

**Appendix B**  
**NEDAK ETHANOL, LLC**

**AUDIT COMMITTEE CHARTER**

**I. ORGANIZATION**

There shall be a committee of the Board of Directors to be known as the Audit Committee. The Audit Committee shall consist of three or more directors, as determined by the Board of Directors, each of whom shall not be a compensated officer or employee of NEDAK Ethanol, LLC (the “Company”) or any of its affiliates, and shall be independent of the management of the Company and free of any relationship that, in the opinion of the Board of Directors, would interfere with his or her exercise of independent judgment as an Audit Committee member.

All members of the Audit Committee shall be able to read and understand fundamental financial statements, including a company’s balance sheet, income statement, and cash flow statement.

The members of the Audit Committee shall be elected by the Board of Directors at the annual meeting of the Board of Directors to serve a term of one year or until their successors shall be duly elected and qualified. The Board of Directors will appoint a Chair to preside at the Audit Committee meetings and schedule meetings as appropriate. The Board of Directors shall make the determination as to (a) the independence of each member of the Audit Committee; and (b) which member(s) of the Audit Committee qualify as an “audit committee financial expert.”

**A. Definition of Independence**

The following persons are not considered independent<sup>1</sup>:

- (1) a director who is employed (and compensated for such employment) by the Company or any of its affiliates for the current year or any of the past three years;
- (2) a director who, directly or indirectly, accepts any consulting, advisory or other compensatory fee from the Company or any of its affiliates, other than compensation for board or committee service;
- (3) a director who accepted or who has a Family Member<sup>2</sup> who accepted any compensation from the Company in excess of \$60,000 during any period of twelve consecutive months within the three years preceding the determination of independence, other than (i) purchases of grain and sales of distillers grains by the Company from or to a director if such purchase or sale is at the posted price or the price generally offered by the Company to non-director grain producers and cattle feeders, (ii) compensation for board or committee service, (iii) compensation paid to a Family Member who is an employee (other than as an executive officer) of the Company, or (iv) benefits under a tax-qualified retirement plan, or non-discretionary compensation;
- (4) a director who is any Family Member of an individual who is, or has been in any of the past three years, employed by the Company or any of its affiliates as an executive officer;
- (5) a director who is, or has Family Member who is, a partner in, or a controlling stockholder or an executive officer of, any organization to which the Company made, or from which the Company received, payments (other than those arising solely from investments in the Company’s securities or under non-discretionary charitable contribution matching programs) for property or services that exceed 5% of the recipient’s consolidated gross revenues for that year, or \$200,000, whichever is more, in any of the past three fiscal years, other than (i) purchases of grain and sales of distillers grains by the Company from or to a director if such purchase or sale is at the posted price or the price generally offered by the Company to non-director grain producers and cattle

---

<sup>1</sup> See NASDAQ Rule 4200(a)(15) and Rule 10A-3(b)(1) adopted under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

<sup>2</sup> “Family Member” is defined by NASDAQ Rule 4200(a)(14) as “a person’s spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person’s home.”

- feeders, (ii) payments arising solely from investments in the Company's securities, or (iii) payments under non-discretionary charitable contribution matching programs;
- (6) a director who is, or has a Family Member who is, employed as an executive of another entity where at any time during the past three years any of the Company's executive officers serve on that entity's compensation committee;
  - (7) a director who is, or has a Family Member who is, a current partner of the Company's outside auditor, or was a partner or employee of the Company's outside auditor who worked on the Company's audit at any time during any of the past three years;
  - (8) a director who has participated in the preparation of the financial statements of the Company or an affiliate at any time during the previous three years.<sup>3</sup>
  - (9) a director who directly or indirectly beneficially owns more than 10% of any class of the Company's Membership Interests; or
  - (10) a director who is an employee, an executive officer, a general partner or a managing member of a company which directly or indirectly Controls<sup>4</sup> the Company, is Controlled by the Company, or is under common Control with the Company.

**B. Definition of "Audit Committee Financial Expert"<sup>5</sup>**

An "audit committee financial expert" is a person who has, through (i) education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions; (ii) experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions; (iii) experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or (iv) other relevant experience that results, in the judgment of the Company's Board of Directors, in the person's having similar expertise and experience, the following attributes:

- (1) An understanding of generally accepted accounting principles and financial statements;
- (2) The ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;
- (3) Experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the Company's financial statements, or experience actively supervising one or more persons engaged in such activities;
- (4) An understanding of internal control over financial reporting; and
- (5) An understanding of audit committee functions.

**II. PURPOSE**

The primary function of the Audit Committee is to assist the Board of Directors in fulfilling its oversight responsibilities by reviewing the financial reports and other financial information provided by the Company to any governmental body or the public; the Company's systems of internal controls regarding finance, accounting, legal compliance and ethics that management and the Board of Directors has established; and the Company's auditing, accounting and financial reporting processes generally. Consistent with this function, the Audit Committee should encourage continuous improvement of, and should foster compliance with, the Company's policies, procedures and practices at all levels. The Audit Committee's primary duties and responsibilities are as follows:

1. To serve as an independent and objective party to monitor the Company's financial reporting process and internal control system.

