business Days after receipt thereof.

(c) **Delay in Requests.** Failure or delay on the part of Agent to demand compensation pursuant to this Section 3.1 shall not constitute a waiver of any Lending Party's right to demand such compensation; provided that the Company shall not be required to compensate a Lending Party pursuant to this Section 3.1 for any increased costs incurred or reductions suffered more than 180 days prior to the date that Agent notifies the Company of the Change in Law giving rise to such increased costs or reductions or of Agent's intention to claim compensation therefor on behalf of the applicable Lending Party (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180 day period referred to above shall be extended to include the period of retroactive effect thereof).

### 3.2 Taxes.

(a) **Payments Free of Taxes.** Any and all payments by or on account of any Obligation of the Company hereunder or under any other Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of Agent) requires the deduction or withholding by Agent of any Tax from any such payment, then Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Official Body in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Company shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 3.2) Agent receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) **Payment of Other Taxes by the Company.** Without limiting the provisions of the foregoing clause (a) directly above, the Company shall timely pay to the relevant Official Body in accordance with applicable Law, or at the option of Agent timely reimburse it for the payment of, any Other Taxes.

(c) **Indemnification by the Company.** The Company shall indemnify each Lending Party, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.2) payable or paid by such Lending Party or required to be withheld or deducted from a payment to a Lending Party and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Official Body. A certificate as to the amount of such payment or liability delivered by Agent to the Company shall be conclusive absent manifest error.

(d) **Evidence of Payments.** As soon as practicable after any payment of Taxes by the Company to an Official Body, the Company shall deliver to Agent the original or a certified copy of a receipt issued by such Official Body evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Agent.

(e) **Treatment of Certain Refunds.** If a Lending Party determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified by the Company or with respect to which the Company has paid additional amounts to Agent pursuant to this Section 3.2, it shall pay to the Company an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Company to Agent under this Section 3.2 with respect to the Taxes giving rise to such refund), net of all expenses (including Taxes) of such Lending Party, and without interest (other than any interest paid by the relevant Official Body to Agent with respect to such refund). The Company, upon request of Agent, shall repay to Agent for the account of the applicable Lending Party any amount paid over pursuant to this paragraph (plus any penalties, interest or other charges imposed by the relevant Official Body) in the event such Lending Party is required to repay such refund to such Official Body. Notwithstanding anything to the contrary in this paragraph, in no event will any Lending Party be required to pay any amount to the Company pursuant to this paragraph, the payment of which would place such Lending Party in a less favorable net after-Tax position than it would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any Lending Party to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to the Company or any other person or entity.

### 3.3 LIBOR Index Rate Unascertainable; Illegality.

(a) **Unascertainable.** If, on any date on which a LIBOR Index Rate would otherwise be determined, Agent shall have determined that:

- (i) adequate and reasonable means do not exist for ascertaining such LIBOR Index Rate, or
- (ii) a contingency has occurred which materially and adversely affects the London interbank eurodollar market relating to the LIBOR Index Rate,

then in either case Lender shall have the rights specified in Section 3.3(c).

(b) **Illegality.** If at any time Agent shall have determined that the making, maintenance or funding of any Loan to which the LIBOR Index Option applies has been made impracticable or unlawful by compliance by Agent in good faith with any Law or any interpretation or application thereof by any Official Body or with any request or directive of any such Official Body (whether or not having the force of Law), then Agent shall have the rights specified in Section 3.3(c).

(c) **Lender and Agent's Rights.** In the case of an event specified in Section 3.3(a) or 3.3(b), Agent shall so notify the Company thereof, and in the case of an event specified in Section 3.3(b), such notice shall describe the specific circumstances of such event. Upon such date as shall be specified in such notice (which shall not be earlier than the date such notice is given), the obligation of Lender to allow the Company to select, convert to or renew a LIBOR Index Option shall be suspended until Agent shall have later notified the Company of Agent's determination that the circumstances giving rise to such previous determination no longer exist. If at any time Agent makes a determination under Section 3.3(a) and the Company has previously notified Agent of its selection of, conversion to or renewal of a LIBOR Index Option and such Interest Rate Option has not yet gone into effect, such notification shall be deemed to provide for selection of, conversion to or renewal of the Quoted Rate Option with respect to such Loans. If Agent notifies the Company of a determination under Section 3.3(b), the Company shall, subject to the Company's indemnification Obligations under Section 3.4, as to any Loan of the Company to which a LIBOR Index Option applies, as applicable, on the date specified in such notice either convert such Loan to the Quoted Rate Option with respect to such Loan or prepay such Loan in accordance with Section 2.6. Absent due notice from the Company of conversion or prepayment, the interest rate on such Loan shall automatically be converted to the variable interest rate known as the U.S. Prime Rate as published by the Wall Street Journal plus 2.00% per annum.



**3.4 Indemnity.** The Company hereby agrees that upon demand by Agent, the Company will indemnify Lender against any loss or expense that Lender may have sustained or incurred (including any net loss or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by Lender to fund or maintain Quoted Rate Option Loans) or that Lender may be deemed to have sustained or incurred, as reasonably determined by Agent, (a) as a consequence of any failure by the Company to make any payment when due of any amount due hereunder in connection with any Quoted Rate Option Loans, (b) due to any failure of the Company to borrow or convert any Quoted Rate Option Loans on a date specified therefor in a notice thereof, or (c) due to any payment or prepayment of any Quoted Rate Option Loans on a date other than the last day of the applicable period of such Quoted Rate for such Quoted Rate Option Loan. For this purpose, all Loan Requests shall be deemed to be irrevocable. Notwithstanding the foregoing, in the event of a conflict between the provisions of this Section 3.4 and of the broken funding charge section of a forward fix agreement between Agent and the Company, for losses imputed by Agent, the provisions of the forward fix agreement shall control.

**ARTICLE 4 Conditions Precedent.** The obligation of Lender to provide any Facility or to make, issue, renew, or convert any Loan under this Agreement, any Note or any other Loan Document is subject to the ongoing performance by the Company of its obligations to be performed under this Agreement, the Notes, and each other Loan Document and to the satisfaction of all conditions set forth in this Agreement, the Notes, and each other Loan Document, including the following conditions:

**4.1 Initial Loans.**

(a) **Deliveries.** No later than the Closing Date (or such later date as Agent shall specify in its sole discretion), Agent shall have received each of the following (which, in the case of instruments and documents, must (unless otherwise stated below) be originals, duly executed, and in form and substance satisfactory to Agent):

- (i) This Agreement, the Notes and the Environmental Indemnity Agreement duly executed by an Authorized Officer of the Company or PEI, as applicable;
- (ii) A Delegation Form;
- (iii) (A) all resolutions and other corporate or other organizational action taken by the Company and PEI in connection with this Agreement and the other Loan Documents; (B) the names and titles of the Authorized Officers authorized to sign the Loan Documents and their true signatures; and (C) copies of the Organizational Documents of the Company and PEI as in effect on the Closing Date certified by the appropriate state official where such documents are filed in a state office together with certificates from the appropriate state officials as to the continued existence and good standing of the Company and PEI in each state where organized or qualified to do business;

- (iv) A security agreement duly executed by an Authorized Officer of the Company granting to Agent, for the benefit of the Lending Parties, a first priority Lien, subject only to Permitted Liens, on all Personal Property Collateral of the Company, whether now owned or hereafter acquired, and a UCC-1 Financing Statement;
- (v) Evidence, including a Lien search in acceptable scope from a provider satisfactory to Agent, that the security interests in and Liens on the Collateral are valid, enforceable, and properly perfected in a manner acceptable to Agent and prior to all other Liens (other than Permitted Liens);
- (vi) An executed landlord's waiver or other lien waiver agreement from the lessor, warehouse operator, or other applicable Person for each Collateral location as required under or in connection with any security agreement;
- (vii) Mortgages or deeds of trust in recordable form and duly executed by an Authorized Officer of the Company, in a face amount of no less than \$84,000,000, granting to Agent, for the benefit of the Lending Parties, a first priority Lien (subject only to Permitted Liens) on the Real Property Collateral;
- (viii) A commitment to issue an ALTA lender's title insurance policy, in a form and from a title insurance company acceptable to Agent, in a face amount of no less than \$42,000,000, insuring Agent's first priority Lien on the Real Property Collateral, with only such exceptions as may be approved by Agent, together with such endorsements as Agent may require (the "**Title Policy**");
- (ix) An appraisal of the Real Property Collateral which indicates that the Real Property Collateral has an appraised value of \$69,000,000 or more and which is otherwise satisfactory to Agent;
- (x) Surveys of the Real Property Collateral satisfactory to Agent, with identification of each item with the corresponding exception number from the Title Policy, together with a certificate of the surveyor or other Person acceptable to Agent that the Real Property Collateral is or is not, as the case may be, in a special flood hazard area for purposes of the National Flood Insurance Program;
- (xi) Evidence that the Company has taken all actions required under the Flood Laws or requested by Agent to assist in ensuring that Agent is in compliance with the Flood Laws applicable to the Collateral, including, but not limited to, providing Agent with the address or GPS coordinates of each structure on any real property that will be subject to mortgages or deeds of trust, and to the extent required under Section 6.6, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral;

- (xii) A written opinion of counsel for the Company, dated no later than the Closing Date, in form and substance and from counsel reasonably satisfactory to Agent;
- (xiii) Evidence that adequate insurance, including flood insurance on any Real Property Collateral, if applicable, required to be maintained under this Agreement or any other Loan Document is in full force and effect, with additional insured, mortgagee and lender loss payable special endorsements attached thereto in form and substance satisfactory to Agent and counsel (retained, engaged or employed by Agent) naming Agent, for the benefit of the Lending Parties, as additional insured, mortgagee and lender loss payee;
- (xiv) Evidence of filing of all Official Body consents, approvals and filings, and all material third party consents and approvals required to effectuate the transactions contemplated hereby;
- (xv) Phase I environmental assessments of the Real Property Collateral performed by an environmental assessment firm satisfactory to Agent or other environmental assessments and due diligence satisfactory to Agent;
- (xvi) Evidence of compliance with Section 6.2 and a favorable determination of eligibility of the Company to borrow from Lender;
- (xvii) A pro forma balance sheet of the Company as of the Closing Date which gives effect to the transactions contemplated by this Agreement, together with a duly completed Compliance Certificate as of the Closing Date, in each case, certified by the Chief Executive Officer, President, Chief Financial Officer, Controller or comparable Authorized Officer of the Company as having been prepared in good faith and fairly presenting in all material respects the financial position of the Company as of the date thereof. Such pro forma balance sheet and Compliance Certificate shall certify that the Working Capital of the Consolidated Group is not less than \$8,500,000 as of the Closing Date;
- (xviii) A payoff letter from MGPI Processing, Inc. and Illinois Corn Processing Holdings, Inc. confirming the amount required to pay off all Indebtedness owing to such lenders by the Company and confirming the discharge, release and termination of all Liens on the property of the Company upon receipt of such payoff amount;
- (xix) A copy of the Risk Management Policy; and
- (xx) All other Loan Documents and due diligence materials as Agent or its counsel may request in connection with this Agreement or any of the foregoing documents, instruments, or agreements.

(b) **Payment of Fees.** The Company shall have paid all fees and expenses of Agent and the Lending Parties, if any, payable on or before the Closing Date as required by this Agreement or any other Loan Document.

**4.2 Each Loan.** At the time of the making of any Loan (including the initial Loan) and after giving effect to each such proposed extension(s) of credit, the Company hereby certifies to Agent and Lender that at such time (and each request by the Company for a Loan is hereby deemed to be such certification):

- (a) the representations and warranties of the Company and PEI contained in this Agreement and the other Loan Documents are true and correct in all material respects;
- (b) no Event of Default or Default has occurred and is continuing;
- (c) the making of the Loan does not contravene any Law applicable to Agent, any Lending Party, the Company or any Subsidiary of the Company;
- (d) no Material Adverse Change has occurred since the date of the last audited financial statements of the Company delivered to Agent;
- (e) the Company has satisfied any other conditions precedent set forth in each applicable Loan Document; and
- (f) the Company has delivered to Agent a duly executed and completed Loan Request.

**ARTICLE 5 Representations and Warranties.** The Company represents and warrants to Agent and each of the Lending Parties, as of the date of this Agreement and as of the making of any Loan, as follows:

**5.1 Compliance with Loan Documents.** The Company is in compliance with all of the terms of this Agreement and the other Loan Documents, and no Event of Default or Default exists.

**5.2 Subsidiaries.** The Company has no Subsidiaries other than those which are set forth on Schedule 5.2, and all information provided on Schedule 5.2 is complete, true and correct. All stock and other equity interests in the Company and in each Subsidiary are owned free and clear of all Liens other than Permitted Liens. The stock or other equity interests of the Company and each Subsidiary of the Company has been duly authorized and validly issued and is fully paid and non-assessable.

**5.3 Organization; Compliance with Law; Ownership; Investment Companies.(a)**

(a) The Company and each of its Subsidiaries (i) is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, (ii) has the lawful power to own or lease its properties and to engage in the business it conducts or proposes to conduct, and (iii) is duly qualified and in good standing in each jurisdiction where the property owned or leased by it or the nature of the business transacted by it makes such qualification necessary.

(b) The Company and each of its Subsidiaries is in compliance in all material respects with all applicable Laws.

(c) The Company and each of its Subsidiaries (i) has good and marketable title to or a valid leasehold interest in all of its properties, assets, and other rights it purports to own, free and clear of all Liens except Permitted Liens and (ii) owns or possesses all material patents, trademarks, service marks, trade names, copyrights, licenses, registrations, franchises, permits, and rights necessary to own and operate its properties and to carry on its business as presently conducted and planned to be conducted, without known, possible, alleged, or actual conflict with the rights of others. Neither the Company nor any of its Subsidiaries is an "investment company," as defined in, or subject to regulation under, the Investment Company Act of 1940.

#### **5.4 Power and Authority; Binding and Enforceable Agreement.**

(a) The Company has full limited liability company power to enter into, execute, deliver, carry out, incur the indebtedness contemplated by, and perform its Obligations under, the Loan Documents to which it is a party, and all such actions have been duly authorized by all necessary proceedings on its part.

(b) This Agreement and each of the other Loan Documents (i) has been duly and validly executed and delivered by an Authorized Officer on behalf of the Company, to the extent it is a party thereto, and (ii) constitutes the legal, valid, and binding obligations of the Company, to the extent it is a party thereto, enforceable against the Company in accordance with its terms except to the extent that enforcement may be limited by applicable bankruptcy, insolvency, or similar laws or equitable principles affecting creditors' rights generally.

(c) There exist no claims, deductions, defenses, or set-offs of any nature against any amount due or to become due under any Note or other Loan Document.

**5.5 Historical Financial Statements; Solvency.** The Company has delivered to Agent copies of its audited year-end financial statements for and as of the end of the fiscal year ended December 31, 2016, together with copies of its unaudited interim financial statements for the quarter ended June 30, 2017 (all such annual and interim statements being collectively referred to as the "Statements"). The 2017 interim Statement and, to the Company's knowledge, the 2016 annual Statement were compiled from the books and records maintained by the Company, are correct and complete and fairly represent the financial condition of the Company as of the respective dates thereof and the results of operations for the fiscal periods then ended and have been prepared in accordance with GAAP consistently applied, subject (in the case of the interim statements) to normal year end audit adjustments. The assumptions constituting the basis on which the Company prepared the budgets and projections provided to Agent and developed the numbers set forth therein were developed in good faith, based on all information known to the Company at such time, it being understood that such budgets and projections are subject to inherent uncertainties and do not constitute a guaranty of future performance. Before and after giving effect to the Loans made by Lender hereunder and under each Note, the Company is solvent.

**5.6 Litigation.** There are no actions, suits, proceedings, or investigations pending or, to the knowledge of the Company, threatened, against the Company or any Subsidiary of the Company at law or in equity which individually or in the aggregate may result in any Material Adverse Change. Neither the Company nor any Subsidiary of the Company is in violation of any order, writ, injunction, or decree of any Official Body which may result in any Material Adverse Change.

**5.7 Taxes.** All federal, state, local, and other tax returns required to have been filed with respect to the Company and its Subsidiaries have been filed, and payment or adequate provision has been made for the payment of all taxes, fees, assessments, and other governmental charges which have or may become due pursuant to said returns or to assessments received, except to the extent that such taxes, fees, assessments, or other governmental charges are being contested in good faith by appropriate proceedings diligently conducted and for which such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made.

**5.8 Margin Stock.** No part of the proceeds of any Loan made by Lender has been or will be used, whether directly or indirectly, for any purpose that has resulted or will result in a violation of Regulation U or X of the Board of Governors of the Federal Reserve System.

**5.9 No Conflict; Etc.** The execution, delivery, or performance of any Loan Document by the Company will not conflict with, constitute a default under or result in any breach of (a) the terms and conditions of any certificate or articles of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement, or other Organizational Documents of the Company or (b) any Law or any material agreement or instrument to which the Company or any of its Subsidiaries is a party or by which it or any of its Subsidiaries is bound or to which it is subject, or result in the creation or enforcement of any Lien whatsoever upon any property (now or hereafter acquired) of the Company or any of its Subsidiaries (other than Liens granted under the Loan Documents). There is no default under any such material agreement (referred to above) and neither the Company nor any Subsidiary of the Company is bound by any contractual obligation, or subject to any restriction in any Organizational Document, or any requirement of Law which could result in a Material Adverse Change. No consent, approval, exemption, order, or authorization of, or registration or filing with, any Official Body or any other Person is required by any Law or any agreement or Organizational Document in connection with the execution, delivery, or performance of any Loan Document. The proceeds of each Loan made by Lender shall be used for the purposes set forth in the applicable Note and as permitted by applicable Law.

**5.10 Full Disclosure; Application is True and Correct.** No Loan Document nor any other certificate, statement, agreement, or document furnished to Agent or any Lending Party in connection with this Agreement or any other Loan Document contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. The Company is not aware of any Material Adverse Change which has not been disclosed in writing to Agent. All representations and warranties set forth in the New Borrower Application for Credit (Cooperatives) given at any time and from time to time by the Company to Agent are and remain true and correct in all material respects, except to the extent corrected or supplemented by this Agreement and the Schedules hereto.

**5.11 Insurance.**

(a) The properties of the Company and of each of its Subsidiaries are insured pursuant to policies and other bonds that are valid and in full force and effect and that provide coverage meeting the requirements of Section 6.6.

(b) The Company, to the extent required under the Flood Laws, has obtained flood insurance for such structures and contents constituting Collateral located in a flood hazard zone pursuant to policies that are valid and in full force and effect and which provide coverage meeting the requirements of Section 6.6.

**5.12 Environmental Matters.**

(a) The facilities and properties currently or formerly owned, leased or operated by the Company (the “**Properties**”) do not contain any Hazardous Materials attributable to the Company’s ownership, lease or operation of the Properties in amounts or concentrations or stored or utilized which (i) constitute or constituted a violation of Environmental Laws, or (ii) could reasonably be expected to give rise to any Environmental Liability;

(b) The Company has not received any notice of violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters or compliance with Environmental Laws with regard to their activities at any of the Properties or the business operated by the Company (the “**Business**”), or any prior business for which the Company has retained liability under any Environmental Law;

(c) Hazardous Materials have not been transported or disposed of from the Properties in violation of, or in a manner or to a location which could reasonably be expected to give rise to any Environmental Liability for the Company, nor have any Hazardous Materials been generated, treated, stored or disposed of by or on behalf of the Company at, on or under any of the Properties in violation of Environmental Laws, or in a manner that could reasonably be expected to give rise to, Environmental Liability; and

(d) The Company and each of its Subsidiaries is and has been in compliance with applicable Environmental Laws.

(e) The representations and warranties set forth in this Section 5.12 are qualified in their entirety by reference to the Phase 1 environmental assessments, notices and letters delivered by the Company to Agent with respect to the Real Property Collateral.

### **5.13 ERISA.**

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state Laws. The Company and each ERISA Affiliate have made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Plan had any unfunded pension liability (i.e. excess of benefit liabilities over the current value of that Plan’s assets, determined in accordance with the assumptions used for funding the Plan for the applicable plan year); (iii) neither the Company nor any ERISA Affiliate has incurred, or reasonably expects to incur, any material liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither the Company nor any ERISA Affiliate has incurred, or reasonably expects to incur, any material liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither the Company nor any ERISA Affiliate has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

**5.14 Anti-Corruption Laws.** The Company, its Subsidiaries and their respective directors, officers and employees and, to the knowledge of the Company, the agents of the Company and its Subsidiaries, are in compliance with the FCPA and any other applicable anti-corruption law in all material respects. The Company has instituted and maintains policies designed to ensure compliance therewith.

**5.15 Sanctions.** None of the Company, its Subsidiaries or, to the knowledge of the Company, any director, officer, employee or agent of the Company or any of its Subsidiaries is a Person that is, or is owned or controlled by Persons that are (a) the subject or target of any sanctions administered or enforced by the U.S. Department of the Treasury’s Office of Foreign Assets Control, the U.S. Department of State, the United Nations Security Council, the European Union or Her Majesty’s Treasury (collectively, “**Sanctions**”) or (b) located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions, including, without limitation, Crimea, Cuba, Iran, North Korea, Sudan and Syria.

**5.16 Pre-Merger Representations and Warranties.** Notwithstanding anything to the contrary set forth elsewhere herein or in any other Loan Document, to the extent any representation or warranty set forth in this Article 5, elsewhere herein or in any other Loan Document relates to facts, circumstances, information, reports, filings, notices or other matters existing, created, filed or delivered prior to July 3, 2017, such representation or warranty is expressly limited to the actual knowledge of the Company, as presently constituted.

**ARTICLE 6 Affirmative Covenants.** The Company covenants and agrees that until Payment In Full, the Company shall be in compliance at all times with the following covenants:

**6.1 Reporting Requirements.** The Company shall furnish or cause to be furnished to Agent:

(a) **Monthly Financial Statements.** As soon as available and in any event within thirty (30) days after the end of each month, financial statements of the Company and its Consolidated Subsidiaries, if any, consisting of a balance sheet as of the end of each such month and related statements of income for the month then ended and the fiscal year through that date, and such other interim statements as Agent may specifically request, all in reasonable detail and certified (subject to normal year-end audit adjustments) by the Chief Executive Officer, President, Chief Financial Officer, Controller or comparable Authorized Officer of the Company as having been prepared in accordance with GAAP, consistently applied, and setting forth in comparative form the respective financial statements for the corresponding date and period in the previous fiscal year.

(b) **Annual Financial Statements.** As soon as available and in any event within ninety (90) days after the end of each fiscal year of the Company, financial statements of the Company and its Consolidated Subsidiaries, if any, consisting of a balance sheet as of the end of such fiscal year, and related statements of income and cash flows for the fiscal year then ended and all notes and schedules relating thereto, all prepared in accordance with GAAP and in reasonable detail, and setting forth in comparative form the financial statements as of the end of and for the preceding fiscal year, and audited by independent certified public accountants of nationally-recognized or industry-accepted standing and otherwise satisfactory to Agent. The certificate or report of accountants shall be free of qualifications, shall not indicate the occurrence or existence of any event, condition or contingency which would materially impair the prospect of payment or performance of any covenant, agreement, or duty of the Company under any of the Loan Documents and shall otherwise be satisfactory to Agent.

(c) **Certificate of the Company.** Together with each set of financial statements furnished to Agent pursuant to clauses (a) and (b) directly above, a certificate of the Company, substantially in the form of Exhibit C hereto and otherwise in form and content acceptable to Agent, signed by an Authorized Officer (i) setting forth calculations showing compliance with each of the financial covenants set forth in Article 8 as of the end of the period for which such statements are being furnished and (ii) certifying that no Event of Default or Default has occurred during the period covered by such financial statements or, if an Event of Default or Default has occurred, a description thereof and all actions taken or to be taken to remedy same (a “**Compliance Certificate**”).

(d) **Financial Projections.** As soon as available and in any event within ninety (90) days after the end of each fiscal year of the Company, financial projections of the Company for the then current fiscal year, together with an explanation of the assumptions used to forecast such financial projections.

(e) **Notices.**



(i) **Material Adverse Change; Default.** Promptly after any officer of the Company has learned of the occurrence of a Material Adverse Change or an Event of Default or Default, notice of such Material Adverse Change or Event of Default or Default and the action which the Company proposes to take with respect thereto.

(ii) **Litigation.** Promptly after the commencement thereof, notice of all actions, suits, proceedings, or investigations before or by any Official Body or any other Person against the Company or any Subsidiary of the Company which, if adversely determined, could constitute an Event of Default, Default, or Material Adverse Change.

(iii) **Environmental Litigation, Etc.** Promptly after receipt thereof, notice of the receipt of all pleadings, orders, complaints, indictments, or any other communication alleging a condition that may require the Company or any Subsidiary to undertake or to contribute to a cleanup or other response under Environmental Laws, or which seeks penalties, damages, injunctive relief, or criminal sanctions related to alleged material violations of such Environmental Laws, or which claim personal injury or property damage to any person as a result of Hazardous Materials.

(iv) **Erroneous Financial Information.** Immediately in the event that the Company or its accountants conclude or advise that any previously issued financial statement, audit report, or interim review should no longer be relied upon or that disclosure should be made or action should be taken to prevent future reliance, notice of the same.

(v) **Ethanol or Distillers Grain Marketers.** Promptly after the occurrence thereof, notice of (A) any change in the marketers used by the Company for ethanol or distillers grain and (B) the entry into any agreement or other contract, or any material amendment, restatement or other modification thereof, by the Company related to the marketing of ethanol or distillers grain, together with a duly executed copy thereof.

(vi) **Organizational Documents.** Promptly after the occurrence thereof, notice of any amendment, restatement or other modification of the Organizational Documents of the Company, together with a duly executed copy thereof.

