

NEDAK ETHANOL, LLC
Notes to Condensed Financial Statements (Unaudited)
September 30, 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The unaudited interim condensed financial statements of Nedak Ethanol, LLC (the “Company”) reflect all adjustments consisting only of normal recurring adjustments that are, in the opinion of management, necessary for fair presentation of financial position, results of operations and cash flows. The results for the three and nine month periods ended September 30, 2009 are not necessarily indicative of the results that may be expected for a full fiscal year. Certain information and footnote disclosures normally included in annual financial statements prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) are condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”), although the Company believes that the disclosures made are adequate to make the information not misleading. The accompanying balance sheet as of December 31, 2008 is derived from the audited financial statements as of that date. These condensed financial statements should be read in conjunction with the Company’s audited financial statements and notes thereto included in the annual report for the year December 31, 2008, filed on Form 10-K with the SEC.

Nature of Business

The Company, a Nebraska limited liability company, was formed on December 15, 2003 to have a perpetual life. The construction of the Company’s ethanol plant was completed and commenced testing during the fourth quarter of 2008 and the Company began selling ethanol and distiller’s grains in the first quarter of 2009.

Accounting Estimates

Management uses estimates and assumptions in preparing these financial statements in accordance with GAAP. Those estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. The Company uses estimates and assumptions in accounting for the following significant matters, among others: the allowance for doubtful accounts, useful lives of property and equipment, the valuation of inventory and inventory purchase commitments, long-lived asset impairments including the assumptions used to estimate future cash flows, the ability to raise capital, and the ability to comply with certain provisions within the Company’s credit agreements. Actual results may differ from previously estimated amounts, and such differences may be material to our financial statements. The Company periodically reviews estimates and assumptions, and the effects of revisions are reflected in the period in which the revisions are made.

Accounts Receivable

Credit terms are extended to customers in the normal course of business. The Company performs ongoing credit evaluations of its customers’ financial condition and, generally, requires no collateral.

Accounts receivable are recorded at their estimated net realizable value. Accounts are considered past due if payment is not made on a timely basis in accordance with the Company’s credit terms. Accounts considered uncollectible are written off. The Company’s estimate of the allowance for doubtful accounts is based on historical experience, its evaluation of the current status of receivables, and unusual circumstances, if any. At September 30, 2009, the Company was of the belief that an allowance was not considered necessary. It is possible this estimate could change in the future.

Inventory

Inventory is stated at the lower of cost or market on a weighted average cost basis. Market is based on current replacement values not to exceed net realizable values and it is not less than net realizable values reduced by allowances for normal profit margin. Inventory consists of raw materials, work in process, and finished goods. Corn is the primary raw material. Finished goods consist of ethanol and distiller’s grains produced.

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Derivative Instruments

The Company is exposed to the impact of market fluctuations associated with commodity prices. It anticipates the use of derivative financial instruments as part of an overall strategy to manage market risk, assuming it has sufficient working capital and liquidity to manage such a strategy. The Company intends, when able, to use cash, futures and option contracts to hedge changes to the commodity prices of corn, natural gas and gasoline. The Company will not enter into these derivative financial instruments for trading or speculative purposes, nor will it designate these contracts as cash flow or fair value hedges for accounting.

Derivatives are recognized in the balance sheet and the measurement of these instruments is fair value. In order for a derivative to qualify as a hedge, specific criteria must be met and appropriate documentation maintained. Gains and losses from derivatives that do not qualify as hedges, or are undesignated, must be recognized immediately in earnings. If the derivative does qualify as a hedge, depending on the nature of the hedge, changes in the fair value of the derivative will be either offset against the change in fair value of the hedged assets, liabilities, or firm commitments through earnings or recognized in other comprehensive income until the hedged item is recognized in earnings. Changes in the fair value of undesignated derivatives are recorded in cost of goods sold.

Contracts are evaluated to determine whether the contracts are derivatives. Certain contracts that literally meet the definition of a derivative may be exempted as “normal purchases or normal sales”. Normal purchases and normal sales are contracts that provide for the purchase or sale of something other than a financial instrument or derivative instrument that will be delivered in quantities expected to be used or sold over a reasonable period in the normal course of business. Contracts that meet the requirements of normal purchases or sales are documented as normal and exempted from accounting as derivatives and, therefore, are not marked to market in the Company’s financial statements.