---

<sup>3</sup> See NASDAQ Rule 4350(d)(2)(A).

<sup>4</sup> "Control" means the ability to control the management or policies of a person. "Control" is presumed if the person directly or indirectly beneficially owns more than 10% of the other person's securities.

<sup>5</sup> See Item 407(d)(5)(ii) of Regulation S-K adopted under the Exchange Act.

2. To review and appraise the audit efforts of the Company's independent auditors and management of the Company.
3. To provide an open avenue of communication among the independent auditors, financial and senior management, employees and the Board of Directors.

The Audit Committee will primarily fulfill these responsibilities by carrying out the activities enumerated in Section IV of this Charter.

### **III. MEETINGS**

The Audit Committee shall meet regularly as determined by the members of the Audit Committee or as directed by the Board of Directors. The Chair of the Audit Committee shall prepare or approve an agenda in advance of each meeting. The President, Chief Financial Officer, outside legal counsel, and a representative from the independent auditors may be invited to all meetings. Other management may be invited as necessary. Non-committee members may be excused from attendance at any meeting or portion of any meeting by the Chair.

As part of its job to foster open communication, the Audit Committee should meet at least annually with management and the independent auditors in separate executive sessions to discuss any matter that the Audit Committee or each of these groups believes should be discussed privately. In addition, the Audit Committee or its Chair should meet with the independent auditors and management quarterly to review the Company's financial statements and significant findings based upon the auditor's limited review procedures.

### **IV. AUTHORITY AND RESPONSIBILITIES**

The Audit Committee shall be solely responsible<sup>6</sup> for the retention, compensation and oversight of the work of the independent auditor (including resolution of disagreements between management and the independent auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work. The independent auditor shall report directly to the Audit Committee.

The Audit Committee shall have the authority, to the extent it deems necessary or appropriate, to retain independent legal, accounting or other advisors.<sup>7</sup> The Company shall provide for appropriate funding, as determined by the Audit Committee, for payment of compensation to the independent auditor for the purpose of rendering or issuing an audit report and to any advisors employed by the Audit Committee, and for any ordinary administrative expenses necessary for the Audit Committee to carry out.

The independent auditors are ultimately accountable to the Audit Committee and the Board of Directors, as representatives of the Company's Members. The Audit Committee and the Board of Directors have the ultimate authority and responsibility to select the independent auditors and the Audit Committee has the ultimate responsibility to evaluate and, where appropriate, replace the independent auditors (or to nominate the independent auditors to be proposed for Member approval in any proxy statement).<sup>8</sup>

To fulfill its duties and responsibilities the Audit Committee shall:

---

<sup>6</sup> See Rule 10A-3(b)(2) adopted under the Exchange Act.

<sup>7</sup> See Rule 10A-3(b)(4) & (5) adopted under the Exchange Act.

<sup>8</sup> See *id.*

### Review Procedures

1. Review and reassess the adequacy of this Charter at least annually and recommend any proposed changes to the Board of Directors for approval.<sup>9</sup>
2. Review the Company's audited financial statements prior to the release of year-end earnings and/or the Company's financial statement and prior to filing the Company's Annual Report.
3. Review the Company's quarterly financial results prior to the release of quarterly earnings and/or the Company's financial statements.
4. Review, as appropriate, any other material financial information submitted to any governmental or public body, including any certification, report, opinion, or review rendered by the independent auditors.

### Independent Auditors

1. Obtain and review a report from the independent auditor at least annually regarding (a) the independent auditor's internal quality-control procedures, (b) any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities within the preceding five years respecting one or more independent audits carried out by the firm, (c) any steps taken to deal with any such issues, and (d) all relationships between the independent auditor and the Company. Evaluate the qualifications, performance and independence of the independent auditor, including considering whether the auditor's quality controls are adequate and the provision of permitted non-audit services compatible with maintaining the auditor's independence, taking into account the opinions of management and internal auditors. The Audit Committee shall present its conclusions to the Board.<sup>10</sup>
2. Pre-approve any non-audit services that are permitted under the Exchange Act and Securities and Exchange Commission ("SEC") rules.<sup>11</sup>
3. Ensure receipt from the independent auditors of a formal written statement delineating all relationships between the auditor and the Company, consistent with Independence Standards Board Standard No. 1.
4. Actively engage in dialogue with the independent auditors and legal counsel with respect to any disclosed relationships or services that may impact the objectivity and independence of the independent auditors.
5. Take, or recommend that the full Board of Directors take, appropriate action to oversee the independence of the independent auditors.
6. Recommend to the Board policies for the Company's hiring of employees or former employees of the independent auditor who participated in any capacity in the audit of the Company.<sup>12</sup>
7. Approve, where appropriate, fees and other significant compensation to be paid to the independent auditors.
8. Meet with the independent auditors to review the scope of the proposed audit for the current year, the audit procedures to be utilized, the location, reliance on management, and staffing for the audit.