(vii) **ERISA Event.** Immediately upon the occurrence of any ERISA Event, notice of the same.

(viii) **Other Reports.** Promptly upon their becoming available to the Company (but in any event within the time period (if any) specified therefor below):

(1) **Management Letters.** Any reports including management letters submitted to the Company by independent accountants in connection with any annual, interim, or special audit, to be supplied not later than 30 days after receipt by the Company thereof; and

(2) **SEC Reports; Shareholder Communications.** Public reports, including Forms 10-K, 10-Q and 8-K, registration statements and prospectuses and other shareholder communications, filed by PEI and the Company (to the extent the Company is or becomes an SEC reporting company) with the SEC to be supplied not later than 45 days after the last day of each calendar quarter (provided that separate delivery shall not be required to the extent the same is publicly available on the SEC's EDGAR system); and

(3) **Other Information.** Such other reports and information as Agent may from time to time reasonably request.

## 6.2 Lender Equity; Patronage; Statutory Lien; Voting Stockholder.

(a) **Lender Equity.** So long as Lender is a lender hereunder, the Company will acquire equity in Lender in such amounts and at such times as Lender may require in accordance with Lender's Bylaws and Capital Plan (as each may be amended from time to time), except that the maximum amount of equity that the Company may be required to purchase in Lender in connection with the Loans and other financial accommodations made hereunder by Lender may not exceed the maximum amount permitted by the Bylaws and the Capital Plan at the time this Agreement is entered into. The Company acknowledges receipt of (i) pertaining to the Lender or the Lender's parent association, as applicable, the most recent annual report and most recent quarterly report, if more recent than the annual report; a copy of the notice to borrowers concerning investment, which includes a description of the terms and conditions under which equity is issued; capitalization bylaws which describe the nature of all of the Company's stock and other equities in Lender acquired by the Company in connection with its patronage loans from Lender (the "**Lender Equities**") as well as Lender's capitalization requirements, and agrees to be bound by the terms thereof, and (ii) an Effective Interest Rate Disclosure Statement.

(b) **Patronage.** The Company acknowledges that Lender's Bylaws and Capital Plan (as each may be amended from time to time) shall govern (x) the rights and obligations of the parties with respect to the Lender Equities and any patronage refunds or other distributions made on account thereof or on account of the Company's patronage with Lender, (y) the Company's eligibility for patronage distributions from Lender (in the form of Lender Equities and cash) and (z) patronage distributions, if any, in the event of a sale by Lender of a participation interest in the Loans and other financial accommodations made hereunder. Lender reserves the right to assign or sell participations on a non-patronage basis in all or any part of its commitments or outstanding Loans and other financial accommodations made hereunder.

(c) **Statutory Lien.** The Company acknowledges that Lender has a statutory first Lien pursuant to the Farm Credit Act of 1971, as amended from time to time, on all Lender Equities that the Company may now own or hereafter acquire, which statutory Lien shall secure the Obligations due to Lender and be for Lender's sole and exclusive benefit. The Lender Equities shall not constitute security for obligations due to any other lender or participant hereunder (other than a Subsidiary or Affiliate of Lender). To the extent that any of the Loan Documents creates a Lien on the Lender Equities or on patronage accrued by Lender for the account of the Company (including, in each case, proceeds thereof), such Lien shall be for Lender's sole and exclusive benefit and shall not be subject to sharing with any other lender or participant hereunder (other than a Subsidiary or Affiliate of Lender to the extent any Obligations are owing by the Company to any of them). Neither the Lender Equities nor any accrued patronage shall be offset against the Obligations except that, in the event of an Event of Default, Lender may elect to apply the cash portion of any patronage distribution or retirement of Lender Equities to amounts owed to Lender under this Agreement whether or not such amounts are currently due and payable. The Company acknowledges that any corresponding tax liability associated with such application is the sole responsibility of the Company. Lender shall have no obligation to retire the Lender Equities upon any Event of Default, Default, or any other breach or default by the Company, or at any other time, either for application to the Obligations or otherwise.

(d) **Voting Stockholder.** Bryon T. McGregor is authorized by the Company to exercise any voting rights on behalf of the Company with respect to the Lender Equities, subject to applicable bylaws, and to receive effective interest rate disclosures, unless otherwise agreed in writing between the parties.

**6.3 Collateral Security.** Payment and performance of the Obligations shall be secured by first priority perfected Liens on all personal property of the Company (the "**Personal Property Collateral**") and by a first priority recorded Lien on all real property and improvements of the Company, including the fee estate of the Company in the real property and improvements described in Annex B to this Agreement (the "**Real Property Collateral**"), in each case, whether now owned or hereafter acquired (the Personal Property Collateral and the Real Property Collateral are collectively referred to as the "**Collateral**"), subject only to Permitted Liens or other exceptions approved in writing by Agent. Prior to or substantially contemporaneously with the date of this Agreement and at such other times as Agent may request (including each time the Company acquires any real property or any personal property not already subject to the Lien required herein), the Company shall execute and deliver to Agent such security agreements, pledge agreements, assignments, mortgages, deeds of trust, and other documents and agreements requested by Agent for the purpose of creating, perfecting, and maintaining a perfected Lien on the Collateral, subject only to Permitted Liens or other exceptions approved in writing by Agent. The Company hereby authorizes Agent to file such Uniform Commercial Code financing statements as Agent reasonably determines are necessary or advisable to perfect the security interests in and Liens on the Collateral.

**6.4 Preservation of Existence; Eligibility to Borrow; Etc.** Except as expressly permitted by Section 7.5 or Section 7.6, the Company shall, and shall cause each of its Subsidiaries to, (a) maintain its legal existence in the form in which it exists as of the date of this Agreement in its jurisdiction of organization, and its qualification and good standing in each jurisdiction where such qualification is required; and (b) obtain and maintain all licenses, certificates, permits, authorizations, approvals, and the like which are material to the conduct of its business or required by Law. The Company shall, at all times, be an entity eligible to borrow from Lender and shall comply in all material respects with the provisions of its Organizational Documents and any patron or member investment program it may have.

**6.5 Payment of Liabilities; Including Taxes; Etc.** The Company shall, and shall cause each of its Subsidiaries to, duly pay and discharge all liabilities to which it is subject or which are asserted against it, promptly as and when the same shall become due and payable, including all Taxes, assessments, and governmental charges upon it or any of its properties, assets, income or profits, prior to the date on which penalties attach thereto, except to the extent that any such liabilities are being contested in good faith and by appropriate and lawful proceedings diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made and provided further that such proceedings shall operate to stay levy and execution on any Collateral.

**6.6 Maintenance of Insurance.**

(a) The Company shall, and shall cause each of its Subsidiaries to, insure its properties and assets against loss or damage by fire and such other insurable hazards as such assets are commonly insured (including fire, extended coverage, property damage, workers' compensation, public liability and business interruption insurance) and against other risks (including errors and omissions) in such amounts as similar properties and assets are insured by prudent companies in similar circumstances carrying on similar businesses, and with reputable and financially sound insurers, including self-insurance to the extent customary, all as reasonably determined by Agent. Such insurance policies shall contain additional insured, mortgagee and lender loss payable special endorsements in form and substance satisfactory to Agent naming Agent, on behalf of the Lending Parties, additional insured, mortgagee and lender loss payee, as applicable, and providing Agent with notice of cancellation acceptable to Agent.

(b) The Company shall, to the extent required under the Flood Laws, obtain and maintain flood insurance for such structures and contents constituting Collateral located in a flood hazard zone, in such amounts as similar structures and contents are insured by prudent companies in similar circumstances carrying on similar businesses and otherwise reasonably satisfactory to Agent. If the Company fails to obtain and maintain, at any time, such flood insurance, Agent may, in its sole discretion, obtain such flood insurance on behalf of the Company on such Collateral at the Company's cost and expense.

**6.7 Maintenance of Properties.** The Company shall, and shall cause each of its Subsidiaries to, maintain in good repair, working order, and condition (ordinary wear and tear excepted), all of those properties (regardless whether owned or leased) useful or necessary to its business.

**6.8 Visitation and Inspection Rights.** The Company shall, and shall cause each of its Subsidiaries to, permit any of the officers or authorized employees or representatives of Agent and its participants to visit and inspect any of its properties and to examine and make excerpts from its books and records and discuss its business affairs, finances, and accounts with its officers, employees, directors, and accountants, all in such detail and at such times and as often as Agent and its participants may reasonably request, provided that until the occurrence of an Event of Default or Default, Agent shall provide the Company with reasonable notice prior to any visit or inspection. The Company will permit Agent or its agents to conduct on an annual basis a review of the Collateral, and the Company shall pay to Agent a reasonable collateral inspection fee designated by Agent and reimburse Agent for all reasonable costs and expenses incurred by Agent in connection therewith. Upon the occurrence of an Event of Default or Default, Agent and its agents may conduct such collateral inspection reviews at any time and from time to time and the Company shall owe such collateral inspection fee and reimbursement obligation to Agent in connection with each such collateral inspection.

**6.9 Keeping of Records and Books of Account.** The Company shall, and shall cause each of its Subsidiaries to, maintain and keep proper books of record and account in accordance with GAAP and as otherwise required by applicable Law, and in which full, true and correct entries shall be made.

**6.10 Compliance with Laws; Use of Proceeds.** The Company shall, and shall cause each of its Subsidiaries and all Persons occupying or present on its or their property, to, comply with all applicable Laws, including all Environmental Laws, in all material respects. The Company shall, and shall cause each of its Subsidiaries to, use the proceeds of the Loans only for the purposes set forth in the applicable Note and as permitted by applicable Law.

**6.11 Updates to Schedules.** Should any of the information or disclosures provided on any of the Schedules hereto become outdated or incorrect in any material respect, the Company shall promptly provide Agent in writing with such revisions or updates to such Schedule as may be necessary or appropriate to update or correct the same. No Schedule shall be deemed to have been amended, modified, or superseded by any such correction or update, nor shall any breach of warranty or representation resulting from the inaccuracy or incompleteness of any such Schedule be deemed to have been cured thereby, unless and until Agent, in its sole and absolute discretion, shall have accepted in writing such revisions or updates to such Schedule; provided, however, that the Company may update Schedule 5.2 without any approval by Agent in connection with any liquidation, disposition, formation, merger, or acquisition of a Subsidiary permitted under this Agreement.

**6.12 Additional Items.** The Company shall provide Agent with each of the following (which, in the case of instruments and documents, must (unless otherwise stated below) be originals, duly executed, and in form and substance satisfactory to Agent), on or before the date indicated:

(a) The Title Policy, on or before December 1, 2017;

(b) An executed collateral assignment, subordination agreement or other similar agreement from the Persons party to any agreement with the Company set forth on the attached Schedule 6.12(b), on or before December 1, 2017;

(c) A control agreement in respect of each Brokerage Account maintained by the Company, in each case properly executed on behalf of each of the parties thereto, on or before December 1, 2017; and

(d) Payment of all fees and expenses of Agent and the Lending Parties, if any, as required by this Agreement or any other Loan Document, on or before December 1, 2017.

**6.13 Further Assurances.** The Company shall from time to time, at its expense, do such other acts and things as Agent in its reasonable discretion may deem necessary or advisable from time to time in order to more fully carry out the provisions and purpose of this Agreement and the other Loan Documents including, but not limited to, execution and delivery of collateral assignments, subordination agreements, control agreements, subordination, non-disturbance and attornment agreements and other similar agreements.

**ARTICLE 7 Negative Covenants.** The Company covenants and agrees that until Payment In Full, the Company shall be in compliance at all times with the following covenants:

**7.1 Indebtedness.** The Company shall not, and shall not permit any Subsidiary to, at any time create, incur, assume or suffer to exist any Indebtedness, except for the following referred to as “**Permitted Indebtedness**”:

- (a) Indebtedness of the Company under the Loan Documents;
- (b) Any Interest Rate Hedge utilized solely for hedging interest rate risks (and not in any event for speculative purposes);
- (c) Other Indebtedness of the Company not otherwise permitted under this Section 7.1 in an aggregate principal amount outstanding at any time not to exceed \$250,000; provided, that the terms thereof are acceptable to Agent in its sole discretion; and
- (d) Capital Leases entered into with Farm Credit Leasing Services Corporation.

**7.2 Liens.** The Company shall not, and shall not permit any Subsidiary to, at any time create, incur, assume, or suffer to exist any Liens on any of its property or assets, tangible or intangible, now owned or hereafter acquired, or agree or become liable to do so, except for the following referred to collectively as “**Permitted Liens**”:

- (a) Liens for Taxes incurred that are not yet due and payable and for which adequate reserves have been established;
- (b) Pledges or deposits made in the ordinary course of business to secure payment of workmen’s compensation, or to participate in any fund in connection with workmen’s compensation, unemployment insurance, old-age pensions or other social security programs, and good-faith pledges or deposits made in the ordinary course of business to secure performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, not in excess of the aggregate amount due thereunder, or to secure statutory obligations, or surety, appeal, indemnity, performance or other similar bonds required in the ordinary course of business, and Liens of a collecting bank arising in the ordinary course of business under Section 4-210 of the Uniform Commercial Code in effect in the relevant jurisdiction covering only the items being collected upon;

(c) Liens of mechanics, material suppliers, warehouses, carriers, or other like Liens, securing obligations incurred in the ordinary course of business that are not yet due and payable and Liens of landlords securing obligations to pay lease payments that are not yet due and payable or in default and for which adequate reserves have been established;

(d) Encumbrances consisting of zoning restrictions, easements or other restrictions on the use of real property, none of which materially impairs the use of such property or the value thereof, and none of which is violated in any material respect by existing or proposed structures or land use;

Obligations; (e) Liens in favor of Agent for the benefit of the Lending Parties or any of their Affiliates securing any of the

(f) Liens securing the Indebtedness permitted under Section 7.1(c);

(g) Liens securing the Indebtedness permitted under Section 7.1(d);

(h) Lender's statutory Lien in the Lender Equities; and

(i) Liens, claims, or encumbrances upon, and defects of title to, real or personal property, including any attachment of personal or real property or other legal process prior to adjudication of a dispute on the merits (y) if the validity or amount thereof is being contested in good faith by appropriate and lawful proceedings diligently conducted so long as levy and execution thereon have been stayed and continue to be stayed or (z) if a final judgment is entered and such judgment is discharged within thirty (30) days of entry, and in either case they do not affect the Collateral or, in the aggregate, materially impair the ability of the Company to perform its Obligations hereunder or under the other Loan Documents.

**7.3 Guaranties.** The Company shall not, and shall not permit any Subsidiary to, at any time, directly or indirectly, become or be liable in respect of any obligation guarantying or in effect guarantying any liability or obligation of any other Person in any manner, whether directly or indirectly, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business, or assume, guaranty, become surety for, endorse or otherwise agree, become or remain directly or contingently liable upon or with respect to any obligation or liability of any other Person.

**7.4 Loans and Investments.** The Company shall not, and shall not permit any Subsidiary to, at any time make or suffer to exist any investments or capital contributions in, or other transfers of assets to, or loans, advances or other extensions of credit to any other Person, except: (a) trade credit extended on usual and customary terms in the ordinary course of business; (b) advance payments or deposits against purchases made in the ordinary course of business; (c) direct obligations of the United States of America; (d) temporary advances to employees to meet expenses incurred in the ordinary course of business; and (e) the Lender Equities and any other stock or securities of, or investments in, Lender or its investment services or programs.

**7.5 Liquidations; Mergers; Consolidations; Acquisitions.** The Company shall not, and shall not permit any Subsidiary to, dissolve, liquidate or wind-up its affairs, or become a party to any merger or consolidation, or acquire by purchase, lease or otherwise all or a material portion of the assets or capital stock of any other Person.

**7.6 Dispositions of Assets or Subsidiaries.** The Company shall not, and shall not permit any Subsidiary to, sell, convey, assign, lease, abandon or otherwise transfer or dispose of, voluntarily or involuntarily, any of its properties or assets, tangible or intangible (including sale, assignment, discount or other disposition of accounts, contract rights, chattel paper, equipment or general intangibles with or without recourse or of capital stock, shares of beneficial interest, partnership interests or limited liability company interests of a Subsidiary), except for transactions in the ordinary course of business.

**7.7 Dividends and Related Distributions.** The Company shall not, and shall not permit any of its Subsidiaries to, make or pay, or agree to become or remain liable to make or pay, any dividend or other distribution of any nature (whether in cash, property, securities or otherwise) on account of or in respect of its shares of capital stock, partnership interests or limited liability company interests or on account of the purchase, redemption, retirement or acquisition of its shares of capital stock (or warrants, options or rights therefor), partnership interests or limited liability company interests, except (a) an annual dividend or other distribution payable by the Company to its members with respect to any fiscal year of the Company ending on or after December 31, 2017; provided that (i) the amount of such dividend or other distribution does not exceed 40% of the net income of the Company for such fiscal year, (ii) the Company has delivered its audited financial statements for such fiscal year to Agent in accordance with Section 6.1(b), (iii) such annual dividend or other distribution is made prior to the April 30<sup>th</sup> first occurring after the end of such fiscal year, (iv) the Working Capital of the Consolidated Group was \$8,000,000 or more as of the last day of such fiscal year before any such annual dividend or other distribution was proposed to be made pursuant to this Section 7.7, would have been \$8,000,000 or more as of the last day of such fiscal year after giving pro forma effect to the making of any such annual dividend or other distribution pursuant to this Section 7.7 as of the last day of such fiscal year and will be \$8,000,000 or more immediately after any such annual dividend or other distribution is actually made pursuant to this Section 7.7 and (v) no Event of Default or Default has occurred or would result therefrom; and (b) periodic dividends or other distributions payable by the Company to its members after December 31, 2017; provided that (i) the Working Capital of the Consolidated Group was \$10,000,000 or more as of the last day of the most recently-reported calendar month before any such periodic dividend or other distribution was proposed to be made pursuant to this Section 7.7, would have been \$10,000,000 or more as of the last day of such calendar month after giving pro forma effect to the making of any such periodic dividend or other distribution pursuant to this Section 7.7 as of the last day of such calendar month and will be \$10,000,000 or more immediately after any such periodic dividend or other distribution is actually made pursuant to this Section 7.7 and (ii) no Event of Default or Default has occurred or would result therefrom.

**7.8 Affiliate Transactions.** The Company shall not, and shall not permit any Subsidiary to, enter into or carry out any transaction with any Affiliate unless such transaction is entered into in the ordinary course of business upon fair and reasonable arm's-length terms and conditions and is in accordance with all applicable Law.

**7.9 Subsidiaries; Partnerships; and Joint Ventures.** The Company shall not, and shall not permit any Subsidiary to, own or create directly or indirectly any domestic Subsidiary. Without the prior written consent of Agent, the Company shall not become or agree to become a party to a joint venture and the Company shall not own any Subsidiary organized under the laws of a foreign nation or political subdivision thereof.

**7.10 Continuation of or Change in Business.** The Company shall not, and shall not permit any of its Subsidiaries to, engage in any business other than the business substantially as conducted and operated by the Company or any Subsidiary of the Company on the date hereof or as presently proposed to be conducted.

**7.11 Fiscal Year.** The Company shall not, and shall not permit any Subsidiary of the Company to, change its fiscal year from that which is in effect on the date hereof.

**7.12 Issuance of Stock.** The Company shall not, and shall not permit any of its Subsidiaries to, issue any additional membership interests or shares of its capital stock or any options, warrants or other rights in respect thereof except as may be required by Law or its Organizational Documents as in effect as of the date of this Agreement.

**7.13 Changes in Organizational Documents, Risk Management Policy or Ethanol or Distillers Grain Marketers of the Company.** The Company shall not, and shall not permit any of its Subsidiaries to, (a) amend in any material respect its Organizational Documents, Risk Management Policy or any agreement or other contract of the Company related to the marketing of ethanol or distillers grain or (b) change the marketers used by the Company for ethanol or distillers grain, each without providing at least thirty (30) calendar days' prior written notice to Agent (together with copies of any such proposed amendment) and, in the event such change could be adverse to any Lending Party as determined in Agent's sole discretion, obtaining the prior written consent of Agent on behalf of the Lending Parties. The Company shall take such actions as Agent may reasonably request to protect the Lien of Agent, for the benefit of the Lending Parties, in the Collateral or otherwise to protect the interests of the Lending Parties as a lender hereunder, as a result in either case of any change in an Organizational Document, the Risk Management Policy, any agreement or other contract of the Company related to the marketing of ethanol or distillers grain or the marketers used by the Company for ethanol or distillers grain.

**7.14 Anti-Terrorism Laws.** Neither the Company nor any Subsidiary shall be (a) a Person with whom any Lending Party is restricted from doing business under Executive Order No. 13224 or any other Anti-Terrorism Law, (b) engaged in any business involved in making or receiving any contribution of funds, goods or services to or for the benefit of such a Person or in any transaction that evades or avoids, or has the purpose of evading or avoiding, the prohibitions set forth in any Anti-Terrorism Law, or (c) otherwise in violation of any Anti-Terrorism Law. The Company shall provide to Agent any certifications or information that Agent requests to confirm compliance by the Company and its Subsidiaries with any Anti-Terrorism Law.

**7.15 Anti-Corruption Laws.** Neither the Company nor any Subsidiary shall use, directly or indirectly, any proceeds of the Loans in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of the FCPA or any other applicable anti-corruption law.

**7.16 Sanctions.** Neither the Company nor any Subsidiary shall use, directly or indirectly, any proceeds of the Loans nor lend, contribute or otherwise make available such proceeds to any Subsidiary or other Person (a) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions or (b) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the Loans, whether as underwriter, advisor, investor or otherwise).

**7.17 Rail Car Leases.** The Company and its Subsidiaries shall not enter into or otherwise become a party to any Operating Leases or Capital Leases for rail cars, other than (a) Operating Leases or Capital Leases for up to 100 rail cars which provide for a lease term (whether initially or through extension) of more than 84 months and (b) Operating Leases or Capital Leases for any number of rail cars which provide for a lease term (whether initially or through extension) of 84 months or less.



**7.18 Operating Leases.** The Company and its Subsidiaries shall not make any payments in any fiscal year on account of Operating Leases (other than any such leases for rail cars and such leases with Farm Credit Leasing Services Corporation) exceeding \$250,000 in the aggregate.

**7.19 Repurchase Agreements.** The Company shall not, and it shall not cause or permit any Subsidiary to, enter into or be a party to any Repurchase Agreement.

#### **ARTICLE 8 Financial Covenants.**

**8.1 Working Capital.** The Company will maintain the Working Capital of the Consolidated Group at not less than \$8,000,000, commencing on the Closing Date and continuing at all times thereafter, measured as of the last day of each calendar month.

**8.2 Debt Service Coverage Ratio.** The Company will not permit the Debt Service Coverage Ratio of the Consolidated Group to be less than 1.50 to 1.00, measured as of the last day of each fiscal year of the Company, commencing on the fiscal year ending on December 31, 2018.

#### **ARTICLE 9 Default.**

**9.1 Events of Default.** An Event of Default shall mean the occurrence or existence of any one or more of the following events or conditions (whatever the reason therefor and whether voluntary, involuntary, or effected by operation of Law) (each an “**Event of Default**”):

(a) **Payments Under Loan Documents.** The Company or PEI shall fail to pay any scheduled principal, interest, fee, or other amount owing hereunder or under any other Loan Document when due, whether by acceleration or otherwise, should fail to pay any unscheduled amount owing hereunder or under any other Loan Document within five (5) days after receipt of written notice from Agent, or should fail to purchase the Lender Equities as and when required by Lender’s Bylaws and Capital Plan or those of its parent association.

(b) **Breach of Representation or Warranty.** Any representation or warranty made or deemed made at any time by the Company or PEI herein or in any other Loan Document shall be false or misleading in any material respect as of the time it was made or deemed made.

(c) **Breach of Negative Covenants or Certain Affirmative Covenants.** The Company shall default in the observance or performance of Article 7, Article 8, Sections 6.2, 6.8 or 6.10 or any other covenant pertaining to compliance with Laws or use of proceeds. Notwithstanding anything to the contrary set forth above, elsewhere herein or in any other Loan Document, if the Company shall default in the observance or performance of Article 8, Agent shall have the right, but not the obligation, to declare that an Event of Default has occurred under this Section 9.1(c); provided, that no Event of Default shall be deemed to have occurred with respect to any such default in the observance or performance of Article 8 unless and until the earlier of (i) Agent's election to declare it an Event of Default, by written notice to the Company, or (ii) ninety (90) days from the date of the occurrence thereof. Any determination by Agent to not declare an Event of Default on any occasion shall not limit the right of Agent to declare an Event of Default on any other occasion. Under no circumstances shall Agent be deemed to have waived its right to declare an Event of Default, unless such waiver is in writing and signed by Agent.

(d) **Breach of Other Covenants.** The Company or PEI shall default in the observance or performance of any other covenant, condition, or provision hereof or of any other Loan Document or of any other agreement or instrument between the Company or PEI and any Lending Party or any Affiliate of any Lending Party, and such default shall remain unremedied after the expiration of the applicable grace period or, if there is no such applicable grace period, for a period of thirty (30) days.

(e) **Defaults in Indebtedness to Other Lenders.** A default or event of default shall occur at any time under the terms of any other Indebtedness in an aggregate principal amount of \$250,000 or more under which the Company or any Subsidiary of the Company may be obligated (including as a borrower or guarantor), and such breach, default, or event of default consists of the failure to pay (beyond any period of grace permitted with respect thereto, whether waived or not) any Indebtedness when due (whether at stated maturity, by acceleration, or otherwise) or if such breach or default permits or causes the acceleration of any Indebtedness (whether or not such right shall have been exercised or waived) or the termination of any commitment to lend.