Accounting guidance requires holders of derivative instruments to provide qualitative disclosures about objectives and strategies for using derivatives, quantitative disclosures about fair value amounts of gains and losses from derivative instruments, and disclosures about credit-risk-related contingent features in derivative agreements.

Cash flows associated with the derivative instruments are presented in the same category on the statement of cash flows as the item being hedged. The following amounts have been included in cost of goods sold for the three and nine month periods ended September 30, 2009 and 2008:

	Three Months Ended September 30, 2009	Three Months Ended September 30, 2008	Nine Months Ended September 30, 2009	Nine Months Ended September 30, 2008
Realized gain	\$ -	\$ -	\$ 1,000	\$ -

Long-Lived Assets

Long-lived assets, such as property and equipment, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset be tested for possible impairment, the Company first compares future undiscounted cash flows expected to be generated by an asset to the carrying value of the asset. If the carrying value of the long-lived asset is not recoverable on an undiscounted cash flow basis, impairment would be recognized to the extent that the carrying value exceeds its fair value. Fair value is determined through various valuation techniques including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary.

In 2008, the Company completed construction of its ethanol production facilities with installed capacity of 44 million gallons per year and a remote rail load-out facility. The carrying value of these facilities at September 30, 2009 was approximately \$79 million. In accordance with the Company’s policy for evaluating impairment of long-lived assets described above, management has evaluated the recoverability of the facilities based on projected future

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undiscounted cash flows from operations over the facilities' estimated useful lives. Management has determined that the projected future undiscounted cash flows from operations of these facilities exceed their carrying value at September 30, 2009; therefore, no impairment loss was indicated or recognized. In determining the projected future undiscounted cash flows, the Company has made significant assumptions concerning the future viability of the ethanol industry, the future price of corn in relation to the future price of ethanol and the overall demand for ethanol in relation to production and supply capacity.

Revenue Recognition

The Company generally sells ethanol and distiller's grains pursuant to marketing agreements. Revenues from these products are recorded when the customer has taken title and assumed the risks and rewards of ownership, prices are fixed or determinable and collectability is reasonably assured. Title is generally assumed by the buyer at the Company's shipping point.

In accordance with the Company's agreements for the marketing and sale of ethanol and distiller's grains, marketing fees and commissions due to the marketers are deducted from the gross sales price as earned. Marketing fees and commissions were approximately \$202,000 and \$472,000 for the three and nine month periods ended September 30, 2009, respectively. Revenue is recorded net of these fees and commissions as they do not provide an identifiable benefit that is sufficiently separable from the sale of ethanol and distiller's grains. Revenue is recorded on sales of distiller's grains at the time that they are shipped from the plant. Shipping costs incurred in the sale of ethanol are included in Costs of Goods Sold in the Statement of Operations.

Subsequent Events

For purposes of these financial statements and all disclosures, subsequent events were evaluated through October 30, 2009, which is the date that the financial statements were issued.

2. LIQUIDITY AND MARKET UNCERTAINTIES

The Company has certain risks and uncertainties that it experiences during volatile market conditions such as what the ethanol industry experienced during 2008 and which continued into 2009. These volatilities can have a severe impact on operations. The Company's revenues are derived from the sale and distribution of ethanol and distiller's grains to customers primarily located in the United States. Corn for the production process is supplied to the Company's plant primarily from local producers. Ethanol sales average 88% of total revenues and corn costs average 60% of cost of goods sold.

The Company's operating and financial performance is largely driven by the prices at which it sells ethanol and the net cost of corn. The price of ethanol is influenced by factors such as supply and demand, the weather, government policies and programs, unleaded gasoline prices and the petroleum markets as a whole. Excess ethanol supply in the market, in particular, puts downward pressure on the price of ethanol. The Company's largest cost of production is corn. The Company's cost of corn is generally impacted by factors such as supply and demand, the weather, government policies and programs, and risk management techniques used to protect against the price volatility. The Company is subject to significant risk that its forecasted operating margins may be reduced or eliminated due to the relative movements in the market prices of its products and major manufacturing inputs. As a result, market fluctuations in the price of or demand for these commodities can have a significant adverse effect on the Company's operations and profitability.