---

<sup>9</sup> See NASDAQ Rule 4350(d)(1).

<sup>10</sup> See §10A(k) of the Exchange Act and Rule 10a-3(b)(2) adopted under the Exchange Act (requiring the independent auditor to prepare such reports).

<sup>11</sup> See §10A(h) of the Exchange Act.

<sup>12</sup> See NASDAQ Rule 4200(a)(15).

9. Following each audit by the independent auditors, obtain from the independent auditors assurance that Section 10A of the Exchange Act has not been implicated.
10. In connection with the Company's year-end financials, discuss with financial management and the independent auditors significant issues regarding accounting principles, practices and judgments and any items required to be communicated by the independent auditors in accordance with Statement on Accounting Standards No. 61.
11. In connection with the Company's interim financials, discuss with financial management and independent auditors any significant changes to the Company's accounting principles and any items required to be communicated by the independent auditors in accordance with Statement on Accounting Standards No. 71. The Chair of the Audit Committee may represent the entire Audit Committee for purposes of the quarterly review and communication.
12. Consider and approve, if appropriate, significant changes to the Company's auditing and accounting principles and practices as suggested by the independent auditors or management.
13. Ensure the rotation of the audit partners as required by law. Consider whether, in order to assure continuing auditor independence, it is appropriate to adopt a policy of rotating the independent auditing firm on a regular basis.<sup>13</sup>

#### Improvement Process

Meet periodically with management to review the Company's major financial risk exposure and the steps management has taken to monitor and control such exposures.

#### Proxy Statement

1. Approve the report of the Audit Committee required by the rules of the SEC to be included in the Company's annual proxy statement.
2. Oversee the publication of this Charter, following amendment, and, in any event, at least every three years, in the Company's annual proxy statement in accordance with SEC regulations.

#### Ethical Compliance

Establish, review and update periodically the Company's Code of Ethics,<sup>14</sup> its Trading Policy and its Related Party Policy (collectively, the "Policies"). The effectiveness of Policies shall be reviewed annually by the Audit Committee, with a report thereafter by the Audit Committee to the Board of Directors. The report shall include any recommendations for proposed changes to the Policies which the Audit Committee believes are reasonably necessary to ensure high ethical conduct by the Company's chief executive and senior financial officers and to prevent fraudulent, deceptive, misleading or manipulative acts by "Access Persons" as that term is defined in the Trading Policy.

#### Procedures for Handling Complaints<sup>15</sup>

---

<sup>13</sup> See §10A(j) of the Exchange Act (requiring rotation of certain audit partners on a five-year basis in order to continue to provide audit services for a registrant).

<sup>14</sup> Under SEC rules, the Company is required to disclose whether it has a Code of Ethics applicable to the chief executive and senior financial officers; if the Company has not adopted such Code of Ethics, it must disclose why it has not done so. See Item 406(a) of Regulation S-K adopted under the Exchange Act.

<sup>15</sup> This section addresses the "whistleblower" requirements of Sarbanes-Oxley and Rule 10A-3(b)(3) adopted under the Exchange Act.

Establish procedures for the receipt, retention and treatment of (a) complaints received by the Company regarding accounting, internal accounting controls or auditing matters; and (b) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.

Miscellaneous

1. Review with the Company's general counsel legal matters that may have a material impact on the financial statements, the Company's compliance policies related to financial matters and any material reports or inquiries related to financial matters that are received from regulators or governmental agencies.
2. The Audit Committee is authorized to review, from time to time, in the Committee's discretion, electronic data processing procedures and controls, policies and procedures regarding expenses and use of corporate assets.
3. Periodically conduct a self-assessment of the Audit Committee's performance.
4. Perform any other activities consistent with this Charter, the Company's Operating Agreement and governing law, as the Audit Committee or the Board of Directors deems necessary or appropriate.

**V. LIMITATION OF AUDIT COMMITTEE'S ROLE**

While the Audit Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Audit Committee to plan or conduct audits or to determine that the Company's financial statements are complete and accurate and are in accordance with generally accepted accounting principles. These are the responsibilities of management and the independent auditors. Nor is it the duty of the Audit Committee to assure compliance with laws and regulations or the Policies.

As originally adopted by  
the Board of Directors of NEDAK Ethanol, LLC  
on January 29, 2007

As subsequently modified by  
the Board of Directors of NEDAK Ethanol, LLC  
on March 22, 2007

As subsequently modified by  
the Board of Directors of NEDAK Ethanol, LLC  
on April 30, 2010