(f) **Final Judgments or Orders.** Any final judgments or orders for the payment of money shall be entered against the Company by a court having jurisdiction in the premises, in an aggregate amount in excess of \$500,000, which judgment is not discharged, vacated, bonded, or stayed pending appeal within thirty (30) days after the entry of such final judgment; or the Company's or any of its Subsidiaries' assets valued in an aggregate amount in excess of \$500,000 are attached, seized, levied upon or subjected to a writ or distress warrant; or such come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors.

(g) **Loan Document Unenforceable.** Any of the Loan Documents shall cease to be legal, valid, and binding agreements enforceable against the Company or PEI or shall in any way be terminated (except in accordance with its terms) or become or be declared ineffective or inoperative or Agent, on behalf of the Lending Parties, fails to have an enforceable first priority Lien (subject only to Permitted Liens) on or security interest in any Collateral given as security for any of the Obligations.

(h) **Uninsured Losses.** There shall occur any uninsured damage to or loss, theft, or destruction of any Collateral for any of the Obligations valued in an aggregate amount in excess of \$500,000; unless, within ten (10) Business Days of such damage, loss, theft or destruction, the Company deposits with Agent such amount as Agent, in its sole discretion, determines is necessary to correct or remedy the damage, loss, theft or destruction.

(i) **Events Relating to Plans and Benefit Arrangements.** (i) An ERISA Event occurs with respect to a Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Company under Title IV of ERISA to the Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of \$500,000, or (ii) the Company or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of \$500,000.

(j) **Change of Control.** There shall occur any Change of Control with respect to the Company.

(k) **Material Adverse Change.** There shall occur any Material Adverse Change with respect to the Company.

(l) **Relief Proceedings.** (i) Any proceeding seeking a decree or order for relief in respect of PEI, the Company or any Subsidiary of the Company in a voluntary or involuntary case under any applicable bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, conservator (or similar official) of PEI, the Company or any Subsidiary of the Company for any material part of its property, or for the winding-up or liquidation of its affairs, or an assignment for the benefit of its creditors (each a "**Relief Proceeding**") shall have been instituted against PEI, the Company or any Subsidiary of the Company and, in the case of any involuntary proceeding, such Relief Proceeding shall remain undismissed or unstayed and in effect for a period of sixty (60) consecutive days, or such court shall enter a decree or order granting any of the relief sought in such Relief Proceeding, (ii) PEI, the Company or any Subsidiary of the Company institutes, or takes any action in furtherance of, a Relief Proceeding, or (iii) PEI, the Company or any Subsidiary of the Company ceases to be solvent or admits in writing its inability to pay its debts generally as they come due or fails to pay its debts as they come due; provided, that cautionary statements and risk factor disclosures made by PEI to investors or prospective investors shall not be deemed to constitute such an admission.

(m) **Affiliate Accounts.** The Company shall fail to collect any account receivable from any Affiliate of the Company within ten (10) Business Days after such account receivable arises.

## 9.2 Remedies.

(a) **Events of Default Other Than Bankruptcy, Insolvency or Reorganization Proceedings.** If an Event of Default specified under Sections 9.1(a) through 9.1(j) shall occur and be continuing, Lender: (i) shall be under no further obligation to extend credit hereunder or under any Note, and may discontinue doing so at any time without prior notice to the Company or other limitation; and (ii) may, in addition to any remedies allowed by any other Loan Document or Law, (A) by written notice to the Company (which may be provided by Agent), declare the unpaid principal amount of the Obligations then outstanding and all interest accrued thereon, any unpaid fees and all other Obligations and Indebtedness of the Company to Lender and Cash Management Provider hereunder to be forthwith due and payable, and the same shall thereupon become and be immediately due and payable to Lender and Cash Management Provider, as applicable, without presentment, demand, protest, or any other notice of any kind, all of which are hereby expressly waived; and (B) require the Company to, and the Company shall thereupon, deposit in a non-interest-bearing account with or as directed by Agent, as cash collateral for its Obligations, an amount equal to such Obligations, and the Company hereby pledges to Agent, for the benefit of the Lending Parties, and grants to Agent, for the benefit of the Lending Parties, a security interest in, all such cash as security for such Obligations and the Company shall agree to do all things as reasonably requested by Agent in order to provide Agent, for the benefit of the Lending Parties, with a first priority security interest in such deposit account, including allowing the deposit to be in the name of Agent.

(b) **Bankruptcy, Insolvency or Reorganization Proceedings.** If an Event of Default specified under Section 9.1(l) shall occur, Lender shall be under no further obligations to extend credit hereunder or under any other Loan Document and the unpaid principal amount of the Obligations then outstanding and all interest accrued thereon, any unpaid fees and all other Obligations and Indebtedness of the Company to Lender and Cash Management Provider hereunder and thereunder shall be immediately due and payable, without presentment, demand, protest, or notice of any kind, all of which are hereby expressly waived.

(c) **Set-off.** If an Event of Default shall have occurred and be continuing, Agent is hereby authorized at any time to the fullest extent permitted by applicable Law, to set off and apply any and all funds (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by any Lending Party or any Affiliate of any Lending Party to or for the credit or the account of the Company against any and all of the Obligations of the Company now or hereafter existing under this Agreement or any other Loan Document to such Lending Party or such Affiliate. The rights of the Lending Parties and their Affiliates under this Section 9.2(c) are in addition to other rights and remedies (including other rights of setoff) that the Lending Parties or their Affiliates may have. Agent agrees to notify the Company promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

(d) **Application of Proceeds.** From and after the date on which Agent has taken any action pursuant to this Section 9.2 and automatically following an acceleration under Section 9.2(b), and until Payment in Full, any and all proceeds received by Agent from any sale or other disposition of any Collateral for any of the Obligations, or any part thereof, or the exercise of any other remedy by Agent, shall be applied as set forth in Section 10.12, to the extent permitted by applicable law.

## **ARTICLE 10 Agent.**

**10.1 Appointment, Powers and Immunities of Agent.** The Lending Parties hereby appoint and authorize Agent to act as their agent under the Loan Documents with such powers as are specifically delegated to Agent by the terms of this Agreement, together with such other powers as are reasonably incidental thereto. Agent shall, on behalf of the Lending Parties, perform all of the loan servicing duties under the Loan Documents. Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the Loan Documents, and shall not be a trustee or fiduciary for the Lending Parties regardless of whether a Default or Event of Default has occurred and is continuing. Agent shall administer its duties and responsibilities in accordance with its customary practices and procedures with respect to similar loans for its own account. Agent may employ agents and attorneys-in-fact and shall not be responsible, except as to money or securities received by it or its authorized agents, for the negligence or misconduct of any such agents or attorneys-in-fact selected by it with reasonable care. Subject to the preceding sentence, neither Agent nor any of its respective directors, officers, employees or agents (each, a “**Related Party**” and collectively, the “**Related Parties**”) shall be liable or responsible for any action taken or omitted to be taken by it or them hereunder or under the Loan Documents or in connection herewith or therewith, except for its or their own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, nonappealable order; provided that in no event shall Agent or any Related Party be liable for any action taken or omitted to be taken by it with the consent or at the request of a Lending Party. The Company shall pay any fee(s) with respect to Agent’s services hereunder. The Company acknowledges the appointment of Agent and agrees that the provisions of this ARTICLE 10 are solely for the benefit of the Lending Parties and the Related Parties, and that the Company shall not have rights under this ARTICLE 10, including as a third party beneficiary.

**10.2 Reliance by Agent.** Agent shall be entitled to rely upon any certification, notice or other communication (including any thereof by telephone, telex, facsimile, telegram or cable) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper person or persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by Agent.

**10.3 Defaults.** Agent shall not be deemed to have knowledge of the occurrence of a Default or Event of Default unless Agent has received notice from a Lending Party or the Company specifying such Default or Event of Default and stating that such notice is a “Notice of Default.” In the event that Agent receives such a Notice of Default from the Company, Agent shall give prompt notice thereof to the Lending Parties. Agent shall take such action with respect to such Default or Event of Default which is continuing as determined by the Lending Parties. Agent shall not be required to take any action which it or its counsel determines to be contrary to Law or any Loan Document, or that would expose Agent to liability.

**10.4 Non-Reliance on Agent.** Lender agrees that it has, independently and without reliance on Agent, and based on such documents and information as it has deemed appropriate, made its own credit analysis of the Company and the decision to enter into this Agreement and either originate the Loans or purchase a participation in the Loan Documents and that it will, independently and without reliance upon Agent, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under this Agreement and the other Loan Documents. Except as explicitly provided in the Loan Documents, none of Agent, Cash Management Provider nor any Related Party shall be responsible to Lender for, nor shall it have any duty to ascertain, inquire into or verify (a) any recitals, reports, statements, representations or warranties made in connection with this Agreement or the other Loan Documents, (b) the contents of any certificate, report, instrument or other document referred to, provided for or delivered under or in connection with this Agreement or the other Loan Documents, (c) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in this Agreement or the other Loan Documents or the occurrence of any Default or Event of Default or the failure of the Company to perform any of its obligations hereunder or thereunder, (d) the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or any document or instrument referred to or provided for herein or therein or (e) the creation, attachment, perfection or priority of any security interests or other liens purported to be granted to Lender pursuant to the Loan Documents. Except as explicitly provided in the Loan Documents, Agent shall not be required to file this Agreement, any other Loan Document or any document or instrument referred to herein or therein, or record or give notice of this Agreement or any other Loan Document or any document or instrument referred to herein or therein, to anyone. Lender acknowledges and agrees that Agent only has the duties and responsibilities explicitly set forth herein and in the other Loan Documents.

**10.5 Failure of Agent to Act.** Except for action expressly required of Agent hereunder, Agent shall in all cases be fully justified in failing or refusing to act hereunder unless it shall have received further assurances (which may include cash collateral) in respect of any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action.

**10.6 Resignation or Removal of Agent.** Subject to the appointment and acceptance of a successor Agent, as provided below, Agent may resign at any time by giving written notice thereof to the Lending Parties and the Company. Upon any such resignation, the Lending Parties shall have the right to appoint a successor Agent, which must be located in the United States of America. If no successor Agent shall have been so appointed and shall have accepted such appointment within thirty (30) days after the retiring Agent's giving of notice of resignation, then the retiring Agent may, on behalf of the Lending Parties, appoint a successor agent which must be located in the United States of America. The Lending Parties or the retiring Agent, as the case may be, shall upon the appointment of a successor agent promptly so notify the Company. Upon the acceptance of any appointment as Agent hereunder by a successor agent, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent and the retiring Agent shall be discharged from its duties and obligations hereunder, except for any liability arising from gross negligence or willful misconduct prior to such discharge as determined by a court of competent jurisdiction in a final, nonappealable order. After any retiring Agent's resignation hereunder as Agent, the provisions of this Agreement shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Agent. Lender may, with cause, remove Agent as agent hereunder and appoint a successor Agent, which must be located in the United States of America.

**10.7 Amendments Concerning Agency Function.** Agent shall not be bound by any waiver, amendment, supplement or modification of this Agreement or the other Loan Documents which affects its duties hereunder or thereunder unless it shall have given its prior consent thereto.

**10.8 Liability of Agent.** Agent shall not have any liabilities or responsibilities to the Company on account of the failure of a Lending Party to perform its obligations hereunder or to a Lending Party on account of the failure of the Company to perform its obligations hereunder or under the other Loan Documents.

**10.9 Transfer of Agency Function.** Without the consent of the Company or the Lending Parties, Agent may at any time or from time to time transfer its functions as Agent hereunder to any of its offices located in the United States of America, provided that Agent shall promptly notify the Company and the Lending Parties.

**10.10 Non-Receipt of Funds by Agent.**

(a) Unless Agent shall have received notice from Lender prior to the date on which Lender is to provide funds to Agent for an advance to be made by Lender that Lender will not make available to Agent such funds, Agent may assume that Lender has made such funds available to Agent on the date of such advance in accordance with the terms of this Agreement and the other Loan Documents and Agent in its sole discretion may, but shall not be obligated to, in reliance upon such assumption, make available to the Company on such date a corresponding amount. If and to the extent Lender shall not have made such funds available to Agent, Lender agrees to repay Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Company until the date such amount is repaid to Agent, at the customary rate set by Agent for the correction of errors among banks for three (3) Business Days and thereafter at the Quoted Rate. If Lender shall repay to Agent such corresponding amount, such amount so repaid shall constitute Lender's advance for purposes of this Agreement and the other Loan Documents. If Lender does not pay such corresponding amount forthwith upon Agent's demand therefor, Agent shall promptly notify the Company, and the Company shall immediately pay such corresponding amount to Agent with the interest thereon, for each day from the date such amount is made available to the Company until the date such amount is repaid to Agent, at the rate of interest applicable at the time to such proposed advance.

(b) Unless Agent shall have received notice from the Company prior to the date on which any payment is due hereunder that the Company will not make such payment in full, Agent may assume that the Company has made such payment in full to Agent on such date and Agent in its sole discretion may, but shall not be obligated to, in reliance upon such assumption, cause to be distributed to Lender on such due date an amount equal to the amount then due Lender. If and to the extent the Company shall not have so made such payment in full to Agent, Lender shall repay to Agent forthwith on demand such amount distributed to Lender together with interest thereon, for each day from the date such amount is distributed to Lender until the date Lender repays such amount to Agent at the customary rate set by Agent for the correction of errors among banks for three (3) Business Days and thereafter at the Quoted Rate.

**10.11 Security Interests.** The Lending Parties and Agent each agree that the security interests granted by the Company to Agent, on behalf of the Lending Parties under all security agreements, pledge agreements, assignments, mortgages, deeds of trust, and other documents and agreements granting security interests, among the Company, as Grantor, and Agent, for the benefit of the Lending Parties, to secure the obligations or indebtedness of the Company to the Lending Parties, shall secure the Lending Parties on a *pari passu* and *pro rata* basis.

**10.12 Intercreditor Provisions.** After the occurrence of an Event of Default, any amounts collected on the Collateral or payments received under the Loan Documents shall be applied first, to the payment of all reasonable out-of-pocket costs and expenses incurred by the Lending Parties and Agent in enforcing its or their rights against the Company; second, to the payment of any fees owed to the Lending Parties and Agent; third, to the payment of all accrued and unpaid interest under the Loan Documents and amounts due as a result of cash management services performed by Cash Management Provider; fourth, to the payment of outstanding principal amounts of the Company's Obligations under the Loan Documents; fifth, to the payment of any other of the Company's obligations to the Lending Parties or Agent; and sixth, to the payment of the surplus, if any, to whomever may be lawfully entitled to receive such surplus. In carrying out the foregoing, (a) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; and (b) if the amounts received are insufficient to pay all amounts due within a particular category, then each party shall receive an amount equal to its pro rata share (based on the proportion that the amount owed to that party within such category bears to the aggregate amount due within that category) of amounts available to be applied pursuant to clauses "first," "second," "third," "fourth," and "fifth" above.

**ARTICLE 11    Miscellaneous.**

**11.1        Amendments; Waivers; Severability.** NO MODIFICATION OR AMENDMENT TO ANY PROVISION OF THIS AGREEMENT SHALL BE EFFECTIVE UNLESS MADE IN WRITING IN AN AGREEMENT SIGNED BY THE COMPANY AND THE LENDING PARTIES. No course of dealing or failure or delay of Agent or any Lending Party in exercising any power or right hereunder or under any other Loan Document shall affect any other or future exercise thereof or operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any failure to exercise or enforce such a right or power, preclude any other or further exercise thereof or any other right or power. No notice to or demand on the Company in any case shall entitle the Company to any other or further notice or demand in similar or other circumstances. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Company herefrom or therefrom shall in any event be effective unless made specifically in writing by Agent and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. All rights and remedies of the Lending Parties pursuant to this Agreement, under any other Loan Document, or under Law shall be cumulative, and no such right or remedy shall be exclusive of any other such right or remedy. The provisions of this Agreement and the other Loan Documents are intended to be severable. If any provision of this Agreement or other Loan Document shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any such jurisdiction.

**11.2        Expenses; Indemnity; Damage Waiver.**

(a)        **Costs and Expenses.** The Company shall pay all costs and expenses incurred by the Lending Parties and their Affiliates (including the reasonable fees, costs, charges and disbursements of counsel engaged or retained by the Lending Parties) in connection with the preparation, negotiation, execution, delivery, and administration of this Agreement and the other Loan Documents or any amendments, modifications, or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), including (i) all expenses incurred by the Lending Parties (including the reasonable fees, costs, charges and disbursements of any counsel or financial consultant engaged or retained by a Lending Party), (a) in connection with this Agreement and the other Loan Documents, or (b) in connection with the Loans or other Obligations and (ii) notwithstanding anything to the contrary contained herein, all expenses incurred by the Lending Parties (including the fees, costs, charges and disbursements of any counsel engaged or retained by a Lending Party) in connection with any workout or restructuring in respect of any such Loans or other Obligations, any enforcement of the Loan Documents or any realization on any of the Collateral or otherwise incurred by any Lending Party after the occurrence an Event of Default.

(b) **Indemnification by the Company.** The Company shall indemnify each Lending Party and any Affiliate thereof and each of their respective officers, directors, employees, agents, and advisors (each an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, and related expenses (including the fees, costs, charges and disbursements of any counsel engaged or retained by any Indemnitee) incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Company arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance or nonperformance by the Company of its or their respective obligations hereunder or under the other Loan Documents or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) breach of representations, warranties, or covenants of the Company under any of the Loan Documents, or (iv) any actual or prospective claim, litigation, investigation, or proceeding relating to any of the foregoing, including any such items or losses relating to or arising under Environmental Laws or pertaining to environmental matters, whether based on contract, tort, or any other theory, whether brought by the Company or any third party, and regardless whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to an Indemnitee, be available to the extent that such losses, claims, damages, liabilities, or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(c) **Waiver of Consequential Damages, Etc.** To the fullest extent permitted by applicable Law, the Company shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Loan relating hereto, or the use of the proceeds thereof. To the fullest extent permitted by applicable law, no Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic, or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(d) **Payments.** All amounts due under any of this Section 11.2 shall be payable not later than ten (10) days after demand therefor.

**11.3 Holidays.** Whenever a payment to be made or taken on a Loan arising hereunder shall be due on a day which is not a Business Day, such payment shall be due on the next Business Day and such extension of time shall be included in computing interest and fees, except that such payments shall be due on the Business Day preceding the expiration or maturity date thereof if such date is not a Business Day. Whenever any payment or action to be made or taken hereunder (other than payment of the Loans arising hereunder) shall be stated to be due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day, and such extension of time shall not be included in computing interest or fees, if any, in connection with such payment or action.

#### **11.4 Notices; Effectiveness; Electronic Communication.**

(a) **Notices Generally.** Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 11.4(b)), all notices and other communications to a Person provided for herein and in the other Loan Documents shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier to it at its address set forth on such Person’s signature page of this Agreement.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. Notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, such notices shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in Section 11.4(b), shall be effective as provided in such section.



(b) **Electronic Communications.** Notices and other communications between Agent and the Company may be made by email sent to an email address of such Person shown on such Person's signature page to this Agreement and shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement); provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) **Change of Address, Etc.** Either party hereto may change its address, email address or telecopier number for notices and other communications hereunder by notice to the other party hereto in accordance with the terms of this Section 11.4.

**11.5 Duration; Survival.** All representations and warranties of the Company contained herein or in any other Loan Document, or made in connection herewith or therewith, shall survive the execution and delivery of this Agreement and Payment in Full. All covenants and agreements of the Company contained herein or in the Notes or in any other Loan Document relating to the payment of principal, interest, fees, premiums, additional compensation, expenses, or indemnification shall survive Payment In Full. All other covenants and agreements of the Company shall continue in full force and effect from and after the date hereof and until Payment In Full.

**11.6 Successors and Assigns; Participations.** This Agreement is entered into for the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns permitted hereby, except that the Company shall not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of Agent. Lender may at any time sell, assign, securitize, or grant participations in all, or a portion of, Lender's rights and obligations under this Agreement (including all or a portion of the Obligations). No participation shall relieve Lender of any commitment made to the Company hereunder. In connection with the foregoing, Agent and Lender may disclose information concerning the Company and its Subsidiaries, if any, to any assignee, participant, or prospective assignee or participant, provided that such assignee, participant, or prospective assignee or participant agrees, subject to qualifications contained in Section 11.7(a)(vi), to keep such information confidential. A sale of a participation interest shall be subject to Section 6.2(b) and may include certain voting rights of the participants regarding the Loan Documents (including the administration, amendment and modification, servicing, and enforcement thereof). Agent agrees to give written notification to the Company of any sale of a participation interest herein, provided that the failure to do so shall not adversely affect the rights of any Lender Party hereunder or under any other Loan Document.

#### **11.7 Confidentiality.**

(a) **General.** Agent and the Lending Parties agree to maintain the confidentiality of the information received from the Company or any of its Subsidiaries relating to the respective businesses of the Company or any of its Subsidiaries, other than any such information that is available to Agent or a Lending Party on a non-confidential basis prior to disclosure by the Company or any of its Subsidiaries and other than any information received from the Company or any of its Subsidiaries after the date of this Agreement which is not clearly identified at the time of delivery as confidential, except that any information received from the Company or any of its Subsidiaries may be disclosed (i) to Affiliates of Agent or the Lending Parties and to their and their Affiliates' respective partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information (to the extent so provided for herein) and instructed to keep such information confidential), (ii) to any regulatory authority having or purporting to have jurisdiction over Agent or any Lending Party, (iii) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (iv) to any other party hereto, (v) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section 11.7(a), to (A) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement or any other Loan Document, or (B) any actual or prospective counterparty (or its advisors) to any Interest Rate Hedge or other swap or derivative transaction relating to the Company and its obligations, (vii) with the consent of the Company or (viii) to the extent any such information (Y) becomes publicly available other than as a result of a breach of this Section 11.7(a) or (Z) becomes available to Agent or any Lending Party or any of their Affiliates on a non-confidential basis from a source other than the Company. Any Person required to maintain the confidentiality of any Information as provided in this Section 11.7(a) shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such information as such Person would accord to its own confidential information.

(b) **Sharing Information With Affiliates.** The Company acknowledges that from time to time financial advisory, investment banking, and other services may be offered or provided to the Company or one or more of its Affiliates (in connection with this Agreement or otherwise) by Agent or any Lending Party or by one or more of their Affiliates, and the Company authorizes Agent and each Lending Party to share any information delivered to Agent or any Lending Party by the Company and its Subsidiaries pursuant to this Agreement to any such Affiliate of Agent or any Lending Party subject to the provisions of Section 11.7(a).

**11.8 Counterparts; Integration; Effectiveness.** This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof including any prior confidentiality agreements and commitments. Except as provided in ARTICLE 4, this Agreement shall become effective when it shall have been executed by Agent and the Lending Parties and when Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or email shall be as effective as delivery of a manually executed counterpart of this Agreement, but shall in any event be promptly followed by delivery of the original manually executed signature page (provided, however, that the failure to do so shall in no event adversely affect the rights of Agent or the Lending Parties hereunder whatsoever).

**11.9 Governing Law.** This Agreement shall be deemed to be a contract under the Laws of the State of Colorado without regard to its conflict of laws principles.

**11.10 SUBMISSION TO JURISDICTION; SERVICE OF PROCESS; VENUE; WAIVER OF JURY TRIAL.** THE COMPANY HEREBY IRREVOCABLY CONSENTS TO THE NONEXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN DENVER, COLORADO, AND CONSENTS THAT AGENT MAY EFFECT ANY SERVICE OF PROCESS IN THE MANNER AND AT THE COMPANY'S ADDRESS SET FORTH HEREIN FOR PROVIDING NOTICE OR DEMAND; PROVIDED THAT NOTHING CONTAINED IN THIS AGREEMENT WILL PREVENT AGENT OR ANY LENDING PARTY FROM BRINGING ANY ACTION, ENFORCING ANY AWARD OR JUDGMENT OR EXERCISING ANY RIGHTS AGAINST THE COMPANY INDIVIDUALLY, AGAINST ANY COLLATERAL OR AGAINST ANY PROPERTY OF THE COMPANY WITHIN ANY OTHER COUNTY, STATE OR OTHER FOREIGN OR DOMESTIC JURISDICTION. THE COMPANY ACKNOWLEDGES AND AGREES THAT THE VENUE PROVIDED ABOVE IS THE MOST CONVENIENT FORUM FOR THE COMPANY, AGENT AND THE LENDING PARTIES. THE COMPANY WAIVES ANY OBJECTION TO VENUE AND ANY OBJECTION BASED ON A MORE CONVENIENT FORUM IN ANY ACTION INSTITUTED UNDER THIS AGREEMENT. THE COMPANY, AGENT AND THE LENDING PARTIES EACH HEREBY WAIVES TRIAL BY JURY IN CONNECTION WITH ANY ACTION INSTITUTED UNDER THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT.

**11.11 USA Patriot Act Notice.** Agent hereby notifies the Company that pursuant to the requirements of the USA Patriot Act, as followed by Agent pursuant to its board policy, it is required to obtain, verify, and record information that identifies the Company, which information includes the name and address of the Company and other information that will allow Agent to identify the Company in accordance with the USA Patriot Act.

**[SIGNATURE PAGES FOLLOW]**

**[SIGNATURE PAGE TO CREDIT AGREEMENT]**

IN WITNESS WHEREOF, the parties hereto, by their Authorized Officers, have executed this Agreement as of the date first set forth above.

**COMPANY**

**ILLINOIS CORN PROCESSING, LLC**

By: /S/ BRYON T. MCGREGOR

Name: Bryon T. McGregor

Title: Chief Financial Officer

Notice Address for the Company:

Illinois Corn Processing, LLC  
c/o Pacific Ethanol, Inc.  
400 Capital Mall, Suite 2060  
Sacramento, California 95814  
Attention: Chief Financial Officer  
Email Address: bmcgregor@pacificethanol.com

With a copy to:

Pacific Ethanol, Inc.  
400 Capital Mall, Suite 2060  
Sacramento, California 95814  
Attention: General Counsel  
Email Address: cwright@pacificethanol.com

With a copy to:

Troutman Sanders, LLP  
5 Park Plaza, Suite 1400  
Irvine, California 92614  
Attention: Larry Cerutti, Esq.  
Martin Taylor, Esq.  
Email Address: Larry.Cerutti@troutmansanders.com  
Martin.Taylor@troutmansanders.com

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**[SIGNATURE PAGE TO CREDIT AGREEMENT]**

IN WITNESS WHEREOF, the parties hereto, by their Authorized Officers, have executed this Agreement as of the date first set forth above.