Exclusive of the reclassification of the majority of the Company's long term debt to current liabilities in 2009, the Company would have had working capital of approximately \$131,000 including only Current Maturities of Long Term Debt that represent normal amortization of principal, as of September 30, 2009. Due to the current commodity markets, the Company may continue to produce negative margins. As further discussed in Note 6, the Company has an agreement for a senior secured credit facility ("Credit Agreement") with AgCountry Farm Credit Services, FLCA ("Lender").

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The Company received notification from (i) Lender on July 24, 2009, of a number of defaults under the Credit Agreement, and (ii) the TIF Lender (discussed in Note 7) on July 6, 2009, of a default under the TIF Loan. Because of such defaults, Lender may, among other things, declare the entire amount borrowed under the Credit Agreement immediately payable. While the Company has initiated discussions with Lender to modify the Credit Agreement covenants to waive such defaults and permit the Company to continue operating in a manner consistent with the current economic environment, such defaults have not yet been cured and the Company has entered into similar discussions with the TIF Lender.

The unaudited interim condensed financial statements have been prepared assuming the Company will continue as a going concern. However, as of September 30, 2009, the Company remained in default of its Credit Agreement and TIF Loan, as further discussed below and in Notes 6 and 7. For these reasons, the Company has reclassified amounts owing under these loans as current liabilities. Such treatment of the Company's long term debt will continue, as required by GAAP, until such defaults are cured.

Because of these events and market conditions, there is an increased level of uncertainty with respect to the Company's ability to obtain sufficient cash flows from operations or debt or equity financing sufficient to cover the liquidity needed for ongoing operations. The Company's efforts to secure working capital include:

- Release by the Lender of the remaining \$1,995,000 restricted cash on deposit at the Lender under a letter of credit issued by the Company's primary contractor, Delta-T Corporation ("Delta-T") pursuant to a settlement with Delta-T on September 1, 2009. This release of cash would be used when the opportunity arises during harvest to acquire corn at advantageous prices. Lender has released a total of \$2,000,000 to purchase corn.
- Recommencing the Company's private offering of preferred units.
- The Company and Lender have received from the USDA approval of a pre-application for a Business and Industries Guaranteed Loan, and are in the process of preparing full applications for two such loans. The first application will be in the amount of \$5,000,000 for additional working capital. The second application will be for refinancing a yet undetermined portion of the \$42,500,000 construction loan with Lender.
- The Company will apply for a USDA Working Capital Grant of \$300,000 on November 30, 2009. It is expected to learn the results of award assessments in the first quarter of 2010 with funding soon thereafter.
- Renegotiate the TIF Loan to amend covenants to cure the default and reestablish the outstanding balance as long term debt.

On September 30, 2009, the Company executed a Fifth Supplement and Forbearance Agreement to the Master Credit Agreement ("Fifth Supplement") with the Lender, which (i) extended the dates to pay loan and restructure fees to begin on January 1, 2010 with \$50,000 per month through May, 2010 and a final payment of \$100,000 payable on or before June 30, 2010, (ii) extended the first principal payment until April 1, 2010, (iii) provided for the release \$2,000,000 of restricted cash for the purchase of corn, and (iv) requires the Company to fund a loan reserve fund under the Credit Agreement in the amount of \$2,000,000 if the Company receives the Business and Industry Loan Guarantee for \$5,000,000 of working capital.

Until the Company is able to obtain additional working capital from the above options, for which no assurance can be given, or from operations, in addition to modifying the Credit Agreement covenants, there is substantial doubt as to whether the Company can continue to operate as a going concern.

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3. INVENTORY

Inventory consists of the following:

	September 30, 2009	December 31, 2008
Raw Materials	\$ 804,667	\$ 994,283
Work in Process	500,846	309,238
Finished goods	1,115,979	40,497
Total	\$ 2,421,492	\$ 1,344,018

The Company performed a lower of cost or market analysis on inventory. All inventory is recorded at cost except for distiller's grains inventories which carry an average market value \$8.13 per ton less than cost. The total write down of inventory values to market from cost is approximately \$20,000 as of September 30, 2009.

4. MEMBERS' EQUITY

From May 2008 to March 2009, the Company conducted a private offering in which it issued four membership units totaling \$40,000 in 2008. The proceeds were offset with offering costs of approximately \$33,000 in 2009.