**LENDER:**

**COMPEER FINANCIAL, PCA**

By: /S/ DALE A. RICHARDSON

Name: Dale A. Richardson

Title: Managing Director, Capital Markets

Notice Address for the Company:

Compeer Financial, PCA

1560 Wall Street, Suite 221

Naperville, Illinois 60563

Attention: Dale Richardson, Managing Director – Capital Markets

Fax No.: (630) 527-9459

Email Address: [dale.richardson@compeer.com](mailto:dale.richardson@compeer.com)

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**[SIGNATURE PAGE TO CREDIT AGREEMENT]**

IN WITNESS WHEREOF, the parties hereto, by their Authorized Officers, have executed this Agreement as of the date first set forth above.

**CASH MANAGEMENT PROVIDER AND AGENT:**

COBANK, ACB

By: /S/ TOM D. HOUSER

Name: Tom D. Houser

Title: Vice President

Notice Address for CoBank:

6340 S. Fiddlers Green Circle  
Greenwood Village, Colorado 80111-1914  
Attention: Credit Information Services  
Fax No.: (303) 224-6101  
Email Address: CIServices@CoBank.com

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## ANNEX A

### Definitions and Rules of Construction

A . **Defined Terms.** In this Agreement, capitalized terms not otherwise defined herein shall have the respective meanings ascribed to them by the Notes and the following words and terms shall have the respective meanings set forth below:

“**Affiliate**” means, with respect to any Person, any other Person (i) which directly or indirectly controls, is controlled by, or is under common control with such Person, (ii) which beneficially owns or holds 5% or more of any class of the voting or other equity interests of such Person, or (iii) 5% or more of any class of voting interests or other equity interests of which is beneficially owned or held, directly or indirectly, by such Person. Each of Farm Credit Leasing Services Corporation and CoBank, FCB are “**Affiliates**” of Agent for all purposes under this Agreement.

“**Agent**” means CoBank, in its capacity as administrative and collateral agent under the Loan Documents.

“**Agreement**” is defined in the preamble to this Agreement.

“**Anti-Terrorism Law**” means any Law relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the Laws comprising or implementing the Bank Secrecy Act, and the Laws administered by the United States Treasury Department’s Office of Foreign Asset Control, as any of the foregoing Laws may from time to time be amended, renewed, extended, or replaced.

“**Authorized Officer**” means an officer or other individual duly authorized to execute Loan Documents on behalf of Agent, each Lending Party, the Company or PEI, as the case may be, as designated from time to time in the case of the Company and PEI on forms supplied or approved by Agent.

“**Brokerage Account**” means any commodity account that is owned by the Company and maintained with a commodity intermediary for trading in Commodities Contracts.

“**Business**” is defined in Section 5.12(b).

“**Business Day**” means a day that is not a Saturday, a Sunday, or a day on which Agent’s principal office in Greenwood Village, Colorado, is closed pursuant to authorization or requirement of law and, if the applicable Business Day relates to a Loan to which the LIBOR Index Option applies, such day must also be a day on which dealings are carried on in the London interbank market and, if the applicable Business Day relates to a Loan to which the Quoted Rate Option applies, such day must also be a day on which the Federal Reserve Bank of New York (or any successor) is open.

“**Capital Lease**” means, with respect to any Person, any lease of (or other agreement conveying the right to use) any real or personal property of such Person that, in conformity with GAAP, is accounted for as a capital lease on the balance sheet of such Person.

“**Capital Stock**” means, with respect to any corporation, partnership, limited liability company, cooperative or other entity, any capital stock, partnership interests, limited liability company interests, membership interests or other equity or ownership interests of or in such corporation, partnership, limited liability company, cooperative or other entity and any warrants, rights or options to purchase or acquire any such capital stock, partnership interests, limited liability company interests, membership interests or other equity or ownership interests.

**“Cash Management Provider”** means CoBank, as provider of cash management services to the Company.

**“Change in Law”** means the occurrence, after the date of this Agreement, of any of the following: (i) the adoption or taking effect of any Law, (ii) any change in any Law or in the administration, interpretation or application thereof by any Official Body, or (iii) the making or issuance of any request, guideline or directive (whether or not having the force of Law) by any Official Body; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act, and all requests, regulations, rules, guidelines, directives, opinions, rulings, orders, interpretations, and the like promulgated or provided in connection therewith and (y) all requests, regulations, rules, guidelines, directives, opinions, rulings, orders, interpretations, and the like promulgated or provided by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority), or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted, or issued.

**“Change of Control”** means each and every issuance, sale, transfer or other disposition, directly or indirectly, of Voting Stock of or in (a) PEI which, after giving effect thereto, results in any Person owning, directly or indirectly, more than 50% of the Voting Stock of or in PEI, (b) PEC which, after giving effect thereto, results in any Person (other than PEI) owning, directly, any of the Voting Stock of or in PEC, (c) the Company which, after giving effect thereto, results in any Person (other than PEC) owning, directly, any of the Voting Stock of or in the Company, or (d) the Company which, after giving effect thereto, (i) results in the Company no longer being an entity eligible to borrow from Lender or (ii) becoming ineligible to borrow from Lender at the amounts set forth in the Term Note or Revolving Term Note.

**“Closing Date”** means the Business Day on which the first Loan is made hereunder.

**“CoBank”** means CoBank, ACB, a federally-chartered instrumentality of the United States.

**“CoBank Cash Management Agreement”** means the Master Agreement for Cash Management and Transaction Services between CoBank and the Company, or such other similar agreement, including all exhibits, schedules and annexes thereto and including all related forms delivered by the Company to CoBank related to or in connection therewith.

**“Code”** means the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

**“Collateral”** is defined in Section 6.3.

**“Commodity Contract”** means a commodity futures contract or an option on a commodity futures contract, a commodity option and any other commodity related contract, interest or transaction that a commodity intermediary transacts for the benefit of the Company.

**“Commodity Exchange Act”** means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

**“Company”** is defined in the preamble to this Agreement.

**“Compliance Certificate”** is defined in Section 6.1(c).



“**Consolidated Group**” means the Company and its Consolidated Subsidiaries.

“**Consolidated Subsidiary**” means at any time, any Subsidiary, the accounts of which are or should, in accordance with GAAP, be consolidated with those of the Company in its consolidated financial statements at such time.

“**Debt Service Coverage Ratio**” means, with respect to any Person as of any date of determination, the following (all as calculated for the most recently completed fiscal year in accordance with GAAP consistently applied): (1) net income (after taxes), plus any amount which, in the determination of net income, has been deducted for depreciation and amortization expense and any non-recurring non-cash charges, losses or expenses approved by Agent, minus any amount which, in the determination of net income, has been added for any non-cash income or gains (including non-cash income or gains on dividends received) and any extraordinary, unusual or non-recurring income or gains (including income or gains on asset sales); divided by (2) \$6,000,000.

“**Default**” means any event or condition which with notice or passage of time, or both, would constitute an Event of Default.

“**Delegation Form**” means Agent’s Delegation and Wire and Electronic Transfer Form, or any substitute form therefor used by Agent from time to time.

“**Environmental Indemnity Agreement**” means that certain Environmental Indemnity Agreement dated of even date herewith by the Company and PEI in favor of Agent and Lender, as the same may be amended, restated, modified or supplemented from time to time.

“**Environmental Laws**” means all applicable Laws issued by or entered into with an Official Body pertaining or relating to: (i) pollution or pollution control; (ii) protection of human health from exposure to hazardous or regulated substances; (iii) protection of the environment or natural resources; (iv) employee safety in the workplace; (v) the presence, use, management, generation, manufacture, processing, extraction, treatment, recycling, refining, reclamation, labeling, packaging, sale, transport, storage, collection, distribution, disposal, or release or threat of release of hazardous or regulated substances; (vi) the presence of contamination; (vii) the protection of endangered or threatened species; or (viii) the protection of environmentally sensitive areas.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company directly or indirectly resulting from or based upon (i) violation of any Environmental Law; (ii) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials; (iii) exposure to any Hazardous Materials; (iv) the release or threatened release of any Hazardous Materials into the environment; or (v) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

“**ERISA Affiliate**” means, at any time, any trade or business (whether or not incorporated) under common control with the Company and treated as a single employer under Section 414 of the Code.

**“ERISA Event”** means (i) a reportable event (under Section 4043 of ERISA) with respect to a Plan; (ii) a withdrawal by the Company or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (iii) a complete or partial withdrawal by the Company or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (iv) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Plan or Multiemployer Plan; (v) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan or Multiemployer Plan; or (vi) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Company or any ERISA Affiliate.

**“Event of Default”** is defined in Section 9.1.

**“Excluded Taxes”** means (i) taxes imposed on or measured by the overall net income of each Lending Party (however denominated), and franchise taxes imposed on each Lending Party (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which each Lending Party is organized or in which its principal office is located or in which its applicable lending office is located, and (ii) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Company is located.

**“Facilities”** is defined in ARTICLE 2.

**“FCPA”** means the Foreign Corrupt Practices Act of 1977, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

**“Flood Laws”** means, collectively, (i) the National Flood Insurance Act of 1968, (ii) the Flood Disaster Protection Act of 1973, (iii) the National Flood Insurance Reform Act of 1994 and (iv) the Flood Insurance Reform Act of 2004, in each case, as now or hereinafter in effect, and any successor statute thereto, and all such other applicable Laws related thereto.

**“GAAP”** means generally accepted accounting principles in the United States of America in effect from time to time and consistently applied from period to period.

**“Hazardous Materials”** means (i) any explosive or radioactive substances, materials or wastes, and (ii) any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under, or that could reasonably be expected to give rise to liability under, any applicable Environmental Law, including, without limitation, asbestos, polychlorinated biphenyls, urea-formaldehyde insulation, gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products.

**“Indebtedness”** means any and all indebtedness, obligations, or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) for or in respect of: (i) borrowed money, (ii) amounts raised under or liabilities in respect of any note purchase or acceptance credit facility, (iii) any letter of credit or any bankers or trade acceptance arrangement, (iv) obligations under any Interest Rate Hedge, or under any currency, commodity, or other swap agreement or other hedging or risk management device, (v) any other transaction (including forward sale or purchase agreements, Capital Leases, or conditional sales agreements) having the commercial effect of a borrowing of money (but not including trade payables or accrued expenses incurred in the ordinary course of business which are not represented by a promissory note or other evidence of indebtedness and which are not more than sixty (60) days past due or Operating Leases), or (vi) any guaranty of Indebtedness for borrowed money.

“**Indemnified Taxes**” means (i) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Company under any Loan Document and (ii) to the extent not otherwise described in (i), Other Taxes.

“**Indemnitee**” is defined in Section 11.2(b).

“**Interest Rate Hedge**” means any interest rate exchange, collar, cap, swap, adjustable strike cap, adjustable strike corridor or similar agreement.

“**Interest Rate Option**” means the Company’s option to have Loans under a Facility bear interest at the LIBOR Index Option or Quoted Rate Option, in each case, pursuant to and as permitted by the terms of the applicable Note.

“**IRS**” means the Internal Revenue Service.

“**Law**” means any law (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, release, ruling, order, injunction, writ, decree, bond, judgment, consent, authorization, approval, lien or award of or by, or any settlement agreement with, any Official Body.

“**Lender**” is defined in the preamble to this Agreement.

“**Lender Equities**” is defined in Section 6.2(a).

“**Lending Parties**” means, collectively, Lender and CoBank.

“**Lending Party**” means, individually, Lender or CoBank.

“**LIBOR Index Option**” means the option of the Company to have Loans bear interest at the LIBOR Index Rate.

“**LIBOR Index Rate**” means a rate (rounded upward to the nearest 1/100th and adjusted for reserves required on “Eurocurrency Liabilities” (as hereinafter defined) for banks subject to “FRB Regulation D” (as hereinafter defined) or required by any other federal law or regulation) per annum equal at all times to the LIBOR Index Spread plus the higher of: (a) zero percent (0.000%); or (b) the rate reported at 11:00 a.m. London time for the offering of one (1)-month U.S. dollars deposits, by Bloomberg Information Services (or on any successor or substitute service providing rate quotations comparable to those currently provided by such service, as determined by Agent from time to time, for the purpose of providing quotations of interest rates applicable to dollar deposits in the London interbank market) on the first “U.S. Banking Day” (as hereinafter defined) in each week, with such rate to change weekly on such day. The rate shall be reset automatically, without the necessity of notice being provided to the Company or any other party, on the first “U.S. Banking Day” of each succeeding week, and each change in the rate shall be applicable to all balances subject to this option. Information about the then-current rate shall be made available upon telephonic request. For purposes hereof: (1) “U.S. Banking Day” shall mean a day on which Agent is open for business and banks are open for business in New York, New York; (2) “Eurocurrency Liabilities” shall have the meaning as set forth in “FRB Regulation D”; and (3) “FRB Regulation D” shall mean Regulation D as promulgated by the Board of Governors of the Federal Reserve System, 12 CFR Part 204, as amended.

“**LIBOR Index Spread**” shall have the meaning set forth in the applicable Note.

**“Lien”** means any mortgage, deed of trust, pledge, lien, security interest (including a purchase money security interest), charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing).

**“Loan”** means, unless the context indicates otherwise, each Loan as such term is defined in each Note.

**“Loan Documents”** means this Agreement, each Note, the Environmental Indemnity Agreement, each Interest Rate Hedge, and each other agreement, guaranty, security agreement, pledge, mortgage, deed of trust, instrument, agreement, certificate, application, invoice and document executed or delivered in connection herewith or therewith.

**“Loan Request”** has the meaning set forth in each Note.

**“Material Adverse Change”** means any set of circumstances or events which (i) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Agreement or any other Loan Document, (ii) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations, or prospects of the Company taken as a whole, (iii) impairs materially or could reasonably be expected to impair materially the ability of the Company taken as a whole to duly and punctually pay or perform any of the Obligations or PEI to duly and punctually pay or perform any of its obligations under the Environmental Indemnity Agreement or (iv) impairs materially or could reasonably be expected to impair materially the ability of Agent or any Lending Party, to the extent permitted, to enforce its legal remedies pursuant to this Agreement or any other Loan Document.

**“Multiemployer Plan”** means any employee benefit plan which is a “multiemployer plan” within the meaning of Section 4001(a)(3) of ERISA and to which the Company or any ERISA Affiliate is then making or accruing an obligation to make contributions or, within the preceding five Plan years, has made or had an obligation to make such contributions.

**“Note”** means each promissory note issued in connection with this Agreement at any time.

**“Obligations”** means all obligations, indebtedness, and liabilities to any Lending Party or any Subsidiary or Affiliate of a Lending Party, of any nature whatsoever arising at any time and from time to time including those arising under this Agreement, any Note, or any other Loan Document and including those arising under Interest Rate Hedges, Swap Obligations or agreements governing other financial services or products (including cash management services) provided by any Lending Party or one of their Subsidiaries or Affiliates to the Company.

**“Official Body”** means the government of the United States of America or any other nation or tribe, or of any political subdivision thereof, whether state, local, tribal or territorial, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory, or administrative powers or functions of or pertaining to government and any group or body charged with setting financial accounting or regulatory capital rules or standards (including the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

“**Operating Lease**” means, with respect to any Person, any leasing or similar arrangement of such Person for the lease or use of any equipment or other personal property assets for a period in excess of one year, which, in conformity with GAAP, would not be characterized as a Capital Lease.

“**Organizational Documents**” means (i) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction), (ii) with respect to any limited liability company, the certificate of formation or articles of organization and the operating agreement or limited liability company agreement and (iii) with respect to any partnership, cooperative, joint venture, trust or other form of business entity, the partnership, cooperative, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Official Body in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“**Other Taxes**” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement, any Note, or any other Loan Document.

“**Payment in Full**” means the completion of the transactions hereunder and the indefeasible payment in full in cash of all Obligations hereunder and the termination of all commitments hereunder.

“**PBGC**” means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A or Title IV of ERISA or any successor.

“**PEC**” means Pacific Ethanol Central, LLC, a limited liability company organized and existing under the laws of Delaware.

“**PEI**” means Pacific Ethanol, Inc., a corporation organized and existing under the laws of Delaware.

“**Permitted Indebtedness**” is defined in Section 7.1.

“**Permitted Liens**” is defined in Section 7.2.

“**Person**” means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or governmental agency.

“**Personal Property Collateral**” is defined in Section 6.3.

“**Plan**” means at any time an employee pension benefit plan (including a Multiple Employer Plan, but not a Multiemployer Plan) subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA and in respect of which the Company or any ERISA Affiliate is (or if such plan were terminated, would under 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(S) of ERISA.

“**Properties**” is defined in Section 5.12(a).

“**Protective Advance**” is defined in Section 2.2(d).

“**Quoted Rate**” means a fixed rate per annum quoted to the Company by Agent to be applicable for a period determined by Agent, in its sole discretion in each instance.

“**Quoted Rate Option**” means the option of the Company to have Loans bear interest at the Quoted Rate.

“**Real Property Collateral**” is defined in Section 6.3.

“**Related Parties**” is defined in Section 10.1.

“**Related Party**” is defined in Section 10.1.

“**Relief Proceeding**” is defined in Section 9.1(l).

“**Repurchase Agreement**” means an agreement between the Company or any Subsidiary and a counterparty pursuant to which the Company or any Subsidiary agrees to repurchase from such counterparty on a future date any commodity sold by the Company or any Subsidiary to such counterparty.

“**Revolving Term Commitment**” shall have the meaning set forth in the Revolving Term Note.

“**Revolving Term Facility**” is defined in Section 2.1.

“**Revolving Term Facility Expiration Date**” shall have the meaning set forth in the Revolving Term Note.

“**Revolving Term Facility Usage**” means, as of the date of determination, the aggregate principal amount of all outstanding Revolving Term Loans.

“**Revolving Term Loan**” is defined in Section 2.2(a).

“**Revolving Term Note**” is defined in Section 2.2(b).

“**Risk Management Policy**” means that certain Risk Management Policy (SOP#PEI-II-023) of the Company regarding the procurement of corn, ethanol and other commodities and contract positions.

“**Sanctions**” is defined in Section 5.15.

“**Statements**” is defined in Section 5.5.

“**Subsidiary**” means a corporation, trust, partnership, limited liability company, or other business entity (a) of which shares of stock or similar interests having ordinary voting power to elect a majority of the board of directors, trustees, or other managers of such entity (regardless of any contingency which does or may suspend or dilute the voting rights) are owned or controlled, directly or indirectly, by the Company or one of its Subsidiaries, or (b) which is directly or indirectly controlled or capable of being controlled by the Company or one or more of the Company’s Subsidiaries.

“**Swap Obligation**” shall mean, with respect to any Company, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Official Body, including any interest, additions to tax or penalties applicable thereto.

“**Term Loan**” is defined in Section 2.1.

“**Term Loan Availability Expiration Date**” shall have the meaning set forth in the Term Note.

“**Term Note**” is defined in Section 2.1(a).

“**Title Policy**” is defined in Section 4.1(a)(viii).

“**Unused Commitment Fees**” means the Unused Commitment Fee (as such term is defined in the Revolving Term Note).

“**Voting Stock**” means, with respect to any corporation, partnership, limited liability company, cooperative or other entity, any Capital Stock of or in such corporation, limited liability company, partnership, cooperative or other entity whose holders are entitled under ordinary circumstances to vote for the election of directors (or Persons performing similar functions) of such corporation, limited liability company, partnership, cooperative or other entity (irrespective of whether at the time Capital Stock of any other class or classes shall have or might have voting power by reason of the happening of any contingency).

“**Working Capital**” means, with respect to any Person as of any date of determination, the excess of current assets over current liabilities (as determined in accordance with GAAP consistently applied). For purposes of determining the current assets, any amount available under the Revolving Term Facility (less the amount that would be considered a current liability under GAAP if fully advanced) may be included.

**B. Rules of Construction.** Unless the context of this Agreement otherwise clearly requires, the following rules of construction shall apply to this Agreement and each of the other Loan Documents: (i) references to the plural include the singular (and vice versa), the plural, the part and the whole, and the words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation”; (ii) the words “hereof,” “herein,” “hereunder,” “hereto,” and similar terms in this Agreement or any other Loan Document refer to this Agreement or such other Loan Document as a whole; (iii) article, section, subsection, clause, schedule, and exhibit references are to this Agreement or other Loan Document, as the case may be, unless otherwise specified; (iv) reference to any Person includes such Person’s successors and assigns; (v) reference to any document, instrument, or agreement, including this Agreement and any other Loan Document together with the schedules and exhibits hereto or thereto, means such document, instrument, or agreement as amended, restated, replaced, refinanced, supplemented, substituted, increased, extended, superseded, or otherwise modified from time to time; (vi) relative to the determination of any period of time, “from” means “from and including,” “to” means “to but excluding,” and “through” means “through and including;” (vii) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights; (viii) section headings herein and in each other Loan Document are included for convenience only and shall not affect the interpretation of this Agreement or such Loan Document; (ix) references to any Loan Document or any other document, instrument, or agreement is deemed to include a reference to all annexes, schedules, and exhibits thereto; and (x) unless otherwise specified, all references herein to times of day shall be references to prevailing Mountain Time.

**C. Accounting Principles.** Except as otherwise provided in this Agreement, all computations and determinations as to accounting or financial matters and all financial statements to be delivered pursuant to this Agreement shall be made and prepared in accordance with GAAP (including principles of consolidation where appropriate), and all accounting or financial terms shall have the meanings ascribed to such terms by GAAP; provided, however, that all accounting terms used in Article 8 (and all defined terms used in the definition of any accounting term used in such Article) shall have the meaning given to such terms (and defined terms) under GAAP as in effect on the date hereof applied on a basis consistent with those used in preparing the Statements referred to in Article 5. In the event of any change after the date hereof in GAAP, and if such change would affect the computation of any of the financial covenants set forth in Article 8, then the parties hereto agree to endeavor, in good faith, to agree upon an amendment to this Agreement that would adjust such financial covenants in a manner that would preserve the original intent thereof, but would allow compliance therewith to be determined in accordance with the Company’s financial statements at that time, provided that, until so amended, such financial covenants shall continue to be computed in accordance with GAAP prior to such change therein.

**ANNEX B**

**Real Property Collateral**

**TRACT I**

A PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 9, AND A PART OF LOTS 6 AND

8 IN THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 4, SAID LOTS 6 AND 8 BEING SHOWN ON PLAT RECORDED ON PAGE 57 OF PLAT BOOK "B", IN THE RECORDER'S OFFICE OF TAZEWELL COUNTY, ILLINOIS, ALL BEING IN TOWNSHIP 24 NORTH, RANGE 5 WEST OF THE THIRD PRINCIPAL MERIDIAN, TAZEWELL COUNTY, ILLINOIS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF FRACTIONAL SECTION 9; THENCE SOUTH 89 DEGREES 29 MINUTES 14 SECONDS WEST, ALONG THE NORTH LINE OF SAID FRACTIONAL SECTION 9, A DISTANCE OF 1,629.48 FEET TO THE PLACE OF BEGINNING; THENCE FROM SAID PLACE OF BEGINNING SOUTH 20 DEGREES 05 MINUTES 14 SECONDS WEST A DISTANCE OF 13.41 FEET; THENCE SOUTH 86 DEGREES 48 MINUTES 22 SECONDS EAST A DISTANCE OF 267.42 FEET; THENCE SOUTH 00 DEGREES 56 MINUTES 03 SECONDS WEST A DISTANCE OF 159.82 FEET TO THE NORTH LINE OF THE QUAKER OATS COMPANY BY DEED RECORDED IN BOOK 2045, PAGE 72, OF THE TAZEWELL COUNTY RECORDER'S OFFICE; THENCE SOUTH 89 DEGREES 27 MINUTES 16 SECONDS WEST ALONG SAID NORTH LINE A DISTANCE OF 104.33 FEET; THENCE SOUTH 00 DEGREES 56 MINUTES 03 SECONDS WEST ALONG THE WEST LINE OF THE QUAKER OATS COMPANY PROPERTY AS DESCRIBED IN AFOREMENTIONED DEED, A DISTANCE OF 253.00 FEET TO THE SOUTH LINE OF THE AMERICAN DISTILLING COMPANY PROPERTY; THENCE SOUTH 89 DEGREES 27 MINUTES 16 SECONDS WEST ALONG THE SOUTH LINE OF THE AMERICAN DISTILLING PROPERTY, A DISTANCE OF 850.76 FEET TO THE SOUTHEAST CORNER OF A PARCEL CONVEYED BY THE AMERICAN DISTILLING COMPANY TO PEKIN RIVER AND WAREHOUSE TERMINAL, INC. BY DEED RECORDED IN BOOK 2351, PAGE 208, OF THE TAZEWELL COUNTY RECORDER'S OFFICE; THENCE NORTH 25 DEGREES 40 MINUTES 22 SECONDS WEST ALONG EASTERLY LINE OF SAID PARCEL, A DISTANCE OF 371.70 FEET, THENCE NORTH 00 DEGREES 02 MINUTES 54 SECONDS WEST ALONG EASTERLY LINE OF SAID PARCEL, A DISTANCE OF 106.63 FEET TO THE SOUTH LINE OF SAID FRACTIONAL SECTION 9; THENCE CONTINUING NORTH 00 DEGREES 02 MINUTES 54 SECONDS ALONG EASTERLY LINE OF SAID PARCEL 77.64 FEET TO THE NORTHERLY CORNER OF PEKIN RIVER AND WAREHOUSE TERMINAL INC. PROPERTY, AND ALSO BEING A POINT ON THE NORTHWESTERLY LINE OF LOT 8 AS RECORDED IN PLAT BOOK "B", PAGE 57, OF THE TAZEWELL COUNTY RECORDER'S OFFICE; THENCE NORTH 46 DEGREES 59 MINUTES 11 SECONDS EAST ALONG THE NORTHWESTERLY LINE, OF SAID LOT 8 A DISTANCE OF 1,110.92 FEET; THENCE SOUTH 43 DEGREES 00 MINUTES 54 SECONDS EAST A DISTANCE OF 280.47 FEET; THENCE SOUTH 42 DEGREES 00 MINUTES 08 SECONDS WEST, A DISTANCE OF 188.94 FEET; THENCE SOUTH 19 DEGREES 51 MINUTES 12 SECONDS WEST, A DISTANCE OF 276.07 FEET; THENCE SOUTH 69 DEGREES 54 MINUTES 46 SECONDS EAST, A DISTANCE OF 148.90 FEET; THENCE SOUTH 20 DEGREES 05 MINUTES 14 SECONDS WEST, A DISTANCE OF 182.59 FEET TO THE PLACE OF BEGINNING; SITUATE, LYING AND BEING IN THE COUNTY OF TAZEWELL AND STATE OF ILLINOIS.



TRACT II:

A PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 9, AND A PART OF LOTS 6 AND 8 IN THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 4, SAID LOTS 6 AND 8 BEING SHOWN ON PLAT RECORDED IN PAGE 57 OF PLAT BOOK "B" IN THE RECORDER'S OFFICE OF TAZEWELL COUNTY, ILLINOIS, ALL BEING IN TOWNSHIP 24 NORTH, RANGE 5 WEST OF THE THIRD PRINCIPAL MERIDIAN, TAZEWELL COUNTY, ILLINOIS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID FRACTIONAL SECTION 4; THENCE SOUTH 89 DEGREES 29 MINUTES 14 SECONDS WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID FRACTIONAL SECTION 4, A DISTANCE OF 1,020.92 FEET TO A CONCRETE MONUMENT BEING THE PLACE OF BEGINNING FOR THE TRACT HEREIN BEING DESCRIBED; THENCE NORTH 37 DEGREES 03 MINUTES 04 SECONDS EAST A DISTANCE OF 1013.11 FEET; THENCE NORTH 57 DEGREES 55 MINUTES WEST A DISTANCE OF 292.65 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SOUTH FRONT STREET; THENCE NORTH 29 DEGREES 56 MINUTES 48 SECONDS EAST, ALONG THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SOUTH FRONT STREET, A DISTANCE OF 481.39 FEET TO A CONCRETE MONUMENT; THENCE NORTH 46 DEGREES 54 MINUTES 36 SECONDS WEST A DISTANCE OF 263.31 FEET TO A POINT ON THE NORTHEASTERLY LINE OF LOT 6 AS RECORDED IN PLAT BOOK "B", PAGE 57, OF THE TAZEWELL COUNTY RECORDER'S OFFICE; THENCE NORTH 24 DEGREES 46 MINUTES 48 SECONDS WEST, ALONG THE NORTHEASTERLY LINE OF SAID LOT 6 A DISTANCE OF 35.6 FEET; THENCE NORTH 87 DEGREES 04 MINUTES 48 SECONDS WEST A DISTANCE OF 214.55 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID LOT 6; SAID POINT BEING 200 FEET FROM THE NORTHERLY CORNER OF SAID LOT 6; THENCE SOUTH 46 DEGREES 59 MINUTES 11 SECONDS WEST, ALONG THE NORTHWESTERLY LINE OF SAID LOT 6 AND LOT 8 AS RECORDED IN PLAT BOOK "B", PAGE 57 OF THE TAZEWELL COUNTY RECORDER'S OFFICE, A DISTANCE OF 1,146.23 FEET TO THE NORTHERLY CORNER OF TRACT I PREVIOUSLY DESCRIBED; THENCE SOUTH 43 DEGREES 00 MINUTES 54 SECONDS EAST, ALONG SAID TRACT I, A DISTANCE OF 280.47 FEET; THENCE SOUTH 42 DEGREES 00 MINUTES 08 SECONDS WEST, A DISTANCE OF 188.94 FEET; THENCE SOUTH 19 DEGREES 51 MINUTES 12 SECONDS WEST, ALONG SAID TRACT I, A DISTANCE OF 276.07 FEET; THENCE SOUTH 69 DEGREES 54 MINUTES 46 SECONDS EAST, ALONG SAID TRACT I, A DISTANCE OF 148.90 FEET; THENCE SOUTH 20 DEGREES 05 MINUTES 14 SECONDS WEST, ALONG SAID TRACT I, A DISTANCE OF 196.00 FEET; THENCE SOUTH 86 DEGREES 48 MINUTES 22 SECONDS EAST, ALONG SAID TRACT I, A DISTANCE OF 267.42 FEET; THENCE SOUTH 00 DEGREES 56 MINUTES 03 SECONDS WEST, ALONG SAID TRACT I, A DISTANCE OF 159.82 FEET TO THE PROPERTY LINE OF QUAKER OATS COMPANY; THENCE NORTH 89 DEGREES 27 MINUTES 16 SECONDS EAST, ALONG SAID PROPERTY LINE A DISTANCE OF 345.67 FEET; THENCE NORTH 00 DEGREES 56 MINUTES 03 SECONDS EAST, ALONG SAID PROPERTY LINE, A DISTANCE OF 189.47 FEET TO THE PLACE OF BEGINNING, SITUATE, LYING AND BEING IN THE COUNTY OF TAZEWELL AND STATE OF ILLINOIS.

**SCHEDULE 5.2**

**Subsidiaries**

This is Schedule 5.2 to that certain Credit Agreement dated as of September 15, 2017 by and between Illinois Corn Processing, LLC, Compeer Financial, PCA and CoBank, ACB (as amended, restated, modified or supplemented from time to time, the “**Credit Agreement**”). Capitalized terms defined in the Credit Agreement and not defined in this Schedule 5.2 shall have the respective meanings ascribed to them by the Credit Agreement.

<b>Legal Name of the Company</b>	<b>Jurisdiction of organization and type of entity</b> [for example, Delaware limited liability company, Colorado corporation, etc.]
Illinois Corn Processing, LLC	Delaware limited liability company

<b>Legal Name of Subsidiary</b>	<b>Is the Subsidiary a Guarantor?</b> [Yes or No]	<b>Jurisdiction of organization and type of entity</b>

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**SCHEDULE 6.12(b)**

**Collateral Assignments of Material Agreements**

Corn Procurement and Supply Agreement between the Company and Pacific Ag. Products, LLC dated July 3, 2017

Co-Product Marketing Agreement between the Company and Pacific Ag. Products, LLC dated July 3, 2017

Alcohol Product Marketing Agreement between the Company and Kinergy Marketing LLC dated July 3, 2017

Affiliated Company Agreement between Pacific Ethanol, Inc. and the Subsidiaries from time to time party thereto, including the Company, dated July 1, 2015, as amended by Amendment No. 1 to Affiliated Company Agreement dated January 1, 2017 and Amendment No. 2 to Affiliated Company Agreement dated July 3, 2017.

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**EXHIBIT A**

**Form of Term Note**



**EXHIBIT B**

**Form of Revolving Term Note**



**EXHIBIT C**

**Form of Compliance Certificate**



## TERM NOTE

\$24,000,000

Greenwood Village, Colorado  
September 15, 2017

**FOR VALUE RECEIVED**, ILLINOIS CORN PROCESSING, LLC, a limited liability company organized and existing under the laws of Delaware (the “**Company**”), hereby promises to pay to the order of COMPEER FINANCIAL, PCA (which, together with its endorsees, successors, and assigns, is referred to herein as the “**Bank**”), at the office of CoBank, ACB (the “**Agent**”) located at 6340 S. Fiddlers Green Circle, Greenwood Village, Colorado 80111 (or at such other place of payment designated by the holder hereof to the Company), the principal sum of TWENTY-FOUR MILLION DOLLARS (\$24,000,000) (such amount, the “**Term Loan Amount**”) (each loan and any one or more portions of any loan being referred to herein as a “**Loan**”), and to pay interest, as set forth below, from the date hereof until Payment in Full on the principal amount remaining from time to time outstanding at the rates set forth below, in lawful money of the United States of America in immediately available funds, payable with interest thereon, as set forth below, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Company, and without set-off, counterclaim or other deduction of any nature. This Term Note (as amended, restated, modified, supplemented, replaced, refinanced or renewed from time to time, this “**Note**”) is given pursuant to that Credit Agreement, dated as of even date herewith, between the Company, the Bank and the Agent (as amended, restated, modified or supplemented from time to time, the “**Agreement**”). Capitalized terms not otherwise defined in this Note shall have the respective meanings ascribed to them by the Agreement, including Annex A thereto, and the Rules of Construction set forth in such Annex A shall apply to this Note.

1. *Borrowing Availability.* If not sooner borrowed, the Term Loan Amount shall be borrowed in a single advance no later than 12:00 noon on November 1, 2017 (the “**Term Loan Availability Expiration Date**”).
2. *Purpose of Term Loan.* The proceeds of the Term Loan shall be used to refinance the existing indebtedness of the Company, and the Company shall use the Term Loan for no other purpose.
3. *Principal Payments.* Principal hereunder shall be due and payable in sixteen (16) equal consecutive quarterly installments of \$1,500,000 each, beginning on December 20, 2017, and continuing on the twentieth (20th) day of each March, June, September and December thereafter until September 20, 2021 (the “**Maturity Date**”), at which time the entire remaining indebtedness evidenced by this Note, if not sooner paid in accordance with the terms of the Agreement and this Note, shall be due and payable.
4. *Interest Payments.* The Company hereby further promises to pay to the order of the Agent, at the times and on the dates provided in the Agreement, interest on the unpaid principal amount of the Loans from the date hereof until the Payment in Full of all of the Loans at the rate or rates comprising the Interest Rate Option(s) (defined below), which the Company shall select in accordance with the terms hereof to apply to each Loan, it being understood that, subject to the provisions of this Note and the Agreement, the Company may select different Interest Rate Options to apply to the Loans and may convert to or renew one or more Interest Rate Options with respect to any one or more of the Loans; provided that in the event the Company shall fail to timely select an Interest Rate Option to apply to any one or more Loans, such Loans shall bear interest at the LIBOR Index Option, and provided further that if an Event of Default or Default exists and is continuing, the Company may not request, convert to, or renew the Quoted Rate Option for any Loans, and the Agent may demand that all existing Loans bearing interest under the Quoted Rate Option shall be converted immediately to the LIBOR Index Option, and the Company shall be obligated to pay the Agent any indemnity, costs, and expenses arising in connection with such conversion.
5. *Interest Rate Options.* The Company shall have the right to select from the following interest rate options with respect to the Loans (each, an “**Interest Rate Option**”): (a) upon the selection of a LIBOR Index Option, the LIBOR Index Rate with a LIBOR Index Spread of 3.75% per annum (the “**LIBOR Index Spread**”) or (b) upon the selection of a Quoted Rate Option, the Quoted Rate with such Quoted Rate to remain fixed for such period as is confirmed to the Company by the Agent.

6. *Loan Requests.* Subject to the terms and conditions of this Note and the Agreement, the Company may prior to the Term Loan Availability Expiration Date request the Bank to make the Term Loan and the Company may from time to time prior to the Maturity Date request the Agent to renew or convert the Interest Rate Option applicable to an existing Loan, by delivering, in accordance with the notice provisions of the Agreement, to the Agent not later than 12:00 noon (Denver time),

(a) the same Business Day as the proposed Business Day of borrowing with respect to a Loan to which the LIBOR Index Option will apply, and (b) the same Business Day as the proposed Business Day of borrowing with respect to a Loan to which the Quoted Rate Option will apply or the last day of the preceding Quoted Rate period with respect to the conversion to or renewal of the Quoted Rate Option for a Loan,

a duly completed request therefor substantially in the form of Exhibit A hereto (or a request made by CoLink or by telephone, but subject to the same deadline and containing substantially the same information, and in the case of a telephone request, immediately confirmed in writing substantially in the form of Exhibit A and delivered in accordance with the terms hereof) by physical delivery, facsimile, or electronic mail (each such request, whether telephonic or written and regardless how delivered, a “**Loan Request**”), it being understood that the Agent may rely on the authority of any individual making such a telephonic request without the necessity of receipt of such written confirmation. Each Loan Request shall be irrevocable and shall specify the amount of the proposed Loan, the Interest Rate Option to be applicable thereto, and, if applicable, the Quoted Rate period therefor (each Quoted Rate applicable to a Loan shall remain fixed for such period as is confirmed to the Company by the Agent), which amounts shall be in integral multiples of \$500,000 for each Loan under the Quoted Rate Option. All notices and requests hereunder shall be given, and all borrowings and all conversions or renewals of Interest Rate Options shall occur, only on Business Days.

7. *Loans; Limitations.* Under the Quoted Rate Option, a Quoted Rate may be fixed on such balance and for such period, and shall be subject to such rules and requirements as may be established by the Agent in its sole discretion in each instance, provided that: (1) the minimum fixed period hereunder shall be 365 days; (2) at no time shall more than 10 Loans to which the Quoted Rate Option applies be outstanding at any one time; and (3) amounts may be fixed in increments of \$500,000 or integral multiples thereof. The Agent’s determination of the Quoted Rate shall be conclusive and binding upon the Company absent manifest error.

8. *Incomplete Loan Requests; Consequences.* If no Interest Rate Option is timely selected when a Loan is requested or with respect to the end of any applicable Quoted Rate period for a Loan or prior to a requested conversion to a Quoted Rate Option for a Loan previously subject to a different Interest Rate Option, the Company shall be deemed to have selected a LIBOR Index Option for such Loan. In no event shall the interest rate(s) applicable to principal outstanding hereunder exceed the maximum rate of interest allowed by applicable Law, as amended from time to time; any payment of interest or in the nature of interest in excess of such limitation shall be credited as a payment of principal unless the Company requests the return of such amount.

9. *Miscellaneous.*

(a) This Note is the Term Note referred to in, and is entitled to the benefits of, the Agreement and the other Loan Documents referred to therein. Reference is made to the Agreement for a description of the relative rights and obligations of the Company, the Bank and the Agent, including rights and obligations of prepayment, collateral securing payment hereof, Events of Default, and rights of acceleration of maturity upon the occurrence of an Event of Default.



(b) No delay on the part of the holder hereof in exercising any of its options, powers, or rights, or partial or single exercise thereof, shall constitute a waiver thereof. The options, powers, and rights specified herein of the holder hereof are in addition to those otherwise created or permitted by Law, the Agreement, and the other Loan Documents. There are no claims, set-offs, or deductions of any nature as of the date hereof that could be made or asserted by the Company against the Bank and / or the Agent or against any amount due or to become due under this Note; all such claims, set-offs, or deductions are hereby waived by the Company.

(c) Delivery of an executed signature page of this Note by telecopy or email (as a *.pdf* attachment thereto or otherwise) shall be as effective as delivery of a manually executed counterpart of this Note, but shall in any event be promptly followed by delivery of the original manually executed signature page (provided, however, that the failure to do so shall in no event adversely affect the rights of the Bank and / or the Agent hereunder whatsoever). THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO, WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF and intending to be legally bound hereby, the Company has executed this Note as of the date hereof by its duly Authorized Officer.

**ILLINOIS CORN PROCESSING, LLC**

By: /S/ BRYON T. MCGREGOR  
Name: Bryon T. McGregor  
Title: Chief Financial Officer

EXHIBIT A

FORM OF TERM LOAN REQUEST

[ \_\_\_\_\_ ], 20[\_\_]

To: CoBank, ACB (the “**Agent**”)

From: Illinois Corn Processing, LLC (the “**Company**”)

Re: Credit Agreement (as amended, restated, modified or supplemented from time to time, the “**Credit Agreement**”), dated as of September \_\_, 2017, between the Company, Compeer Financial, PCA, as Lender, and the Agent

Pursuant to Section 2.1 of the Credit Agreement, the Company hereby gives notice of its desire to receive a Term Loan in accordance with the terms set forth below (all capitalized terms used herein and not defined herein shall have the meaning given them in the Credit Agreement):

(a) The Term Loan requested pursuant to this Loan Request shall be made on [ \_\_\_\_\_ ], 20[\_\_].

(b) The aggregate principal amount of the Term Loan requested hereunder is [ \_\_\_\_\_ ] Dollars (\$[ \_\_\_\_\_]).

(c) The Term Loan requested hereunder shall initially bear interest at the *[select one]*:

- LIBOR Index Option; or
- Quoted Rate Option.

**ILLINOIS CORN PROCESSING, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## REVOLVING TERM NOTE

\$18,000,000

Greenwood Village, Colorado  
September 15, 2017

**FOR VALUE RECEIVED**, ILLINOIS CORN PROCESSING, LLC, a limited liability company organized and existing under the laws of Delaware (the “**Company**”), hereby promises to pay to the order of COMPEER FINANCIAL, PCA (which, together with its endorsees, successors, and assigns, is referred to herein as the “**Bank**”), at the office of CoBank, ACB (the “**Agent**”) located at 6340 S. Fiddlers Green Circle, Greenwood Village, Colorado 80111 (or at such other place of payment designated by the holder hereof to the Company), the lesser of (i) the principal sum of EIGHTEEN MILLION DOLLARS (\$18,000,000) as reduced from time to time pursuant to Section 1 below (as so reduced, the “**Revolving Term Commitment**”), or (ii) the aggregate unpaid principal balance of all loans made under the Revolving Term Commitment by the Bank to or for the benefit of the Company (each loan and any one or more portions of any loan being referred to herein as a “**Loan**”) pursuant to that Credit Agreement, dated as of even date herewith, between the Company, the Bank and the Agent (as amended, restated, modified or supplemented from time to time, the “**Agreement**”), in lawful money of the United States of America in immediately available funds, payable together with interest thereon, as set forth below, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Company, and without set-off, counterclaim or other deduction of any nature at the earlier of September 1, 2022 (the “**Revolving Term Facility Expiration Date**”), or as otherwise set forth below or in the Agreement. Capitalized terms not otherwise defined in this Revolving Term Note (as amended, restated, modified, supplemented, replaced, refinanced or renewed from time to time, this “**Note**”) shall have the respective meanings ascribed to them by the Agreement, including Annex A thereto, and the Rules of Construction set forth in such Annex A shall apply to this Note.

1. *Commitment Reductions.* The Company shall have the right, in its sole discretion, to permanently reduce the Revolving Term Commitment by giving the Agent ten (10) days prior written notice; provided that no Event of Default or Default has occurred or would result therefrom. Any such permanent reduction by the Company shall be made in increments of \$500,000.

2. *Principal Payments and Prepayments.* Payments and prepayments of principal shall be due and payable as set forth in the Agreement and this Note. The entire remaining indebtedness evidenced by this Note, if not sooner paid in accordance with the terms of the Agreement or this Note, shall be due and payable on the Revolving Term Facility Expiration Date. If at any time, the aggregate principal amount of Loans outstanding exceeds the Revolving Term Commitment at such time, the Company shall immediately notify the Agent and shall immediately prepay the principal amount of the outstanding Loans in an amount sufficient to eliminate such excess.

3. *Purpose of Revolving Term Facility.* The proceeds of the Revolving Term Facility shall be used to refinance the existing indebtedness of the Company and provide Working Capital for the Company, and the Company shall use the Loans for no other purpose.

4. *Unused Commitment Fee.* Accruing from the date hereof until the Revolving Term Facility Expiration Date, the Company agrees to pay to the Agent a nonrefundable commitment fee (the “**Unused Commitment Fee**”) equal to 0.75% per annum (computed on the basis of a year of 360 days for the actual number of days elapsed) multiplied by the average daily positive difference between the amount of (i) the Revolving Term Commitment minus (ii) the aggregate principal amount of all Loans then outstanding. All Unused Commitment Fees shall accrue to the first day of each month and be payable monthly in arrears on the 20th day of each month hereafter, commencing on October 20, 2017, and on the Revolving Term Facility Expiration Date.

5. *Interest Payments.* The Company hereby further promises to pay to the order of the Agent, at the times and on the dates provided in the Agreement, interest on the unpaid principal amount of the Loans from the date hereof until the Payment in Full of all of the Loans at the rate or rates comprising the Interest Rate Option(s) (defined below), which the Company shall select in accordance with the terms hereof to apply to each Loan, it being understood that, subject to the provisions of this Note and the Agreement, the Company may select different Interest Rate Options to apply to the Loans and may convert to or renew one or more Interest Rate Options with respect to any one or more of the Loans; provided that in the event the Company shall fail to timely select an Interest Rate Option to apply to any one or more Loans, such Loans shall bear interest at the LIBOR Index Option, and provided further that if an Event of Default or Default exists and is continuing, the Company may not request, convert to, or renew the Quoted Rate Option for any Loans, and the Agent may demand that all existing Loans bearing interest under the Quoted Rate Option shall be converted immediately to the LIBOR Index Option, and the Company shall be obligated to pay the Agent any indemnity, costs, and expenses arising in connection with such conversion.

6. *Interest Rate Options.* The Company shall have the right to select from the following interest rate options with respect to the Loans (each, an “**Interest Rate Option**”): (a) upon the selection of a LIBOR Index Option, the LIBOR Index Rate with a LIBOR Index Spread of 3.75% per annum (the “**LIBOR Index Spread**”) or (b) upon the selection of a Quoted Rate Option, the Quoted Rate with such Quoted Rate to remain fixed for such period as is confirmed to the Company by the Agent.

7. *Loans; Limitations.* Under the Quoted Rate Option, a Quoted Rate may be fixed on such balance and for such period, and shall be subject to such rules and requirements as may be established by the Agent in its sole discretion in each instance, provided that: (1) the minimum fixed period hereunder shall be 365 days; (2) at no time shall more than 10 Loans to which the Quoted Rate Option applies be outstanding at any one time; and (3) amounts may be fixed in increments of \$500,000 or integral multiples thereof. The Agent’s determination of the Quoted Rate shall be conclusive and binding upon the Company absent manifest error.

8. *Loan Requests.* Subject to the terms and conditions of this Note and the Agreement, the Company may prior to the Revolving Term Facility Expiration Date request the Bank to make Loans and the Company may from time to time prior to the Revolving Term Facility Expiration Date request the Agent to renew or convert the Interest Rate Option applicable to an existing Loan, by delivering, in accordance with the notice provisions of the Agreement, to the Agent not later than 12:00 noon (Denver time),

(a) the same Business Day as the proposed Business Day of borrowing with respect to a Loan to which the LIBOR Index Option will apply, and (b) the same Business Day as the proposed Business Day of borrowing with respect to a Loan to which the Quoted Rate Option will apply or the last day of the preceding Quoted Rate period with respect to the conversion to or renewal of the Quoted Rate Option for a Loan,

a duly completed request therefor substantially in the form of Exhibit A hereto (or a request made by CoLink or by telephone, but subject to the same deadline and containing substantially the same information, and in the case of a telephone request, immediately confirmed in writing substantially in the form of Exhibit A and delivered in accordance with the terms hereof) by physical delivery, facsimile, or electronic mail (each such request, whether telephonic or written and regardless how delivered, a “**Loan Request**”), it being understood that the Agent may rely on the authority of any individual making such a telephonic request without the necessity of receipt of such written confirmation. Each Loan Request shall be irrevocable and shall specify the amount of the proposed Loan, the Interest Rate Option to be applicable thereto, and, if applicable, the Quoted Rate period therefor (each Quoted Rate applicable to a Loan shall remain fixed for such period as is confirmed to the Company by the Agent), which amounts shall be in integral multiples of \$500,000 for each Loan under the Quoted Rate Option. All notices and requests hereunder shall be given, and all borrowings and all conversions or renewals of Interest Rate Options shall occur, only on Business Days.

9. *Incomplete Loan Requests; Consequences.* If no Interest Rate Option is timely selected when a Loan is requested or with respect to the end of any applicable Quoted Rate period for a Loan or prior to a requested conversion to a Quoted Rate Option for a Loan previously subject to a different Interest Rate Option, the Company shall be deemed to have selected a LIBOR Index Option for such Loan. In no event shall the interest rate(s) applicable to principal outstanding hereunder exceed the maximum rate of interest allowed by applicable Law, as amended from time to time; any payment of interest or in the nature of interest in excess of such limitation shall be credited as a payment of principal unless the Company requests the return of such amount.

10. *Miscellaneous.*

(a) This Note is the Revolving Term Note referred to in, and is entitled to the benefits of, the Agreement and the other Loan Documents referred to therein. Reference is made to the Agreement for a description of the relative rights and obligations of the Company, the Bank and the Agent, including rights and obligations of prepayment, collateral securing payment hereof, Events of Default, and rights of acceleration of maturity upon the occurrence of an Event of Default.

(b) No delay on the part of the holder hereof in exercising any of its options, powers, or rights, or partial or single exercise thereof, shall constitute a waiver thereof. The options, powers, and rights specified herein of the holder hereof are in addition to those otherwise created or permitted by Law, the Agreement, and the other Loan Documents. There are no claims, set-offs, or deductions of any nature as of the date hereof that could be made or asserted by the Company against the Bank and / or the Agent or against any amount due or to become due under this Note; all such claims, set-offs, or deductions are hereby waived by the Company.

(c) Delivery of an executed signature page of this Note by telecopy or email (as a *.pdf* attachment thereto or otherwise) shall be as effective as delivery of a manually executed counterpart of this Note, but shall in any event be promptly followed by delivery of the original manually executed signature page (provided, however, that the failure to do so shall in no event adversely affect the rights of the Bank and / or the Agent hereunder whatsoever). THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO, WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF and intending to be legally bound hereby, the Company has executed this Note as of the date hereof by its duly Authorized Officer.