In March 2009, the Company commenced a private offering for the issuance of up to 1,200 preferred membership units ("Preferred Units") at \$10,000 per Preferred Unit, for a maximum of \$12 million. The Preferred Units entitle the holders thereof to: (i) receive a preferred cumulative distribution of 10% ("Preferred Return") before holders of common membership units receive distributions subject to: (A) any existing debt-related restrictions the Company may have, (B) after estimated tax distributions, and (C) upon declaration by the Board of Directors, (ii) then share in their proportionate share any remaining amounts available for distribution, (iii) first receive a distribution of the purchase price of the Preferred Units, plus any Preferred Return, upon a liquidation event, and (iv) the right to vote as a class for purposes of determining whether a liquidation event has occurred. Following the third anniversary of the issuance of the Preferred Units, the Company may redeem Preferred Units for the original purchase price plus any accrued but unpaid distributions. As of September 30, 2009, the Company had issued 185.4 Preferred Units, for a total of \$1,854,428, of which 101.4 units were issued to Directors of the Company. The accumulated undeclared Preferred Return as of September 30, 2009 was \$86,709, and the total liquidation preference of the Preferred Units as of September 30, 2009 was \$1,941,137. The Company intends to recommence the private offering of the Preferred Units.

Losses are generally allocated to all units based upon their respective percentage of units held, except that losses are not allocated to Preferred Units if the Preferred Return has not been achieved. For purposes of computing the net loss per common unit, no losses were allocated to the Preferred Units since the Preferred Return has not been achieved.

5. NOTES PAYABLE

Note Payable to Members

In May 2004, each of the initial 15 members loaned the Company \$1,000. The unsecured loans bore interest at 5% per annum with principal and interest due on April 8, 2009. On April 8, 2009, the notes were amended and restated to add accrued interest in the amount of \$3,750 to the principal. The unsecured loans continue to bear interest at 5% per annum with principal and interest due on April 8, 2012. If the Company fails to make any payment on the due date, such amount shall bear interest at the rate of 9% per annum until the date of repayment.

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Line of Credit

In March 2006, the Company entered into a line of credit agreement, in favor of its natural gas transporter to reserve pipeline space. The Company may draw up to \$150,000 until maturity in May 2010. Interest is payable upon the lender's demand or in May 2010 at a rate of 5.1%. In August 2007, the Company entered into a line of credit agreement, in favor of its natural gas transporter for the service of transporting gas. The Company may draw up to \$923,828 until maturity in August 2010. Interest is payable upon the lender's demand at a rate of 6.79%. These agreements are secured by restricted short term investments totaling \$1,152,573 and \$1,128,070 as of September 30, 2009 and December 31, 2008, respectively. As of September 30, 2009, there were no borrowings outstanding on the line of credit.

6. LONG-TERM DEBT

	<u>September 30, 2009</u>	<u>December 31, 2008</u>
Note payable - construction contract	\$ -	\$ 3,246,800
Construction loan	42,500,000	40,799,985
Directors' notes payable	18,750	15,000
Tax Increment Financing	6,725,000	6,864,000
	<u>49,243,750</u>	<u>50,925,785</u>
Less current maturities	(2,093,248)	(2,425,002)
Less debt previously classified as long term	(47,131,752)	-
	<u>\$ 18,750</u>	<u>\$ 48,500,783</u>

If the Company is able to amend the Credit Agreement and resolve the default under the TIF Loan without acceleration of the loans, the original estimated maturities of the long term debt described in Note 6 and 7 at September 30, 2009, would be as follows:

2010	2,093,248
2011	4,839,981
2012	5,130,364
2013	5,459,589
2014	5,808,962
After 2014	<u>25,911,606</u>
Total long-term debt	<u>\$ 49,243,750</u>

Notes Payable Construction Contract

As reported in previous periods, the Company had executed a promissory note with Delta-T as an incentive of \$5,000,000 to continue construction of the plant past April 2008. As of September 30, 2009, the Company's contract with Delta-T was amended, as discussed in Note 9, to extinguish this debt on September 1, 2009.

In February 2007, the Company entered into the Credit Agreement for a multiple advance construction loan totaling \$42,500,000. The Company is required to make interest payments during the construction phase at the thirty-day LIBOR plus 3.4%, but not less than 6.0%. The interest rate was 6.0% at September 30, 2009. The performance test of the plant was completed in June 2009, but three significant equipment deficiencies prevented final acceptance at that time. The Credit Agreement provides that the construction loan is to be converted at final acceptance to a permanent ten year term loan of \$32,500,000 and a \$10,000,000 revolving term loan. As of September 30, 2009 and December 31, 2008, the Company had approximately \$42,500,000 and \$40,800,000 outstanding on the construction loan, respectively. The Company is in negotiations with Lender to convert the loan to long term financing as discussed above.

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The financial covenant conditions under the Credit Agreement as of September 30, 2009 are as follows:

Covenant Type	Description of Covenant	When Covenant Applies	Status as of September 30, 2009	Shortfall
Fixed Charge Ratio	Before the Company pays any distributions (which require Lender's prior approval, the Company must maintain a 1.25:1.00 Fixed Charge Ratio, which is the ratio (i) the Company's earnings before interest, taxes, depreciation and amortization bears to (ii) the Company's Fixed Charges (the Company's interest expense, plus principal payments, any tax distributions, Restricted Payments, and the lesser of \$500,000 of maintenance Capital Expenditures or actual maintenance Capital Expenditures). Additionally, the Company must maintain a 1.00:1.00 Fixed Charge Ratio after paying any such distribution.	October 1, 2009	(1.06):1.00	Losses of \$8,526,800
Working Capital	The Company must maintain at least \$5,000,000 in working capital.	October 1, 2009	\$130,910*	\$4,869,090*
Working Capital	The Company must maintain at least \$6,000,000 in working capital.	December 31, 2009	\$130,910*	\$5,869,090*
Net Worth	The Company must maintain a "Tangible Net Worth" of \$41 million. Tangible Net Worth is the Company's total assets less the sum of (i) the Company's debt, (ii) the amount of appraisal surplus or any write-up in the book value of any assets resulting from a revaluation or any write-up in excess of the cost of such assets acquired reflected on the Company's consolidated balance sheet, and (iii) the net book amount of all of the Company's assets.	October 1, 2009	\$33,568,137	\$7,431,863
Equity Ratio	The Company must maintain an owner's equity ratio of 50%. The owner's equity ratio is the percentage that the Company's equity is of the Company's outstanding debt.	October 1, 2009	59%	None
Current Ratio	The Company must maintain a ratio of current assets to current liabilities of 1.20:1.00.	October 1, 2009	1.01:1.00	Current Assets of \$1,863,805

*Not including current liabilities for term debt previously classified as long term.

Term Note

Under the current terms of the Credit Agreement, the Company is required to make level monthly principal payments plus accrued interest beginning April 1, 2010 and ending on February 1, 2018. If a guaranteed USDA Business & Industries loan is granted, the amount and terms of conversion of the construction loan to a Term Loan and a Revolving Term Loan for working capital may change. The application is being prepared.

It is anticipated that this loan conversion will be on or before April 1, 2010.

Revolving Term Loan

Under the terms of the Credit Agreement, the Company is required to pay interest on the principal advances monthly at the 30 day LIBOR plus 3.4%, which totaled 6.0% at September 30, 2009. The Company must pay a commitment fee of 0.25% on the unused portion of the revolving promissory note upon conversion to the revolving term loan. In addition, the Company was required to establish and fully fund a \$2,400,000 Debt Service Reserve Account on or prior to the loan conversion date, no later than August 1, 2009. At such time, the commitment amount would have been reduced to an amount not to exceed \$7,600,000 and the Debt Service Reserve Fund would no longer be required to be funded. This requirement was not met. The Company and Lender are discussing amendments to the terms of the Credit Agreement which may modify the foregoing provisions.

The Credit Agreement requires the Company to maintain certain financial covenants, including minimum working capital, certain reserves, minimum current assets to current liabilities, minimum tangible net worth, minimum owners' equity ratio, and a minimum fixed charge coverage ratio, and also includes restrictions on distributions and capital expenditures. The Company has incurred approximately \$1,149,700 in loan origination costs under the

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Credit Agreement which have been recorded as deferred debt issuance costs and are being amortized. The Credit Agreement contains certain prepayment fees in the first four years of the scheduled payments, and the loan is secured by substantially all the Company's assets.