**ILLINOIS CORN PROCESSING, LLC**

By: /S/ BRYON T. MCGREGOR  
Name: Bryon T. McGregor  
Title: Chief Financial Officer

EXHIBIT A

FORM OF REVOLVING TERM LOAN REQUEST

[ \_\_\_\_\_ ], 20[ \_\_\_\_ ]

To: CoBank, ACB (the “**Agent**”)

From: Illinois Corn Processing, LLC (the “**Company**”)

Re: Credit Agreement (as amended, restated, modified or supplemented from time to time, the “**Credit Agreement**”), dated as of September \_\_\_\_, 2017, between the Company, Compeer Financial, PCA, as Lender, and the Agent

Pursuant to Section 2.2(a) of the Credit Agreement, the Company hereby gives notice of its desire to receive a Revolving Term Loan in accordance with the terms set forth below (all capitalized terms used herein and not defined herein shall have the meaning given them in the Credit Agreement):

(a) The Revolving Term Loan requested pursuant to this Revolving Term Loan Request shall be made on [ \_\_\_\_\_ ], 20[ \_\_\_\_ ].

(b) The aggregate principal amount of the Revolving Term Loan requested hereunder is [ \_\_\_\_\_ ] Dollars (\$[ \_\_\_\_\_ ]).

(c) The Revolving Term Loan requested hereunder shall initially bear interest at the *[select one]*:

- LIBOR Index Option; or
- Quoted Rate Option.

**ILLINOIS CORN PROCESSING, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



This instrument was prepared by, and after Recording should be returned to: Ronald L. Comes McGrath North Mullin & Kratz, PC LLO 1601 Dodge Street, Suite 3700 Omaha, NE 68102 Phone: 402-341-3070	Tax statements should be sent to: Illinois Corn Processing, LLC 400 Capitol Mall, Suite 2060 Sacramento, CA 95814 Attention: Bryon McGregor Phone: 916-403-2710
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ILLINOIS FUTURE ADVANCE REAL ESTATE MORTGAGE

Made By

ILLINOIS CORN PROCESSING, LLC  
400 CAPITOL MALL, SUITE 2060  
SACRAMENTO, CA 95814

as Mortgagor

in favor of

CoBANK, ACB  
as agent for and on behalf of  
COMPEER FINANCIAL, PCA

as Mortgagee

Dated as of

September 15, 2017

THIS INSTRUMENT CONSTITUTES A LIEN ON ALL AFTER ACQUIRED PROPERTY OF THE MORTGAGOR.

THIS INSTRUMENT CONTAINS FUTURE ADVANCE PROVISIONS.

THIS ILLINOIS FUTURE ADVANCE REAL ESTATE MORTGAGE , dated as of September 15, 2017, is made by ILLINOIS CORN PROCESSING, LLC, 400 Capitol Mall, Suite 2060, Sacramento, CA 95814 (hereinafter called the "Mortgagor"), a limited liability company existing under the laws of the State of Delaware in favor of CoBANK, ACB, in its capacity as agent for and on behalf of Compeer Financial, PCA (hereinafter called the "Mortgagee"), a federally-chartered instrumentality of the United States.

## ARTICLE I.

### DEFINITIONS

**Section 1.01. Definitions.** In addition to the terms defined elsewhere in this Mortgage, the following terms shall have the meanings specified in this Section 1.01, unless the context clearly requires otherwise. The terms defined herein include the plural as well as the singular. Accounting terms used in this Mortgage but not otherwise defined herein shall have the meanings they have under GAAP.

**Credit Agreements** shall mean all agreements, instruments and documents between the Mortgagor and the Mortgagee or executed by the Mortgagor in favor of the Mortgagee which evidence or relate to the Obligations, whether now existing or hereafter entered into, and all amendments, supplements and restatements thereof.

**Environmental Law** shall have the meaning specified in Section 3.13.

**Event of Default** shall have the meaning specified in Section 4.01.

**GAAP** shall mean generally accepted accounting principles as established by the American Institute of Certified Public Accountants.

**Hazardous Materials** shall have the meaning specified in Section 3.13.

**Lender** shall mean Compeer Financial, PCA

**Lien** shall mean any statutory or common law consensual or non-consensual mortgage, pledge, grant, security title or interest, lien, encumbrance or charge of any kind against property, including, without limitation, any conditional sale or other title retention transaction, and any lease transaction in the nature of a security interest.

**Maturity Date** shall mean the maturity date(s) of the Obligations secured by this Illinois Future Advance Real Estate Mortgage, as set forth in Exhibit "B" hereto.

**Maximum Debt Limit** shall mean \$84,000,000 at any one time outstanding.

**Mortgage** shall mean this Illinois Future Advance Real Estate Mortgage, as it may be amended or supplemented from time to time.

**Mortgaged Property** shall have the meaning specified in Section 2.01.

**Mortgagee** shall mean CoBank, ACB, in its capacity as agent for and on behalf of Compeer Financial, PCA.

**Obligations** shall mean all indebtedness and other obligations of the Mortgagor to the Lender and CoBank, ACB of every type and description, whether now existing or hereafter arising, fixed or contingent, as primary obligor or as guarantor or surety, acquired directly or by assignment or otherwise, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced, including, without limitation, all future advances, future obligations, indebtedness under all loans, advances and other extensions of credit made to or for the account of the Mortgagor, including without limitation the promissory note(s) that are more particularly identified on Exhibit "B" hereto, and including without limitation, obligations under Interest Rate Agreements (as defined below), and all covenants, agreements and provisions contained in this Mortgage and in any of the Credit Agreements. As used in this Mortgage, "Interest Rate Agreement" means any interest rate swap, hedge, cap, collar or similar agreement, including any master agreement published by the International Swap and Derivatives Association, Inc., between the Mortgagor and the Mortgagee, designed to protect the Mortgagor from fluctuations in interest rates.

**Permitted Encumbrances** shall mean:

- (i) as to the real property specifically described in Exhibit "A" hereto, the restrictions, exceptions, reservations, conditions, limitations, interests and other matters which are set forth or referred to in the descriptions of such real property; and
- (ii) as to all Mortgaged Property, any Lien permitted under the Credit Agreements.

**Potential Default** shall mean the occurrence of any event which with the giving of notice and/or the passage of time and/or the occurrence of any other condition would ripen into an Event of Default.

## ARTICLE II.

### GRANTING CLAUSES

**Section 2.01. Granting Clauses.** In order to secure the repayment of the Obligations, whether such Obligations are made pursuant to a commitment, made at the option of the Lender, made after a reduction to zero or other balance, or made otherwise, up to the Maximum Debt Limit, and to declare the terms and conditions upon which the Obligations are to be secured, the Mortgagor, in consideration of the premises, does hereby grant, bargain, sell, alienate, convey, assign, transfer, mortgage, warrant, hypothecate, pledge, set over and confirm unto the Mortgagee, and its respective assigns the following (all of which are hereinafter collectively called the "Mortgaged Property"):

All right, title and interest of the Mortgagor in and to those fee and leasehold estates in real property described in Exhibit "A" hereto, subject in each case to those matters set forth in such Exhibit, together with all buildings, improvements, fixed assets, personalty and fixtures (collectively, "Improvements"), now or in the future annexed, affixed or attached to said real property and/or Improvements; and

All right, title and interest of the Mortgagor in, to and under any and all grants, privileges, rights of way, easements and other similar interests now owned, held, leased, enjoyed or exercised, or which may hereafter be owned, held, leased, acquired, enjoyed or exercised, by the Mortgagor for the purposes of, or in connection with the real property described in Exhibit "A" hereto or the construction, acquisition, ownership, use or operation by or on behalf of the Mortgagor of all Improvements, wherever located.

TOGETHER WITH all tenements, hereditaments and appurtenances belonging or otherwise pertaining to the Mortgaged Property or any part thereof, with all reversions, remainders, rents, income, revenues, profits, cash, proceeds, products and benefits at any time derived, received or had from any or all of the Mortgaged Property and all deposits or other accounts into which the same may be deposited.

TO HAVE AND TO HOLD the Mortgaged Property unto the Mortgagee and its respective assigns forever, to secure the payment and performance of the Obligations, including, without limitation, the due performance of the covenants, agreements and provisions herein contained, and for the uses and purposes and upon the terms, conditions, provisos and agreements hereinafter expressed and declared.

### ARTICLE III.

#### PARTICULAR REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE MORTGAGOR

The Mortgagor represents, warrants and, except as otherwise permitted by the Mortgagee, covenants with the Mortgagee as follows:

**Section 3.01. Authority to Execute and Deliver this Mortgage; All Action Taken; Enforceable Obligations.** The Mortgagor is authorized under its articles of incorporation and bylaws or other applicable organizational documents and all applicable laws and by corporate or organizational action to execute and deliver this Mortgage; and this Mortgage is, and any amendment, supplement or restatement of this Mortgage, when executed and delivered will be, the legal, valid and binding obligations of the Mortgagor which are enforceable in accordance with their respective terms.

**Section 3.02. Authority to Mortgage Property; No Liens; Exception for Permitted Encumbrances; Mortgagor to Defend Title and Remove Liens.** The Mortgagor has good and marketable title to all fee and leasehold estates in real property and good, right and lawful authority to mortgage the Mortgaged Property for the purposes herein expressed. The Mortgaged Property is free and clear of any Lien affecting the title thereto, except Permitted Encumbrances. The Mortgagor will, so long as any of the Obligations shall remain unpaid, maintain and preserve the Lien of this Mortgage superior to all other Liens, other than Permitted Encumbrances, and will forever warrant and defend the title to the Mortgaged Property against any and all claims and demands.

**Section 3.03. No Encumbrances on Mortgaged Property.** The Mortgagor will not create, incur, suffer or permit to exist any Lien on any of the Mortgaged Property, except for Permitted Encumbrances. Except for claims giving rise to Permitted Encumbrances, the Mortgagor will promptly pay or discharge any and all obligations for or on account of which any such Lien might exist.

**Section 3.04. Sale or Transfer of Mortgaged Property.** The Mortgagor shall not sell, lease or transfer any of the Mortgaged Property to any person or entity except as permitted in the Credit Agreements.

**Section 3.05. Payment of Obligations.** The Mortgagor will duly and punctually pay all amounts due under the Obligations, at the dates and places and in the manner provided in all Credit Agreements, and all other sums becoming due hereunder.

**Section 3.06. Preservation of Franchises and Compliance with Laws.** The Mortgagor will take or cause to be taken all such action as may from time to time be necessary to obtain, preserve and renew all franchises, rights of way, easements, permits, and licenses now or hereafter granted or upon it conferred necessary to the operations of the Mortgagor, and will comply in all material respects with all laws, ordinances, regulations, and requirements applicable to it or the Mortgaged Property.

**Section 3.07. Maintenance of Mortgaged Property.** Except as permitted in the Credit Agreement, the Mortgagor will at all times maintain and preserve the Mortgaged Property and each and every material part and parcel thereof in good repair, working order and condition, ordinary wear and tear excepted, and in material compliance with all applicable laws, ordinances, regulations, and requirements, and will from time to time make all needed and proper repairs, renewals, and replacements, and useful and proper alterations, additions, betterments and improvements, and will, subject to contingencies beyond its reasonable control, at all times keep its plant and properties in continuous operating condition.

**Section 3.08. Insurance; Restoration of Damaged Mortgaged Property.** The Mortgagor will maintain insurance as required by the Credit Agreements. In the event of damage to or the destruction or loss of any portion of the Mortgaged Property, unless the Mortgagee shall otherwise agree, the Mortgagor shall replace or restore such damaged, destroyed or lost portion so that the Mortgaged Property shall be in substantially the same condition as it was in prior to such damage, destruction or loss. Provided no Potential Default or Event of Default then exists, the Mortgagee shall provide to the Mortgagor any insurance proceeds received by the Mortgagee upon such reasonable terms and conditions as the Mortgagee may require to ensure that such proceeds are used for the foregoing purpose and that such required replacement or restoration will be completed. The Mortgagor shall replace the lost portion of the Mortgaged Property or shall commence such restoration promptly after such damage, destruction or loss shall have occurred and shall complete such replacement or restoration as expeditiously as practicable, and shall pay or cause to be paid, out of the proceeds of such insurance or otherwise, all costs and expenses in connection therewith so that such replacement or restoration shall be so completed that the portion of the Mortgaged Property so replaced or restored shall be free and clear of all Liens, except for Permitted Encumbrances. At the request of the Mortgagee, the Mortgagor shall exercise such rights and remedies which it may have under any insurance policy or fidelity bond and which may be designated by the Mortgagee. In the event the Mortgagor fails to take any action requested or required under this Section 3.08, the Mortgagee may take any such action and make, execute and record any such instruments and documents for and in the name of the Mortgagor, and the Mortgagor hereby irrevocably appoints the Mortgagee as its attorney-in-fact to take such actions, which appointment is coupled with an interest and irrevocable. Mortgagor shall pay all reasonable costs and expenses incurred by the Mortgagee in connection with such exercise.

The following notice is given pursuant to the Illinois Collateral Protection Act. For the purpose of this Section 3.08, the terms “you” and “your” shall refer to the Mortgagor and the terms “we” and “us” shall refer to the Mortgagee. UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY YOUR AGREEMENT WITH US, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTERESTS IN YOUR COLLATERAL. THIS INSURANCE MAY, BUT NEED NOT, PROTECT YOUR INTERESTS. THE COVERAGE THAT WE PURCHASE MAY NOT PAY ANY CLAIM THAT YOU MAKE OR ANY CLAIM THAT IS MADE AGAINST YOU IN CONNECTION WITH THE COLLATERAL. YOU MAY LATER CANCEL ANY INSURANCE PURCHASED BY US, BUT ONLY AFTER PROVIDING US WITH EVIDENCE THAT YOU HAVE OBTAINED INSURANCE AS REQUIRED BY OUR AGREEMENT. IF WE PURCHASE INSURANCE FOR THE COLLATERAL, YOU WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES WE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO YOUR TOTAL OUTSTANDING BALANCE OR OBLIGATION. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE YOU MAY BE ABLE TO OBTAIN ON YOUR OWN.

**Section 3.09. Lender Right to Expend Money to Protect Mortgaged Property.** From time to time, the Lender may, in its sole discretion, but shall not be obligated to, advance funds on behalf of the Mortgagor, in order to ensure compliance with any covenant or agreement of the Mortgagor made in or pursuant to this Mortgage or any of the Credit Agreements, to preserve or protect any right or interest of the Mortgagee in the Mortgaged Property or under or pursuant to this Mortgage or any of the Credit Agreements, including, without limitation, the payment of any insurance premiums or taxes and the satisfaction or discharge of any judgment or any Lien upon the Mortgaged Property or other property or assets of the Mortgagor (other than Permitted Encumbrances); provided, however, that the making of any such advance by the Lender shall not constitute a waiver by the Lender or Mortgagee of any Event of Default with respect to which such advance is made nor excuse the Mortgagor from any performance required hereunder. The Mortgagor shall pay to the Lender upon demand all such advances made by the Lender with interest thereon at a rate equal at all times to 4% per annum above the Mortgagee’s “CoBank Base Rate”. For purposes hereof, the CoBank Base Rate shall mean the rate of interest established by the Mortgagee from time to time as its CoBank Base Rate, which rate is intended by the Mortgagee to be a reference rate and not its lowest rate. All such advances and accrued interest shall be secured by this Mortgage.

**Section 3.10. Further Assurances.** Upon the request of the Mortgagee, the Mortgagor shall promptly do all acts and things, including the execution, acknowledgment and delivery of such amendments hereto and other instruments and documents as the Mortgagee may reasonably request, to enable the Mortgagee to perfect and maintain the Lien of this Mortgage and/or the Mortgagee's rights and remedies hereunder. The Mortgagor shall notify the Mortgagee promptly upon the acquisition of any fee or leasehold estate in real property and, to the extent required under the Credit Agreement, shall execute and record such amendments or supplements to this Mortgage or other documents or instruments as are necessary or appropriate to subject such real property to the Lien of this Mortgage and shall deliver such executed and recorded amendments or supplements or other documents or instruments to the Mortgagee. In the event the Mortgagor fails to take any action requested or required under this Section 3.10, the Mortgagee may take any such action and make, execute and record any such instruments and documents for and in the name of the Mortgagor, and the Mortgagor hereby irrevocably appoints the Mortgagee as its attorney-in-fact to take such actions, which appointment is coupled with an interest and irrevocable. Mortgagor shall pay all reasonable costs and expenses incurred by the Mortgagee in connection with such exercise.

**Section 3.11. Condemnation, Etc.** In the event that the Mortgaged Property or any part thereof shall be taken under the power of eminent domain or like power, then, unless the Mortgagee otherwise consents, all proceeds and avails thereof shall be applied by the Mortgagor to the prepayment of the Obligations (such prepayments to be applied in such order and manner as the Mortgagee may, in its sole discretion, elect); provided, however, Mortgagee's consent to use of proceeds shall not be unreasonably delayed, conditioned or withheld in the event of partial condemnation if no Event of Default is outstanding and Borrower applies the proceeds to remedy the condition of the Trust Estate caused by the partial condemnation.

**Section 3.12. Conflict with Mortgage Terms.** The provisions of this Mortgage and the Credit Agreements shall be cumulative and not mutually exclusive, notwithstanding any inconsistencies. In the event of irreconcilable inconsistency between the provisions of this Mortgage and the primary Credit Agreement, the provisions of the primary Credit Agreement shall control, except with respect to the remedies provided in this Mortgage.

**Section 3.13. Environmental Representations, Warranties and Covenants.** The Mortgagor makes the following representations, warranties and covenants, all of which are subject to (i) any exceptions that the Mortgagor may have previously disclosed in writing to the Mortgagee, (ii) the extent that they deal with representations of fact, are based on the Mortgagor's present knowledge, arrived at after reasonable inquiry and (iii) qualifications otherwise provided in the Environmental Indemnity and Reimbursement Agreement of same date.

(A) **Use of the Mortgaged Property.**

(1) The Mortgagor shall: (a) use, handle, transport or store Hazardous Materials as defined under any Environmental Law (both as hereinafter defined); and (b) store or treat non-hazardous wastes: (i) in a good and prudent manner in the ordinary course of business; and (ii) in compliance with all applicable Environmental Laws.

(2) The Mortgagor shall not conduct or allow to be conducted, in violation of any Environmental Law, any business, operations or activity on the Mortgaged Property, or, except in strict compliance with applicable law, employ or use the Mortgaged Property to generate, use, handle, manufacture, treat, store, process, transport or dispose of any Hazardous Materials, or any other substance which is prohibited, controlled or regulated under applicable law. The Mortgagor shall not use the Mortgaged Property in a way that poses a threat or nuisance to public safety, health or the environment, or cause or allow to be caused a known or suspected release of Hazardous Materials, on, under, or from the Mortgaged Property.

(3) The Mortgagor shall not do or permit any act or thing, business or operation that poses an unreasonable risk of harm, or impairs or may impair the value of the Mortgaged Property or any part thereof.

**(B) Condition of the Mortgaged Property.**

(1) The Mortgagor shall take all appropriate response actions, including any removal and remedial actions, in the event of a release, emission, discharge or disposal of Hazardous Materials in, on, under, or about the Mortgaged Property, so as to remain in compliance with all Environmental Laws.

(2) All underground tanks, wells, septic tanks, ponds, pits, or any other storage tanks (whether currently in use or abandoned) on the Mortgaged Property, if any, are, as of the date hereof, maintained in compliance with all applicable Environmental Laws.

**(C) Notice of Environmental Problems or Litigation.** Neither the Mortgagor nor any of its tenants have given, nor were they required to give, nor have they received, any notice, letter, citation, order, warning, complaint, inquiry, claim or demand that: (1) the Mortgagor and/or any of its tenants have violated, or are about to violate, any Environmental Law, judgment or order; (2) there has been a release, or there is a threat of release, of Hazardous Materials from the Mortgaged Property; (3) the Mortgagor and/or any of its tenants may be or are liable, in whole or in part, for the costs of cleaning up, remediating, removing or responding to a release or a threatened release of Hazardous Materials; or (4) the Mortgaged Property is subject to a Lien in favor of any governmental entity for any liability, costs or damages, under any Environmental Law arising from, or costs incurred by such governmental entity in response to, a release or a threatened release of a Hazardous Material. The Mortgagor further represents and warrants that no conditions currently exist or are currently reasonably foreseeable that would subject the Mortgagor to any such investigation, litigation, administrative enforcement or to any damages, penalties, injunctive relief, or cleanup costs under any Environmental Law. Upon receipt of any such notice, the Mortgagor and its tenants shall immediately provide a copy to the Mortgagee.

**(D) Right of Inspection.** The Mortgagor hereby grants, and will cause any of its tenants to grant, to the Mortgagee, its agents, attorneys, employees, consultants, contractors, successors and assigns, an irrevocable license and authorization, upon reasonable notice, to enter upon and inspect the Mortgaged Property and facilities thereon, and perform such tests, including without limitation, subsurface testing, soils and groundwater testing, and other tests which may physically invade the Mortgaged Property, as the Mortgagee, in its sole discretion, determines are necessary to protect its security interest; provided, however, that under no circumstances shall the Mortgagee be obligated to perform such inspections or tests.

(E) **Indemnity.** The Mortgagor agrees to indemnify and hold the Lender and Mortgagee, their directors, employees, agents, and their successors and assigns, harmless from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, judgments, administrative orders, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including without limitation attorney's fees and expenses) arising directly or indirectly, in whole or in part, out of any failure of the Mortgagor to comply with the environmental representations, warranties, and covenants contained herein.

(F) **Continuation of Representations, Warranties, Covenants and Indemnities.** The Mortgagor's representations, warranties, covenants, and indemnities contained herein shall survive the occurrence of any event whatsoever, including, without limitation, the satisfaction of the Obligations secured hereby, the reconveyance or foreclosure of this Mortgage, the acceptance by the Mortgagee of a deed in lieu of foreclosure, or any transfer or abandonment of the Mortgaged Property.

(G) **Corrective Action.** In the event the Mortgagor is in breach of any of its representations, warranties or agreements as set forth above, then, without limiting the Mortgagee's other rights hereunder, the Mortgagor, at its sole expense, shall take all actions required, including, without limitation, environmental cleanup of the Mortgaged Property, to comply with the representations, warranties, and covenants contained herein and with all applicable legal requirements and, in any event, shall take all actions deemed necessary under all applicable Environmental Laws.

(H) **Hazardous Materials Defined.** The term "Hazardous Materials" shall mean dangerous, toxic, or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of any Environmental Law.

(I) **Environmental Law Defined.** The term "Environmental Law" shall mean any federal, state or local laws, statute, ordinance, rule, regulation, administration order, or permit now in effect or hereinafter enacted, pertaining to the public health, safety, industrial hygiene, or the environmental conditions on, under or about the Mortgaged Property.

#### ARTICLE IV.

##### EVENTS OF DEFAULT AND REMEDIES OF THE MORTGAGEE

**Section 4.01. Events of Default.** Each of the following shall be an "Event of Default":

- (A) default shall be made in the payment of any amount due under any Obligation;
- (B) default shall be made in the due observance or performance of any of the covenants, conditions or agreements on the part of the Mortgagor, and, if such default shall be under Sections 3.06, 3.07, or 3.08 hereof, such default shall continue for a period of thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Mortgagor by the Lender or Mortgagee;
- (C) any representation or warranty made by the Mortgagor herein, or in any certificate, instrument or document delivered hereunder, shall prove to be false or misleading in any material respect on or as of the date made;
- (D) an "Event of Default" shall have occurred under any Credit Agreement; and



(E) an event of damage, destruction or loss or a taking under the power of eminent domain or like power (or transfer in lieu of such taking) shall have had, in the judgment of the Mortgagee, a material adverse effect on the ability of the Mortgagor to pay or perform the Obligations.

**Section 4.02. Acceleration of Maturity.** If an Event of Default shall have occurred and be continuing, the Lender or Mortgagee may declare the Obligations to be due and payable immediately by a notice in writing from Lender or Mortgagee to the Mortgagor, and upon such declaration, all Obligations shall become due and payable immediately, anything contained herein or in the Credit Agreements to the contrary notwithstanding.