The Company executed a Fourth Supplement and Forbearance Agreement to Master Credit Agreement on March 27, 2009 (the "Fourth Supplement"). In connection with the Fourth Supplement, the Lender required the Company to obtain \$1,000,000 of equity or subordinate debt capital by April 30, 2009, which was guaranteed by the Company's board of directors in addition to the Preferred Units purchased by the Directors discussed in Note 4. The Lender extended this April 30, 2009 date to June 30, 2009 by which time the Company only received \$844,428. The payment terms of the additional loan fee of \$250,000 from the third amendment to the Credit Agreement were modified to provide that the fee will be paid in five \$50,000 quarterly installments beginning on or before January 1, 2010. In addition, the Company undertook to achieve and maintain indefinitely 100% name plate production on or before May 1, 2009. As of May 1, the plant had been operated in excess of 100% name plate production. The Fourth Supplement also provided that the interest on the unpaid principal amount of the construction and term loans accrues on a variable interest rate equal to LIBOR plus 5.40%, but not less than 6.00%. In addition to the Fourth Supplement, the Lender delayed compliance by the Company of certain financial covenants in the Credit Agreement until after September 30, 2009 as well as delayed the requirement to make excess cash flow payments until December 31, 2009. On July 24, 2009, the Lender again declared the Loans in default, due to delinquent payment of fees and interest, deficiency in the raising of equity or subordinated debt, and failure to achieve nameplate production by May 1, 2009.

As noted above with the settlement of the separate dispute with Delta-T, the Company and the Lender are in discussion to revise the Credit Agreement covenants and resolve all outstanding defaults under the Credit Agreement. No assurance can be provided that such Credit Agreement defaults will be successfully resolved.

As discussed further below, on September 1, 2009, the Company reached a settlement with Delta-T which provided for cash payment from a Delta-T letter of credit of \$3,995,000. Under the Fifth Supplement, \$2,000,000 was released directly to the Company's corn marketer to prepay for delivery of corn. The payments were made in the amounts of \$976,000, \$619,000 and \$405,000 for corn purchases on September 25, October 1, and October 26, 2009. The remaining \$1,995,000 remains on deposit with the Lender pending agreement on terms and conversion of the construction loan to operating debt or other agreement to release these funds to the Company.

As stated above, the Company and Lender have received approval from the USDA of a pre-application for a Business and Industries Guaranteed Loan. Applications are being prepared for two separate loans. The first application will be in the amount of \$5,000,000 which would provide additional working capital. The second application will be for refinancing a yet undecided portion of the \$42,500,000 construction loan. As part of these arrangements, the remaining portion of the construction loan under the original Credit Agreement would be converted to long term debt.

7. TAX INCREMENT FINANCING

In September 2007, the City of Atkinson, Nebraska, ("Issuer") issued a tax increment financing Note (the "TIF Note"), the net proceeds of which in the amount of \$4,939,925 were paid to the Company through a loan (the "TIF Loan") to reimburse the Company for certain infrastructure improvements relating to the plant. Repayment of the Loan is secured by the Company's pledge to the lender of the TIF Note ("TIF Lender") and other obligations relating to the TIF Note. The original amount of the TIF Note was \$6,864,000 and bears interest of 9.5%.

In connection with the issuance of the Note, the Issuer and the Company entered into a Redevelopment Contract ("Contract"). Under the Contract, the Note proceeds are to be used for Project costs, for the establishment of special funds held by the Note trustee for interest and principal payments and reserves (the "Capitalized Interest Fund" and the "Debt Service Reserve Fund"), and for debt issuance costs. The Company may not convey, assign, or transfer the project prior to the expiration of a 15 year period without the prior written consent of the Issuer.

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The Note matures in semi-annual increments commencing September 1, 2009. The semi-annual increments commence at \$139,000 and increase to \$444,000, with a final maturity of December 2021. Interest on the Note is payable semi-annually on September 1 and December 1, commencing on December 1, 2007. The interest rate may reset on September 1, 2012 and September 1, 2017 to a rate equal to the 5-year U.S. Treasury Constant Maturity index plus 4.75% for the applicable five-year period and the remainder of the term of the TIF Loan, respectively. The Company has the option to redeem or purchase the Note in whole or in part. As of September 30, 2009 and December 31, 2008, the Company had \$6,725,000 and \$6,864,000 outstanding on TIF Loan, respectively.

On July 6, 2009, TIF Lender notified the Company that the Debt Service Reserve Fund was deficient constituting a default under the TIF Loan.

8. FAIR VALUE MEASUREMENTS

The Company does not have any assets or liabilities measured at fair value on a recurring basis. Restricted short term investments and restricted cash include certificates of deposit and money market funds which are carried at cost.

Certain assets and liabilities are measured at fair value on a nonrecurring basis; that is, the items are not measured at fair value on an ongoing basis but are subject to fair value adjustments in certain circumstances (for example, when there is evidence of impairment). The following table presents an asset carried on the balance sheet by level within the valuation hierarchy as of September 30, 2009, for which a nonrecurring change in fair value has been recorded during the quarter ended September 30, 2009.

	Carrying value at September 30, 2009				Nine Months ended September 30, 2009
	Total	Level 1	Level 2	Level 3	Total losses
Distiller's grains inventory	\$ 53,295	\$ -	\$ 53,295	\$ -	\$ (20,000)

The carrying values of cash and equivalents, restricted cash, restricted short-term investment, accounts receivable, restricted cash, TIF, accounts payable, and due to Delta-T approximate fair value. It is not currently practicable to estimate the fair value of the notes payable and long-term debt since these agreements contain unique terms, conditions, and restrictions, which were negotiated at arm's length, and there was no readily determinable similar instrument on which to base an estimate of fair value.

9. COMMITMENTS AND CONTINGENCIES

Construction contract

The Company entered into an Engineering, Procurement and Construction Services Fixed Price Contract dated August 9, 2006 with Delta-T, which has been amended with several supplements, amendments and change orders (collectively, the "Delta-T Contract"). The Delta-T Contract provided, among other things: (i) guarantee of Delta-T's performance by Delta-T's parent, Bateman Litwin NV, (ii) the provision by Delta-T of letters of credit in the amounts of \$4,000,000 and \$5,500,000 for the benefit of Lender and the Company, respectively, and (iii) a promissory note in the amount of \$5,000,000 made by the Company in favor of Delta-T. Disputes between the parties respecting the letters of credit and other matters resulted in the filing by Delta-T of an action in the District Court of Douglas County, Nebraska, in which the court temporarily restrained the Company and Lender from making a draw on one of the letters of credit. The dispute has since been settled and the parties amended the Delta-T Contract on September 1, 2009 (the "Amendment"). The Amendment resolved asserted claims by both parties and provided the following, among other things: (i) Delta-T will repair certain plant emissions equipment, (ii) Delta-T will extend the \$5,500,000 letter of credit to September 30, 2010 with conditions added to draw on such letter of credit, (iii) Delta-T is relieved of previously agreed upon punch list responsibility with certain exceptions, (iv)

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Delta-T relinquished all rights to the \$3,995,000 of proceeds held by Lender from the September draw against the \$4,000,000 letter of credit, (v) the \$5,000,000 promissory note in Delta-T's favor was extinguished, (vi) Delta-T agreed to dismiss its legal action and dissolve the temporary restraining order, and (vii) except as provided above, no further payments or transfer of funds shall be made to or from Delta-T and the Company. Proceeds from the \$3,995,000 and \$5,000,000 were both recorded as a reduction to property and equipment.

Plant management agreement

In July 2007, the Company entered into an agreement with an unrelated party for the operation and management of the Company's plant. The Company pays a fixed monthly payment of approximately \$114,000 for such services, which will be adjusted annually. The Company is currently paying for process chemicals at a fixed rate per denatured gallon of ethanol produced. The Company also has future obligations for an incentive program that is in effect for the first five years of operation following the Delta-T settlement discussed above. The agreement will terminate on December 31, 2014 unless terminated by either party giving 180 days prior written notice. The Company incurred approximately \$297,000 and \$823,000 for these services for the three and nine month periods ended September 30, 2009, respectively.