**Section 4.03. Remedies of the Lender and Mortgagee.** If one or more Events of Default shall occur and be continuing, the Lender and Mortgagee (personally or by attorney), in their discretion, may:

(A) take immediate possession of the Mortgaged Property, collect and receive all credits, outstanding accounts and bills receivable of the Mortgagor and all rents, income, revenues, profits and proceeds pertaining to or arising from the Mortgaged Property, or any part thereof, whether then past due or accruing thereafter, and issue binding receipts therefor; and manage, control and operate the Mortgaged Property as fully as the Mortgagor might do if in possession thereof, including, without limitation, the making of all repairs or replacements deemed necessary or advisable;

(B) proceed to protect and enforce the rights of the Mortgagor and the rights of the Lender or Mortgagee by suits or actions in equity or at law in any court or courts of competent jurisdiction, whether for specific performance of any covenant or any agreement contained herein or in any Credit Agreement or in aid of the execution of any power herein granted or for the foreclosure hereof or hereunder or for the sale of the Mortgaged Property, or any part thereof, or to collect the debts hereby secured or for the enforcement of such other or additional appropriate legal or equitable remedies as may be deemed necessary or advisable to protect and enforce the rights and remedies herein granted or conferred, and in the event of the institution of any such action or suit, the Mortgagee shall have the right to have appointed a receiver of the Mortgaged Property and of all rents, income, revenues, profits and proceeds pertaining thereto or arising therefrom, whether then past due or accruing after the appointment of such receiver, derived, received or had from the time of the commencement of such suit or action, and such receiver shall have all the usual powers and duties of receivers in like and similar cases, to the fullest extent permitted by law, and if application shall be made for the appointment of a receiver, the Mortgagor hereby expressly consents that the court to which such application shall be made may make said appointment ex parte;

(C) immediately foreclose this Mortgage and, in any foreclosure proceeding the court shall, upon application, at once, and without notice to Mortgagor, or any party claiming under said Mortgagor, and without giving bond on such application (such notice and bond being hereby expressly waived) and also without reference to the then value of the Mortgaged Property, to the use of said Mortgaged Property as a homestead, or to the solvency or insolvency of any person liable for any of the Obligations secured hereby, appoint a receiver for the benefit of the legal holder of the Obligations secured hereby, to take possession of the Mortgaged Property, with power to collect rents, issues, and profits of the Mortgaged Property, then due or to become due, during the pendency of such foreclosure suit, and until the time to redeem the same shall expire (such rents, issues and profits being hereby expressly assigned and pledged as additional security for the payment of the Obligations secured by this Mortgage); this provision for appointment of a receiver being expressly a condition upon which the loan hereby secured was made; and Mortgagor hereby further consents that said receiver may, out of the said rents, pay prior or subordinate liens, the taxes, assessments, water rates and insurance on Mortgaged Property, then due or unpaid or accruing whether before or after the filing of such bill, and for any necessary repairs thereon, and management and rental fees and any other proper charges, and the amount of any deficiency decree; provided that, in case of any default or breach, as aforesaid, as a concurrent (and not alternative or exclusive) remedy and measure for making effective the terms provisions and purposes hereof, it shall be lawful for Mortgagee, its agent or attorney forthwith (either with or without process of law, forcibly or otherwise) to enter upon and take possession of said Mortgaged Property and to expel and remove any person, goods or chattels, occupying or upon the same, to collect and to receive all the rents, issues and profits therefrom, from time to time, to manage and control the same and make all necessary repairs, and lease the same or any part thereof at such rentals as in its sole discretion it may deem just and reasonable, and after deducting all reasonable attorneys' fees and all expenses incurred in the protection, care, repair and management of said Mortgaged Property, apply the remaining income upon the Obligations hereby secured in the same manner as is hereafter provided upon the sale of said Mortgaged Property under foreclosure; and said Mortgagor hereby expressly releases and waives any and all right to possession, control or management of the Mortgaged Property, or to the rents, issues and profits therefrom, after any default or breach of the terms or provisions of this Mortgage and said Mortgagor hereby further expressly releases and waives any and all damages and claims for damages occasioned by such expulsion; and

(D) sell or cause to be sold all of the Mortgaged Property or any part thereof, and all right, title, interest, claim and demand of the Mortgagor therein or thereto, at public auction at such place in any county in which the property to be sold, or any part thereof, is located, at such time, upon such notice, and upon such terms as may be specified in a notice of sale, which shall state the time when and the place where the sale is to be held, shall contain a brief description of the property to be sold, and shall be given by mailing a copy thereof to the Mortgagor at least fifteen (15) days prior to the date fixed for such sale and by publishing the same once in each week for two successive calendar weeks prior to the date of such sale in a newspaper of general circulation published in said county or, if no such newspaper is published in such county, in a newspaper of general circulation in such county, the first such publication to be not less than fifteen (15) days nor more than thirty (30) days prior to the date fixed for such sale. Any sale to be made under this Section 4.03(D) may be adjourned from time to time by announcement at the time and place appointed for such sale or for such adjourned sale or sales, and without further notice or publication the sale may be had at the time and place to which the same shall be adjourned. Notwithstanding the foregoing, in the event another or different notice of sale or another or different manner of conducting the same shall be required by law, the notice of sale shall be given or the sale be conducted, as the case may be, in accordance with the applicable provisions of law. The costs and expenses incurred by the Mortgagee (including, but not limited to, receiver's fees, counsel fees, cost of advertisement and agents' compensation) in the exercise of any of the remedies provided in this Mortgage shall be secured by this Mortgage.

**Section 4.04. Application of Proceeds from Remedial Actions.** Any proceeds or funds arising from the exercise of any rights or the enforcement of any remedies herein provided after the payment or provision for the payment of any and all costs and expenses in connection with the exercise of such rights or the enforcement of such remedies shall be applied to the Obligations in such order and manner as the Mortgagee shall elect in its sole discretion, and the balance, if any, shall be paid to whomsoever shall be entitled thereto.

**Section 4.05. Remedies Cumulative; No Election.** Every right or remedy herein conferred upon or reserved to the Lender and Mortgagee shall be cumulative and shall be in addition to every other right and remedy given hereunder or under any Credit Agreement or now or hereafter existing at law, or in equity, or by statute. The pursuit of any right or remedy shall not be construed as an election.

**Section 4.06. Waiver of Appraisal Rights.** The Mortgagor, for itself and all who may claim through or under it, covenants that it will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption laws now or hereafter in force in any locality where any of the Mortgaged Property may be situated, in order to prevent, delay or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Mortgaged Property, or any part thereof, or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser or purchasers thereat, and the Mortgagor, for itself and all who may claim through or under it, hereby waives the benefit of all such laws unless such waiver shall be forbidden by law.

## ARTICLE V.

### POSSESSION UNTIL DEFAULT; SATISFACTION

**Section 5.01. Possession Until Default.** Until one or more Events of Default shall have occurred, the Mortgagor shall be permitted to retain actual possession of the Mortgaged Property, and to manage, operate and use the same and any part thereof, with the rights and franchises appertaining thereto, including, without limitation, to collect, receive, take, use and enjoy the rents, revenues, issues, earnings, income, products, profits and proceeds thereof or therefrom, subject to the provisions of this Mortgage.

**Section 5.02. Satisfaction.** If the Mortgagor shall well and truly pay or cause to be paid the Obligations at the times and in the manner provided in the Credit Agreements, and shall also pay or cause to be paid all other sums payable by the Mortgagor hereunder, and shall keep and perform all covenants herein and in all Credit Agreements required to be kept and performed by it, and there are no further obligations to make advances to the Mortgagor under any of the Credit Agreements, then and in that case, all property, rights and interest hereby conveyed or assigned or pledged shall, upon the written request of the Mortgagor, revert to the Mortgagor and the estate, right, title and interest of the Mortgagee shall thereupon cease, determine and become void, and the Mortgagee, in such case, at the Mortgagee's cost and expense, shall enter satisfaction of this Mortgage upon the record.

## ARTICLE VI.

### MISCELLANEOUS

**Section 6.01. Property Deemed Real Property.** It is hereby declared to be the intention of the Mortgagor that all the Mortgaged Property, including, without limitation, all rights of way and easements granted or given to the Mortgagor or obtained by it to use real property in connection with the construction, acquisition, ownership, use or operation of the Improvements, and all other property physically attached to any of the foregoing, including fixtures now or in the future attached to any of the foregoing, shall be deemed to be real property.

**Section 6.02. Mortgage to Bind and Benefit Successors and Assigns.** All of the covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Mortgagor shall bind its successors and assigns, whether so specified or not, and all titles, rights and remedies hereby granted to or conferred upon the Mortgagee shall pass to and inure to the benefit of the successors and assigns of the Mortgagee. The Mortgagor hereby agrees to execute such consents, acknowledgments and other instruments as may be requested by the Mortgagee in connection with the assignment, transfer, mortgage, hypothecation or pledge of the rights or interests of the Mortgagee hereunder or under the Credit Agreements or in and to any of the Mortgaged Property.

**Section 6.03. Headings.** The descriptive headings of the various articles and sections of this Mortgage were formulated and inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

**Section 6.04. Notices.** All demands, notices, reports, approvals, designations or directions required or permitted to be given hereunder shall be in writing and shall be deemed to be properly given if sent by registered or certified mail, postage prepaid, or delivered by hand, or sent by facsimile transmission, receipt confirmed, addressed to the proper party or parties at the following address:

As to the Mortgagor: Illinois Corn Processing, LLC  
c/o Pacific Ethanol, Inc.  
400 Capitol Mall, Suite 2060  
Sacramento, CA 95814  
Attention: Chief Financial Officer  
Fax No: 916-403-2785  
Email: bmcgregor@pacificethanol.com

With copy to: Pacific Ethanol, Inc.  
400 Capital Mall, Suite 2060  
Sacramento, CA 95814  
Attention: General Counsel  
Fax No.: 916-403-2785  
Email: cwright@pacificethanol.com

With copy to: Troutman Sanders, LLP  
5 Park Plaza, Suite 1400  
Irvine, California 92614  
Attention: Larry Cerutti, Esq.  
Martin Taylor, Esq.  
Fax No: 949-769-2078  
Email: Larry.Cerutti@troutmansanders.com  
Martin.Taylor@troutmansanders.com

As to the Mortgagee: CoBank, ACB  
6340 South Fiddlers Green Circle  
Greenwood Village, CO 80111  
Attention: Credit Information Services  
Fax No.: 303-224-6101

Either such party may from time to time designate to each other a new address to which demands, notices, reports, approvals, designations or directions may be addressed, and from and after any such designation, the address designated shall be deemed to be the address of such party in lieu of the address given above.

**Section 6.05. Severability.** The invalidity of any one or more phrases, clauses, sentences, paragraphs or provisions of this Mortgage shall not affect the remaining portions hereof.

**Section 6.06. Governing Law.** The effect and meaning of this Mortgage, and the rights of all parties hereunder, shall be governed by, and construed according to, the laws of the State of Illinois, except to the extent governed by federal law.

**Section 6.07. Indemnification by the Mortgagor of the Lender and Mortgagee.** The Mortgagor agrees to indemnify and save harmless the Lender and Mortgagee against any liability or damages which the Lender or Mortgagee may incur or sustain in the exercise and performance of its rightful powers and duties hereunder, including any liability or damages arising from the Mortgagor's failure to comply with any Environmental Law or the like applicable to the Mortgaged Property. For such indemnity, the Lender and Mortgagee shall be secured under this Mortgage in the same manner as the Obligations and all amounts payable under this Section shall be paid to the Mortgagee with interest at the rate specified in Section 3.09. The Mortgagor's obligations under this Section shall survive the exercise by the Lender and Mortgagee of their rights and remedies hereunder, any foreclosure on all or any part of the Mortgaged Property and the cancellation or satisfaction of this Mortgage.

**Section 6.08. Loan Advances of a Revolving Credit Arrangement.** This Mortgage is given for the purpose of securing loan advances which Lender may make to or for Mortgagor pursuant to the Credit Agreements. The parties hereby intend that, in addition to any other debt or obligation secured hereby, this Mortgage shall secure unpaid balances of loan advances made after this Mortgage is delivered to the Recorder of Deeds, Tazewell County, Illinois, whether made pursuant to an obligation of Lender or otherwise, provided that such advances are within twenty (20) years from the date hereof, and, in such event, such advances shall be secured to the same extent as if such future advances were made on the date hereof, although there may be no indebtedness at the time such advance is made.

[Signatures follow on next page.]

**IN WITNESS WHEREOF**, Illinois Corn Processing, LLC, as Mortgagor, has caused this Illinois Future Advance Real Estate Mortgage to be signed in its name, all as of the day and year first above written.

Illinois Corn Processing, LLC, Mortgagor

By: /S/ BRYON T. MCGREGOR  
Printed Name: Bryon T. McGregor  
Title: Chief Financial Officer

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF ILLINOIS )  
COUNTY OF TAZEWELL )

On September 12, 2017 before me, Stephanie Altpeter, Notary Public, personally appeared Bryon T. McGregor, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: /S/ STEPHANIE ALTPETER (seal)

CoBank, ACB, as agent for and on behalf of Compeer Financial, PCA,  
Mortgagee

By: /S/ CHABLEE RIVERA

Printed Name: Chablee Rivera

Title: Assistant Corporate Secretary

STATE OF COLORADO                    )  
  )  
COUNTY OF ARAPAHOE                )

The foregoing instrument was acknowledged before me this 12th day of September, 2017, by Chablee Rivera, as Assistant Corporate Secretary of CoBank, ACB, a federally-chartered instrumentality of the United States.

Witness my hand and official seal.

(SEAL)

By: /S/ WILLIAM LEBLANC III

Notary Public: William LeBlanc III

My commission expires: May 2, 2020

**[Mortgage Signature Page]**

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**EXHIBIT A -- REAL PROPERTY**

1. Legal descriptions of real property in which the Mortgagor has a fee estate:

**TRACT I**

A PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 9, AND A PART OF LOTS 6 AND

8 IN THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 4, SAID LOTS 6 AND 8 BEING SHOWN ON PLAT RECORDED ON PAGE 57 OF PLAT BOOK "B", IN THE RECORDER'S OFFICE OF TAZEWELL COUNTY, ILLINOIS, ALL BEING IN TOWNSHIP 24 NORTH, RANGE 5 WEST OF THE THIRD PRINCIPAL MERIDIAN, TAZEWELL COUNTY, ILLINOIS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF FRACTIONAL SECTION 9; THENCE SOUTH 89 DEGREES 29 MINUTES 14 SECONDS WEST, ALONG THE NORTH LINE OF SAID FRACTIONAL SECTION 9, A DISTANCE OF 1,629.48 FEET TO THE PLACE OF BEGINNING; THENCE FROM SAID PLACE OF BEGINNING SOUTH 20 DEGREES 05 MINUTES 14 SECONDS WEST A DISTANCE OF 13.41 FEET; THENCE SOUTH 86 DEGREES 48 MINUTES 22 SECONDS EAST A DISTANCE OF 267.42 FEET; THENCE SOUTH 00 DEGREES 56 MINUTES 03 SECONDS WEST A DISTANCE OF 159.82 FEET TO THE NORTH LINE OF THE QUAKER OATS COMPANY BY DEED RECORDED IN BOOK 2045, PAGE 72, OF THE TAZEWELL COUNTY RECORDER'S OFFICE; THENCE SOUTH 89 DEGREES 27 MINUTES 16 SECONDS WEST ALONG SAID NORTH LINE A DISTANCE OF 104.33 FEET; THENCE SOUTH 00 DEGREES 56 MINUTES 03 SECONDS WEST ALONG THE WEST LINE OF THE QUAKER OATS COMPANY PROPERTY AS DESCRIBED IN AFOREMENTIONED DEED, A DISTANCE OF 253.00 FEET TO THE SOUTH LINE OF THE AMERICAN DISTILLING COMPANY PROPERTY; THENCE SOUTH 89 DEGREES 27 MINUTES 16 SECONDS WEST ALONG THE SOUTH LINE OF THE AMERICAN DISTILLING PROPERTY, A DISTANCE OF 850.76 FEET TO THE SOUTHEAST CORNER OF A PARCEL CONVEYED BY THE AMERICAN DISTILLING COMPANY TO PEKIN RIVER AND WAREHOUSE TERMINAL, INC. BY DEED RECORDED IN BOOK 2351, PAGE 208, OF THE TAZEWELL COUNTY RECORDER'S OFFICE; THENCE NORTH 25 DEGREES 40 MINUTES 22 SECONDS WEST ALONG EASTERLY LINE OF SAID PARCEL, A DISTANCE OF 371.70 FEET, THENCE NORTH 00 DEGREES 02 MINUTES 54 SECONDS WEST ALONG EASTERLY LINE OF SAID PARCEL, A DISTANCE OF 106.63 FEET TO THE SOUTH LINE OF SAID FRACTIONAL SECTION 9; THENCE CONTINUING NORTH 00 DEGREES 02 MINUTES 54 SECONDS ALONG EASTERLY LINE OF SAID PARCEL 77.64 FEET TO THE NORTHERLY CORNER OF PEKIN RIVER AND WAREHOUSE TERMINAL INC. PROPERTY, AND ALSO BEING A POINT ON THE NORTHWESTERLY LINE OF LOT 8 AS RECORDED IN PLAT BOOK "B", PAGE 57, OF THE TAZEWELL COUNTY RECORDER'S OFFICE; THENCE NORTH 46 DEGREES 59 MINUTES 11 SECONDS EAST ALONG THE NORTHWESTERLY LINE, OF SAID LOT 8 A DISTANCE OF 1,110.92 FEET; THENCE SOUTH 43 DEGREES 00 MINUTES 54 SECONDS EAST A DISTANCE OF 280.47 FEET; THENCE SOUTH 42 DEGREES 00 MINUTES 08 SECONDS WEST, A DISTANCE OF 188.94 FEET; THENCE SOUTH 19 DEGREES 51 MINUTES 12 SECONDS WEST, A DISTANCE OF 276.07 FEET; THENCE SOUTH 69 DEGREES 54 MINUTES 46 SECONDS EAST, A DISTANCE OF 148.90 FEET; THENCE SOUTH 20 DEGREES 05 MINUTES 14 SECONDS WEST, A DISTANCE OF 182.59 FEET TO THE PLACE OF BEGINNING; SITUATE, LYING AND BEING IN THE COUNTY OF TAZEWELL AND STATE OF ILLINOIS.



TRACT II:

A PART OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 9, AND A PART OF LOTS 6 AND 8 IN THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 4, SAID LOTS 6 AND 8 BEING SHOWN ON PLAT RECORDED IN PAGE 57 OF PLAT BOOK "B" IN THE RECORDER'S OFFICE OF TAZEWELL COUNTY, ILLINOIS, ALL BEING IN TOWNSHIP 24 NORTH, RANGE 5 WEST OF THE THIRD PRINCIPAL MERIDIAN, TAZEWELL COUNTY, ILLINOIS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID FRACTIONAL SECTION 4; THENCE SOUTH 89 DEGREES 29 MINUTES 14 SECONDS WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID FRACTIONAL SECTION 4, A DISTANCE OF 1,020.92 FEET TO A CONCRETE MONUMENT BEING THE PLACE OF BEGINNING FOR THE TRACT HEREIN BEING DESCRIBED; THENCE NORTH 37 DEGREES 03 MINUTES 04 SECONDS EAST A DISTANCE OF 1013.11 FEET; THENCE NORTH 57 DEGREES 55 MINUTES WEST A DISTANCE OF 292.65 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SOUTH FRONT STREET; THENCE NORTH 29 DEGREES 56 MINUTES 48 SECONDS EAST, ALONG THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SOUTH FRONT STREET, A DISTANCE OF 481.39 FEET TO A CONCRETE MONUMENT; THENCE NORTH 46 DEGREES 54 MINUTES 36 SECONDS WEST A DISTANCE OF 263.31 FEET TO A POINT ON THE NORTHEASTERLY LINE OF LOT 6 AS RECORDED IN PLAT BOOK "B", PAGE 57, OF THE TAZEWELL COUNTY RECORDER'S OFFICE; THENCE NORTH 24 DEGREES 46 MINUTES 48 SECONDS WEST, ALONG THE NORTHEASTERLY LINE OF SAID LOT 6 A DISTANCE OF 35.6 FEET; THENCE NORTH 87 DEGREES 04 MINUTES 48 SECONDS WEST A DISTANCE OF 214.55 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID LOT 6; SAID POINT BEING 200 FEET FROM THE NORTHERLY CORNER OF SAID LOT 6; THENCE SOUTH 46 DEGREES 59 MINUTES 11 SECONDS WEST, ALONG THE NORTHWESTERLY LINE OF SAID LOT 6 AND LOT 8 AS RECORDED IN PLAT BOOK "B", PAGE 57 OF THE TAZEWELL COUNTY RECORDER'S OFFICE, A DISTANCE OF 1,146.23 FEET TO THE NORTHERLY CORNER OF TRACT I PREVIOUSLY DESCRIBED; THENCE SOUTH 43 DEGREES 00 MINUTES 54 SECONDS EAST, ALONG SAID TRACT I, A DISTANCE OF 280.47 FEET; THENCE SOUTH 42 DEGREES 00 MINUTES 08 SECONDS WEST, A DISTANCE OF 188.94 FEET; THENCE SOUTH 19 DEGREES 51 MINUTES 12 SECONDS WEST, ALONG SAID TRACT I, A DISTANCE OF 276.07 FEET; THENCE SOUTH 69 DEGREES 54 MINUTES 46 SECONDS EAST, ALONG SAID TRACT I, A DISTANCE OF 148.90 FEET; THENCE SOUTH 20 DEGREES 05 MINUTES 14 SECONDS WEST, ALONG SAID TRACT I, A DISTANCE OF 196.00 FEET; THENCE SOUTH 86 DEGREES 48 MINUTES 22 SECONDS EAST, ALONG SAID TRACT I, A DISTANCE OF 267.42 FEET; THENCE SOUTH 00 DEGREES 56 MINUTES 03 SECONDS WEST, ALONG SAID TRACT I, A DISTANCE OF 159.82 FEET TO THE PROPERTY LINE OF QUAKER OATS COMPANY; THENCE NORTH 89 DEGREES 27 MINUTES 16 SECONDS EAST, ALONG SAID PROPERTY LINE A DISTANCE OF 345.67 FEET; THENCE NORTH 00 DEGREES 56 MINUTES 03 SECONDS EAST, ALONG SAID PROPERTY LINE, A DISTANCE OF 189.47 FEET TO THE PLACE OF BEGINNING, SITUATE, LYING AND BEING IN THE COUNTY OF TAZEWELL AND STATE OF ILLINOIS.

BEING THE SAME TRACT OF LAND DESCRIBED IN A TITLE REPORT PREPARED BY COMMONWEALTH LAND TITLE INSURANCE COMPANY, COMMITMENT NO. C25653421 DATED August 21, 2017.

B. Legal descriptions of real property in which the Mortgagor has a leasehold estate:

None.

C. Permitted Encumbrances:

1. THAT PART OF TRACT 2 FALLING IN SOUTH FRONT STREET AS REFLECTED ON THE TAZEWELL COUNTY GIS MAP (WHICH MAY BE SOUTH FRONT STREET AS SHOWN ON PLAT RECORDED ON PAGE 57 OF PLAT BOOK "B") IS NOT ASSESSED FOR REAL ESTATE TAXES AND WE NOTE THE POSSIBLE LIEN OF BACK TAXES WHICH MAY BE LEVIED THEREON.

NOTE: PURSUANT TO 35 ILCS 200/9-260 THE LIEN OF SUCH BACK TAXES WOULD BE LIMITED TO THE YEAR IN WHICH NOTICE THEREOF IS GIVEN BY THE COUNTY ASSESSOR AND NOT MORE THAN 3 YEARS PRIOR TO SUCH YEAR.

EXCEPT AS TO SAID SOUTH FRONT STREET, THE LAND DESCRIBED IN THE LEGAL DESCRIPTION IN SCHEDULE A IS ASSESSED UNDER THE FOLLOWING TAX PARCEL NUMBERS, AND NO OTHERS:

04-10-04-400-002 (AFFECTS PART OF TRACT 1 AND OTHER PROPERTY, PART OF TRACT 2 AND OTHER PROPERTY)

10-10-09-200-001 (AFFECTS REMAINDER OF TRACT 1, AND OTHER PROPERTY)

10-10-09-200-010 (AFFECTS REMAINDER OF TRACT 2)

2. TAXES FOR THE YEAR 2017.

2017 TAXES NOT YET DUE AND PAYABLE.

PERMANENT INDEX NUMBER(S): 04-10-04-400-002

NOTE: 2016 FIRST INSTALLMENT IN THE AMOUNT OF \$50,019.59 IS PAID.

NOTE: 2016 FINAL INSTALLMENT IN THE AMOUNT OF \$50,019.59 IS PAID.

3. TAXES FOR THE YEAR 2017.

2017 TAXES NOT YET DUE AND PAYABLE.

PERMANENT INDEX NUMBER(S): 10-10-09-200-001

NOTE: 2016 FIRST INSTALLMENT IN THE AMOUNT OF \$1,470.68 IS PAID.

NOTE: 2016 FINAL INSTALLMENT IN THE AMOUNT OF \$1,470.68 IS PAID.

4. TAXES FOR THE YEAR 2017.

2017 TAXES NOT YET DUE AND PAYABLE.

PERMANENT INDEX NUMBER(S): 10-10-09-200-010

NOTE: 2016 FIRST INSTALLMENT IN THE AMOUNT OF \$344.16 IS PAID.

NOTE: 2016 FINAL INSTALLMENT IN THE AMOUNT OF \$344.16 IS PAID.

5. EASEMENT IN FAVOR OF CENTRAL ILLINOIS LIGHT COMPANY, AND ITS/THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO INSTALL, OPERATE AND MAINTAIN ALL EQUIPMENT NECESSARY FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY, TOGETHER WITH THE RIGHT OF ACCESS TO SAID EQUIPMENT, AND THE PROVISIONS RELATING THERETO CONTAINED IN THE GRANT RECORDED/FILED MARCH 5, 1964 IN VOLUME 700, PAGE 383.

(SEE DOCUMENT FOR EXACT LOCATION)

6. EASEMENT IN FAVOR OF CENTRAL ILLINOIS LIGHT COMPANY, AND ITS/THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO INSTALL, OPERATE AND MAINTAIN ALL EQUIPMENT NECESSARY FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY, TOGETHER WITH THE RIGHT OF ACCESS TO SAID EQUIPMENT, AND THE PROVISIONS RELATING THERETO CONTAINED IN THE GRANT RECORDED/FILED MARCH 10, 1964 IN VOLUME 700, PAGE 619.

(SEE DOCUMENT FOR EXACT LOCATION)

7. EASEMENT IN FAVOR OF THE PEORIA AND EASTERN RAILWAY COMPANY FOR THE PURPOSE OF CONSTRUCTION, MAINTENANCE, REPAIR, RENEWAL, OPERATION AND USE OF A RAILWAY TRACK OR TRACKS RECORDED/FILED SEPTEMBER 2, 1964 IN VOLUME 711, PAGE 241, AND THE TERMS AND PROVISIONS CONTAINED THEREIN.