Utility contracts

In March 2006, the Company entered into an agreement with a natural gas provider for the procurement, purchase and management of natural gas transportation and supply. The Company pays for the natural gas based on actual consumption along with a monthly management fee of \$0.07 per MMBtu delivered. The agreement was automatically renewed for an additional two-year term in February 2008.

In May 2006, the Company entered into an agreement, secured by the Company's line of credit discussed in Note 5, with a natural gas transporter for the transportation of natural gas. The Company pays the maximum transportation rate unless otherwise agreed for the maximum daily transportation quantity of 2450 MMBtu per day. The agreement is for a ten year period beginning September 2007 and may be extended for another primary term if agreed to by both parties.

In September 2007, the Company entered into an agreement, secured by the Company's line of credit discussed in Note 5, with a natural gas transporter to expand the pipeline capacity. The Company pays the maximum transportation rate unless otherwise agreed for the maximum daily transportation quantity of 1,000 MMBtu per day. The agreement is for a ten year period beginning September 2007 and may be extended for another primary term if agreed to by both parties.

Transportation agreement

In July 2007, the Company entered into an agreement with a fuel carrier for the transportation of ethanol from the plant to the load out facility. The Company pays a base fee per gallon unloaded plus a surcharge on a penny per gallon basis above the diesel fuel base. The agreement has a three year term which commenced July 2007 and will automatically renew for additional one-year terms unless terminated by either party by written notice no less than 180 days prior to the ending date of the initial three-year term or of any renewal term.

Marketing agreements

Ethanol

In November 2006, the Company entered into a marketing agreement with an unrelated party for the sale of its ethanol. The Company pays the buyer a fixed rate fee of \$0.01 per net gallon of denatured ethanol for the services provided. The agreement will continue until December 2010. The agreement will automatically renew for an additional one year unless the Company gives four months' written notice.

The marketer leases rail cars to the Company with varying terms under this agreement, which leases may survive the actual marketing agreement by many years. The Company has lease agreements for 142 rail cars under this

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agreement. There are 46 cars under leases that expire before the end of 2011 and carry an average monthly rental cost of \$355. The remaining leases are for 96 cars and have expiration dates between March 31, 2017 and August 31, 2020, with average monthly rental cost of \$707.

Revenues from this marketer were approximately \$18,135,000 and \$38,692,000 for the quarter and nine months ended September 30, 2009, respectively. Accounts receivable from this marketer were \$704,082 as of September 30, 2009.

As of September 30, 2009 the Company has forward contracted sales of ethanol for 2,203,497 gallons with an average price of \$1.47 per gallon. The Company also has basis locked in for another 4,127,897 gallons of ethanol sales for delivery through December 2009.

Distiller's Grains

In January 2007, the Company entered into a marketing agreement with an unrelated party to purchase all of the modified wet distillers grains ("MWDG"). The buyer pays the Company a percentage of the selling price, subject to a minimum amount per ton, less a marketing fee equal to \$1.50 per ton of MWDG sold at \$50 a ton or less or 3.0% of the price of MWDG sold over \$50 a ton. The agreement will continue until March of 2011 and renew for an additional two years thereafter unless either party has given four months written notice. Revenue from this marketer was approximately \$1,855,000 and \$5,571,000 for the quarter and nine months ended September 30, 2009, respectively. Accounts receivable from this marketer were \$231,697 as of September 30, 2009

Grain Procurement

In December 2006, the Company entered into an agreement with an unrelated party to provide corn required for its production of ethanol. As of January, 2009, the parties no longer operate under this agreement. However, the agent continues to provide services to the Company on an at-will basis for nearly all contracts with local producers for the delivery of corn. The Company pays the agent a service fee of \$0.05 per bushel of grain delivered, and the Company also executes some contracts directly with producers for some of its corn. In the ordinary course of business, the Company will enter into forward purchase contracts for its commodity purchases. Management considers these forward contracts to be normal purchases since the commodity will be delivered in quantities expected to be used by the Company over a reasonable period in the normal course of business. Purchases directly from the agent totaled approximately \$1,633,000 and \$6,013,000 for the quarter and nine months ended September 30, 2009, respectively.

As of September 30, 2009, the Company has commitments on forward purchase contracts to purchase 1,271,000 bushels of corn at an average price of \$3.30 per bushel totaling \$4,191,000 for delivery between October 2009 and December 2010.