(SEE DOCUMENT FOR EXACT LOCATION)

8. EASEMENT IN FAVOR OF CENTRAL ILLINOIS LIGHT COMPANY, AND ITS/THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO INSTALL, OPERATE AND MAINTAIN ALL EQUIPMENT NECESSARY FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY, TOGETHER WITH THE RIGHT OF ACCESS TO SAID EQUIPMENT, AND THE PROVISIONS RELATING THERETO CONTAINED IN THE GRANT RECORDED/FILED DECEMBER 2, 1970 IN BOOK 853, PAGE 474.

(SEE DOCUMENT FOR EXACT LOCATION)

9. EASEMENT IN FAVOR OF CENTRAL ILLINOIS LIGHT COMPANY, AND ITS/THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO INSTALL, OPERATE AND MAINTAIN ALL EQUIPMENT NECESSARY FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY, TOGETHER WITH THE RIGHT OF ACCESS TO SAID EQUIPMENT, AND THE PROVISIONS RELATING THERETO CONTAINED IN THE GRANT RECORDED/FILED DECEMBER 12, 1986 IN BOOK 2901, PAGE 109.

(SEE DOCUMENT FOR EXACT LOCATION)

10. EASEMENT IN FAVOR OF CENTRAL ILLINOIS LIGHT COMPANY, AND ITS/THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO INSTALL, OPERATE AND MAINTAIN ALL EQUIPMENT NECESSARY FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY, TOGETHER WITH THE RIGHT OF ACCESS TO SAID EQUIPMENT, AND THE PROVISIONS RELATING THERETO CONTAINED IN THE GRANT RECORDED/FILED AUGUST 7, 1996 AS DOCUMENT NO. 9615914.

(SEE DOCUMENT FOR EXACT LOCATION)

11. RIGHTS OF WAY FOR RAILROADS, SWITCH TRACKS OR SPUR TRACKS, IF ANY, AND RIGHT OF THE RAILROAD COMPANY TO THE USE, OPERATION, MAINTENANCE AND REPAIR OF SAME.
12. RIGHT OF THE UNITED STATES OF AMERICA, THE STATE OF ILLINOIS, THE MUNICIPALITY AND THE PUBLIC IN AND TO THAT PART OF THE LAND, IF ANY, FALLING WITHIN THE BED OF THE ILLINOIS RIVER; ALSO, RIGHTS OF PROPERTY OWNERS IN AND TO THE FREE AND UNOBSTRUCTED FLOW OF THE WATERS OF SAID RIVER.
13. ENCROACHMENTS AS DISCLOSED BY PLAT OF SURVEY OF THE LAND DATED JULY 17, 2017, LAST REVISED SEPTEMBER 13, 2017 (FIELD WORK JUNE 13, 2017) PERFORMED BY XCEL CONSULTANTS, INC. (MKA ASSOCIATES, INC. PROJECT NO. 6064-17-4573):
  - (a) FENCE ENCROACHES UP TO 53.0 FEET WESTERLY OF THE SUBJECT PROPERTY.
  - (b) FENCE ENCROACHES UP TO 13.6 FEET WESTERLY OF THE SUBJECT PROPERTY.
  - (c) STORAGE STRUCTURE ENCROACHES UP TO 16.6 FEET WESTERLY OF THE SUBJECT PROPERTY.
  - (d) CONCRETE ENCROACHES UP TO 21.4 FEET WESTERLY OF THE SUBJECT PROPERTY.
  - (e) STORAGE STRUCTURE ENCROACHES UP TO 14.9 FEET WESTERLY OF THE SUBJECT PROPERTY.
  - (f) CONCRETE ENCROACHES UP TO 17.9 FEET WESTERLY OF THE SUBJECT PROPERTY.
  - (g) WALL ENCROACHES UP TO 23.4 FEET WESTERLY OF THE SUBJECT PROPERTY.
  - (h) CONCRETE ENCROACHES UP TO 27.2 FEET WESTERLY OF THE SUBJECT PROPERTY.

- (i) WALL ENCROACHES UP TO 44.0 FEET WESTERLY OF THE SUBJECT PROPERTY.
- (j) FENCE ENCROACHES UP TO 9.4 FEET WESTERLY OF THE SUBJECT PROPERTY.
- (k) FENCE ENCROACHES UP TO 25.6 FEET WESTERLY OF THE SUBJECT PROPERTY.
- (l) DOCK ENCROACHES UP TO 271.0 FEET WESTERLY OF THE SUBJECT PROPERTY.
- (m) CONCRETE ENCROACHES UP TO 9.6 FEET WESTERLY OF THE SUBJECT PROPERTY.
- (n) WALL ENCROACHES UP TO 67.3 FEET NORTHWEST OF THE SUBJECT PROPERTY.
- (o) FENCE ENCROACHES UP TO 24.5 FEET SOUTH, FOR A DISTANCE OF 299.5 FEET, OF THE SUBJECT PROPERTY.

SEE SAID PLAT OF SURVEY FOR DETAILS.

- 14. UNRECORDED TRACK LEASE DATED APRIL 1, 2008 BY AND BETWEEN TAZEWELL & PEORIA RAILROAD, INC., AS LESSOR, AND MGP INGREDIENTS, INC., AS LESSEE, AS DISCLOSED BY DEED FROM MGP INGREDIENTS, INC. TO ILLINOIS CORN PROCESSING, LLC, RECORDED DECEMBER 4, 2009 AS DOCUMENT NO. 200900028004.
- 15. RIGHTS OF THE PUBLIC, THE STATE OF ILLINOIS, THE MUNICIPALITY, AND PUBLIC AND QUASI-PUBLIC UTILITIES IN AND TO THAT PART OF TRACT II FALLING IN DISTILLERY ROAD AND THE INTERSECTION OF DISTILLERY ROAD AND SOUTH FRONT STREET, AS SHOWN ON PLAT OF SURVEY OF THE LAND DATED JULY 17, 2017, LAST REVISED SEPTEMBER 13, 2017 (FIELD WORK JUNE 13, 2017) PERFORMED BY XCEL CONSULTANTS, INC. (MKA ASSOCIATES, INC. PROJECT NO. 6064-17-4573).
- 16. RIGHTS OF THE PUBLIC, THE STATE OF ILLINOIS, THE MUNICIPALITY, AND PUBLIC AND QUASI-PUBLIC UTILITIES IN AND TO THAT PART OF TRACT II FALLING IN SOUTH FRONT STREET, SHOWN AS A PUBLIC WAY AS REFLECTED ON THE TAZEWELL COUNTY GIS MAP (WHICH MAY BE SOUTH FRONT STREET AS SHOWN ON PLAT RECORDED ON PAGE 57 OF PLAT BOOK "B").

Property Address:

1301 South Front Street  
Pekin, Illinois 61555

Tax parcel numbers:

04-10-04-400-002  
10-10-09-200-001  
10-10-09-200-010

**EXHIBIT B**

1. The “Obligations” as described in the Definitions section above include without limitation the following promissory note(s):

<u>Note Date</u>	<u>Principal Amount</u>	<u>Maturity Date</u>
September 15, 2017	\$24,000,000	September 20, 2021
September 15, 2017	\$18,000,000	September 1, 2022

**COBANK, ACB  
SECURITY AGREEMENT**

THIS SECURITY AGREEMENT (the “**Security Agreement**”) is dated as of September 15, 2017, and is executed and delivered by ILLINOIS CORN PROCESSING, LLC (the “**Debtor**”), a Delaware limited liability company, having its place of business (or chief executive office if more than one place of business) located at 400 Capital Mall, Suite 2060, Sacramento, California 95814 to COBANK, ACB (the “**Secured Party**”), a federally chartered instrumentality of the United States, whose mailing address is P.O. Box 5110, Denver, Colorado 80217, as agent for COMPEER FINANCIAL, PCA (“**Lender**”), a federally chartered instrumentality of the United States, and COBANK, ACB. Capitalized terms not otherwise defined in this Security Agreement shall have the respective meanings ascribed to them by that certain Credit Agreement dated as of even date herewith between the Lender, the Secured Party and the Debtor, including Annex A thereto (the “**Credit Agreement**”).

**SECTION 1. GRANT OF SECURITY INTEREST.** For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Debtor hereby grants to the Secured Party a security interest in all of the personal property of the Debtor, wherever located, together with all accessions and additions thereto, and all products and proceeds thereof, including:

accounts; inventory (including without limitation, returned or repossessed goods); goods; as-extracted collateral; chattel paper; electronic chattel paper; instruments; investment property (including, without limitation, certificated and uncertificated securities, security entitlements, securities accounts, commodity contracts, and commodity accounts); letters of credit; letter-of-credit rights; documents; equipment; farm products; fixtures; general intangibles (including, without limitation, payment intangibles, choses or things in action, litigation rights and resulting judgments, goodwill, patents, trademarks and other intellectual property, tax refunds, miscellaneous rights to payment, investments and other interests in entities not included in the definition of investment property (including, without limitation, all equities and patronage rights in all cooperatives and all interests in partnerships and joint ventures), margin accounts, computer programs, software, invoices, books, records and other information relating to or arising out of the Debtor's business); and, to the extent not covered by the above, all other personal property of the Debtor of every type and description, including without limitation, supporting obligations, interests or claims in or under any policy of insurance, commercial tort claims, deposit accounts, money, and judgments (the “**Collateral**”).

Where applicable, all terms used herein shall have the same meaning as presently and as hereafter defined in the Uniform Commercial Code (the “**UCC**”).

**SECTION 2. THE OBLIGATIONS.** The security interest granted hereunder shall secure the payment of all indebtedness and the performance of all obligations of the Debtor to the Lending Parties of every type and description, whether now existing or hereafter arising, fixed or contingent, as primary obligor or as guarantor or surety, acquired directly or by assignment or otherwise, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced, including without limitation all loans, advances and other extensions of credit and all covenants, agreements, and provisions contained in all loan and other agreements between the parties (the “**Obligations**”).

**SECTION 3. REPRESENTATIONS, WARRANTIES AND COVENANTS.** The Debtor represents, warrants and covenants as follows:

**A. Title to Collateral.** Except as expressly permitted under the Credit Agreement or by any other written agreement between the parties, and except for any security interest in favor of the Secured Party, the Debtor has clear title to all Collateral free of all adverse claims, interests, liens, or encumbrances. Without the prior written consent of the Secured Party, the Debtor shall not create or permit the existence of any adverse claims, interests, liens, or other encumbrances against any of the Collateral. The Debtor shall provide prompt written notice to the Secured Party of any future adverse claims, interests, liens, or encumbrances against all Collateral, and shall defend diligently the Debtor's and the Secured Party's interests in all Collateral.

**B. Validity of Security Agreement; Authority.** This Security Agreement is the valid and binding obligation of the Debtor, enforceable in accordance with its terms. The Debtor is duly formed, validly existing and in good standing under the laws of its jurisdiction of formation. The Debtor has the full power to execute, deliver and carry out the terms and provisions of this Security Agreement and all related documents and to grant to the Secured Party a security interest in, and a lien on, the Collateral, has taken all necessary action to authorize the execution, delivery and performance of this Security Agreement and all related documents, and such execution, delivery and performance do not and will not (i) violate any of the terms or provisions of the organizational documents of the Debtor or any provision of any law, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to the Debtor, (ii) result in a breach of, or constitute a default under, any indenture or loan or credit agreement or any other agreement, document or instrument to which the Debtor is a party or by which the Debtor or any of the Debtor's property may be bound or affected or (iii) result in or require the creation or imposition of any lien or other encumbrance of any nature upon or with respect to any of the property of the Debtor (except for any security interest in favor of the Secured Party).

**C. Location of the Debtor.** The Debtor's place of business (or chief executive office if more than one place of business) is located at the address shown above. The Debtor's state of incorporation or formation is as shown above.

**D. Location of Fixtures.** All fixtures are now at the location or locations specified on **Schedule A** attached hereto and made a part hereof.

**E. Name, Identity, and Corporate Structure.** The Debtor's exact legal name is as set forth above. Except as set forth on **Schedule B**, the Debtor has not within the past one year changed its name, identity or corporate structure through incorporation, merger, consolidation, joint venture or otherwise.

**F. Change in Name, State of Debtor's Location, Location of Collateral, Etc.** Without giving at least thirty days' prior written notice to the Secured Party, the Debtor shall not change its name, identity or organizational structure, the location of its place of business (or chief executive office if more than one place of business), its state of incorporation or formation, or the location of the Collateral.

**G. Further Assurances.** Upon the reasonable request of the Secured Party, the Debtor shall do all acts and things as the Secured Party may from time to time reasonably deem necessary or advisable to enable it to perfect, maintain, and continue the perfection and priority of the security interest of the Secured Party in the Collateral, or to facilitate the exercise by the Secured Party of any rights or remedies granted to the Secured Party hereunder or provided by law. Without limiting the foregoing, the Debtor agrees to execute, in form and substance reasonably satisfactory to the Secured Party, such financing statements, amendments thereto, supplemental agreements, assignments, notices of assignments, and other instruments and documents as the Secured Party may from time to time reasonably request. In addition, in the event the Collateral or any part thereof consists of instruments, documents, chattel paper, or money (whether or not proceeds of the Collateral), the Debtor shall, upon the request of the Secured Party, deliver possession thereof to the Secured Party (or to an agent of the Secured Party retained for that purpose), together with any appropriate endorsements and/or assignments. Where Collateral is in the possession of a third party, the Debtor will join with the Secured Party in notifying the third party of the Secured Party's security interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of the Secured Party. The Debtor will cooperate with the Secured Party in obtaining control with respect to Collateral consisting of deposit accounts (that are not held by the Secured Party as depository institution), investment property, letter-of-credit rights and electronic chattel paper. The Secured Party shall use reasonable care in the custody and preservation of such Collateral in its possession, but shall not be required to take any steps necessary to preserve rights against prior parties. All costs and expenses incurred by the Secured Party to establish, perfect, maintain, determine the priority of, or release the security interest granted hereunder (including the cost of all filings, recordings, and taxes thereon and the fees and expenses of any agent retained by Secured Party) shall become part of the Obligations secured hereby and be paid by the Debtor on demand.



**H. Insurance.** The Debtor shall maintain such property and casualty insurance as required under the Credit Agreement. All such policies shall provide for loss payable clauses or endorsements and other terms and conditions in form and content acceptable to the Secured Party. Upon the request of the Secured Party, all policies (or such other proof of compliance with this Section as may be satisfactory to the Secured Party) shall be delivered to the Secured Party. The Debtor shall pay all insurance premiums when due. In the event of loss, damage, or injury to any insured Collateral, the Secured Party shall have full power to collect any and all insurance proceeds due under any of such policies (and the Debtor hereby agrees, upon request by the Secured Party, to promptly forward to the Secured Party all such insurance proceeds received directly by the Debtor), and may, at its option, apply such proceeds to the payment of any of the Obligations secured hereby, or may apply such proceeds to the repair or replacement of such Collateral.

**I. Taxes, Levies, Etc.** The Debtor has paid and shall continue to pay when due all taxes, levies, assessments, or other charges which may become an enforceable lien against the Collateral.

**J. Disposition and Use of Collateral by the Debtor.** Except as expressly permitted under the Credit Agreement, without the prior written consent of the Secured Party, the Debtor shall not at any time sell, transfer, lease, abandon, or otherwise dispose of any Collateral, except that, so long as the Debtor is not in default hereunder, the Debtor may sell, transfer, lease, abandon, or otherwise dispose of any Collateral in the ordinary course of Debtor's business. The Debtor shall not use any of the Collateral in any manner which violates any statute, regulation, ordinance, rule, decree, order, or insurance policy.

**K. Receivables.** The Debtor shall preserve, enforce, and collect all accounts, chattel paper, electronic chattel paper, instruments, documents and general intangibles, whether now owned or hereafter acquired or arising (the "**Receivables**"), in a diligent fashion and, upon the request of the Secured Party, the Debtor shall execute an agreement in form and substance satisfactory to the Secured Party by which the Debtor shall direct all account debtors and obligors on Receivables to make payment to a lock box deposit account under the exclusive control of the Secured Party.

**L. Condition of Collateral.** All tangible Collateral is now in good repair and condition (ordinary wear and tear excepted) and except as expressly permitted under the Credit Agreement, the Debtor shall at all times hereafter, at its own expense, maintain all such Collateral in good repair and condition (ordinary wear and tear excepted).

**M. Condition of Books and Records.** The Debtor has maintained and shall maintain complete, accurate and up-to-date books, records, accounts, and other information relating to all Collateral in such form and in such detail as may be satisfactory to the Secured Party, and shall allow the Secured Party or its representatives at any reasonable time to examine and copy such books, records, accounts, and other information.

**N. Right of Inspection.** At all reasonable times upon the request of the Secured Party, the Debtor shall allow the Secured Party or its representatives to visit any of the Debtor's properties or locations so that the Secured Party or its representatives may confirm, inspect and appraise any of the Collateral.

**SECTION 4. RIGHTS AND REMEDIES.** If an Event of Default as defined under the Credit Agreement (an "**Event of Default**") shall have occurred and be continuing, the Secured Party may exercise any and all rights and remedies of the Lending Parties and Secured Party in the enforcement of its security interest under the UCC, this Security Agreement, or any other applicable law. Without limiting the foregoing:

**A. Disposition of Collateral.** Upon and during the existence of an Event of Default, the Secured Party may sell, lease, or otherwise dispose of all or any part of the Collateral, in its then present condition or following any commercially reasonable preparation or processing thereof, whether by public or private sale or at any brokers' board, in lots or in bulk, for cash, on credit or otherwise, with or without representations or warranties, and upon such other terms as may be acceptable to the Secured Party, and the Secured Party may purchase at any public sale. At any time when advance notice of sale is required, the Debtor agrees that ten days' prior written notice shall be reasonable. In connection with the foregoing, the Secured Party may:

1. require the Debtor to assemble the Collateral and all records pertaining thereto and make such Collateral and records available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to both parties;
2. enter the premises of the Debtor or premises under the Debtor's control and take possession of the Collateral;
3. without charge, use or occupy the premises of the Debtor or premises under the Debtor's control, including without limitation, warehouse and other storage facilities;
4. without charge, use any patent, trademark, tradename, or other intellectual property or technical process used by the Debtor in connection with any of the Collateral; and
5. rely conclusively upon the advice or instructions of any one or more brokers or other experts selected by the Secured Party to determine the method or manner of disposition of any of the Collateral and, in such event, any disposition of the Collateral by the Secured Party in accordance with such advice or instructions shall be deemed to be commercially reasonable.

**B. Collection of Receivables.** Upon and during the existence of an Event of Default, the Secured Party may, but shall not be obligated to, take all actions reasonable or necessary to preserve, enforce or collect the Receivables, including without limitation, the right to notify account debtors and obligors on Receivables to make direct payment to the Secured Party, to permit any extension, compromise, or settlement of any of the Receivables for less than face value, or to sue on any Receivable, all without prior notice to the Debtor.

**C. Proceeds.** Upon and during the existence of an Event of Default, the Secured Party may collect and apply all proceeds of the Collateral, and may endorse the name of the Debtor in favor of the Secured Party on any and all checks, drafts, money orders, notes, acceptances, or other instruments of the same or a different nature, constituting, evidencing, or relating to the Collateral. The Secured Party may receive and open all mail addressed to the Debtor and remove therefrom any cash or non-cash items of payment constituting proceeds of the Collateral.

**D. Insurance Adjustments.** Upon and during the existence of an Event of Default, the Secured Party may adjust, settle, and cancel any and all insurance covering any Collateral, endorse the name of the Debtor on any and all checks or drafts drawn by any insurer, whether representing payment for a loss or a return of unearned premium, and execute any and all proofs of claim and other documents or instruments of every kind required by any insurer in connection with any payment by such insurer.

The net proceeds of any disposition of the Collateral may be applied by the Secured Party, after deducting its reasonable expenses incurred in such disposition, to the payment in whole or in part of the Obligations in such order as the Secured Party may elect. The enumeration of the foregoing rights and remedies is not intended to be exhaustive, and the exercise of any right and/or remedy shall not preclude the exercise of any other rights or remedies, all of which are cumulative and non-exclusive.

## **SECTION 5. OTHER PROVISIONS.**

**A. Amendment, Modification, and Waiver.** Without the prior written consent of the Secured Party, no amendment, modification, or waiver of, or consent to any departure by the Debtor from, any provision hereunder shall be effective. Any such amendment, modification, waiver, or consent shall be effective only in the specific instance and for the specific purpose for which given. No delay or failure by the Secured Party to exercise any remedy hereunder shall be deemed a waiver thereof or of any other remedy hereunder. A waiver on any one occasion shall not be construed as a bar to or waiver of any remedy on any subsequent occasion.

**B. Costs and Attorneys' Fees.** Except as prohibited by law, if at any time the Secured Party employs counsel in connection with the creation, perfection, preservation, or release of the Secured Party's security interest in the Collateral or the enforcement of any of the Secured Party's rights or remedies hereunder, all of the Secured Party's reasonable attorneys' fees arising from such services and all expenses, costs, or charges relating thereto shall become part of the Obligations secured hereby and be paid by the Debtor on demand.

**C. No Obligation to Make Loans.** Nothing contained herein or in any financing statement or other document executed or filed in connection herewith (other than the Credit Agreement and the Notes, to the extent obligations arise thereunder) shall be construed to obligate the Secured Party to make any loans or advances to the Debtor, whether pursuant to a commitment or otherwise.

**D. Revival of Obligations.** To the extent the Debtor or any third party makes a payment or payments to the Secured Party or the Secured Party enforces its security interest or exercises any right of setoff, and such payment or payments or the proceeds thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, and/or required to be repaid to a trustee, receiver, or any other party under any bankruptcy, insolvency or other law or in equity, then, to the extent of such recovery, the Obligations or any part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment or payments had not been made, or such enforcement or setoff had not occurred.

**E. Performance by the Secured Party.** In the event the Debtor shall at any time fail to pay or perform punctually any of its duties hereunder, the Secured Party may, at its option and without notice to or demand upon the Debtor, without obligation and without waiving or diminishing any of its other rights or remedies hereunder, fully perform or discharge any of such duties. All costs and expenses incurred by the Secured Party in connection therewith, together with interest thereon at the Secured Party's "CoBank Base Rate" plus four percent per annum, shall become part of the Obligations secured hereby and be paid by the Debtor upon demand. For purposes hereof, the CoBank Base Rate shall mean the rate of interest established by Secured Party from time to time as its CoBank Base Rate, which rate is intended by the Secured Party to be a reference rate and not its lowest rate.

**F. Indemnification, Etc.** The Debtor hereby expressly indemnifies and holds the Lending Parties and Secured Party harmless from any and all claims, causes of action, or other proceedings, and from any and all liability, loss, damage, and expense of every nature, arising by reason of the Secured Party's enforcement of its rights and remedies hereunder, or by reason of the Debtor's failure to comply with any environmental or other law or regulation. As to any action taken by the Secured Party hereunder, the Secured Party shall not be liable for any error of judgment or mistake of fact or law, absent gross negligence or willful misconduct on its part.

**G. Power of Attorney.** The Debtor hereby appoints the Secured Party or the Secured Party's designee as its attorney-in-fact, which appointment is irrevocable, durable, and coupled with an interest, with full power of substitution, in the name of the Debtor or in the name of the Secured Party, upon and during the existence of an Event of Default, to take any action which the Debtor is obligated to perform hereunder or which the Secured Party may deem necessary or advisable to accomplish the purposes of this Security Agreement. In taking any action in accordance with this Section, the Secured Party shall not be deemed to be the agent of the Debtor. The powers conferred upon the Secured Party in this Section are solely to protect its interest in the Collateral and shall not impose any duty upon the Secured Party to exercise any such powers.

**H. Continuing Effect.** This Security Agreement, the Secured Party's security interest in the Collateral, and all other documents or instruments contemplated hereby shall continue in full force and effect until all of the Obligations have been satisfied in full, the Secured Party has no commitment to make any further advances to the Debtor, and the Debtor has sent a valid written demand to the Secured Party for termination of this Security Agreement.

**I. Binding Effect.** This Security Agreement shall be binding upon and inure to the benefit of the Debtor and the Secured Party and their respective successors and assigns.

**J. Security Agreement as Financing Statement and Authorization to File.** A photographic copy or other reproduction of this Security Agreement may be used as a financing statement. In addition, the Debtor authorizes the Secured Party to prepare and file financing statements describing the Collateral, amendments thereto, and continuation statements and file any financing statement, amendment thereto or continuation statement electronically. In addition, the Debtor authorizes the Secured Party to file financing statements describing any agricultural liens or other statutory liens held by the Secured Party.

**K. Governing Law.** Subject to any applicable federal law, this Security Agreement shall be construed in accordance with and governed by the laws of the State of Colorado, except to the extent that the UCC provides for the application of the law of another state.

**L. Notices.** All notices, requests, demands, or other communications required or permitted hereunder shall be given as provided in Section 11.4 of the Credit Agreement.

**M. Severability.** The determination that any term or provision of this Security Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other term or provision hereof.

**IN WITNESS WHEREOF**, the Debtor has executed this Security Agreement by its duly authorized officer as of the day and year first set forth above.

**Debtor:** ILLINOIS CORN PROCESSING, LLC, a Delaware limited liability company,

By: /S/ BRYON T. MCGREGOR

Name: Bryon T. McGregor  
Title: Chief Financial Officer

**SCHEDULE A**

To Security Agreement Dated September 15, 2017

Executed By: **ILLINOIS CORN PROCESSING, LLC**

Set forth below are the present locations (by county and state) of the Debtor's fixtures.

County: Tazewell State: Illinois

**SCHEDULE B**

To Security Agreement Dated September 15, 2017

Executed By: **ILLINOIS CORN PROCESSING, LLC**

Set forth below is an explanation of any changes within the past one (1) year to the Debtor's name, identity or corporate structure through incorporation, merger, consolidation, joint venture or otherwise.

None.