

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made and dated this ___ day of December, 2009, by and between Peter C. McKittrick, solely in his capacity as the chapter 7 trustee for Cascade Grain Products, LLC ("Seller") and _____ ("Buyer").

RECITALS

1. On January 28, 2009 (the "Petition Date"), Cascade Grain Products, LLC ("Debtor"), filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Oregon (the "Court"), Case No. 09-30508-elp11 ("the Case"). On September 29, 2009 (the "Conversion Date"), the Case was converted to Chapter 7, Case No. 09-30508-elp7, and Peter C. McKittrick was appointed as the chapter 7 trustee (the "Trustee").

2. On November 10, 2009, the Trustee filed with the Court a notice of intent to sell the assets of Debtor (Docket number 751) (the "Notice of Intent") at an auction to be conducted by the Trustee before the Court on or about December 9, 2009 (the "Auction"). On November 20, 2009, the Trustee filed with the Court a first amended notice of intent to assume and assign certain executory contracts and leases that will be assigned to Buyer (Docket number 759).

3. Pursuant to the terms of the Notice of Intent and Auction rules approved by the Court, all potential bidders at the Auction must execute an Asset Purchase Agreement substantially in the form hereof. Accordingly, Buyer executes and delivers this Agreement in advance of the Auction in order to bind Buyer to purchase substantially all of the assets of Seller (the "Transaction") if Buyer's initial bid herein or subsequent bid at the Auction (collectively, the "Bid") is the winning bid at the Auction, and the sale to Buyer is approved by the Bankruptcy Court.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows.

ARTICLE I

ASSET DESCRIPTION

1.01 **Assets.** Seller agrees that at the Closing, as defined in Section 5.01, it shall sell, assign, transfer and convey to Buyer free and clear of all other liens, claims, encumbrances and other interests (except for any easements or other rights with respect to the real property described in Exhibit A that do not constitute liens, encumbrances or otherwise cloud the title with respect to such property), and Buyer agrees that it shall purchase and acquire from Seller, all of Seller's right, title and interest in the following assets owned by Seller (the "Assets"):

(a) The ethanol plant and related improvements located on the real property leased by Seller, commonly known as 81200 Kallunki Road, Clatskanie, OR 97016;

(b) The real property described in Exhibit A, which is attached hereto and incorporated by this reference, and the related improvements commonly referred to as the tank farm;

(c) All equipment;

(d) All Executory Contracts, as defined in Section 1.02 and all rights of Seller thereunder, including all proceeds of such contracts other than cash in the possession of Seller;

(e) All goods;

(f) All fixtures;

(g) All inventory;

(h) All energy tax credits, if any, specific to the operation of Seller's business (but only to the extent that such energy tax credits are transferred by operation of law through this Agreement)

(i) All computer hardware;

(j) All trademarks applications, trademark registrations, trade names, brand names, and rights to the names "Cascade Grain" and "Cascade Grain Products";

(k) All licenses, URL's, domain names, websites and web addresses; and

(l) All books, records, logs, papers, files, location files, correspondence, reports, account information, records and other business files and records, except for Seller's limited liability company files and records.

1.02 **Assumption and Assignment of Executory Contracts.** Seller shall assume and assign to Buyer pursuant to section 365 of the Bankruptcy Code all of the prepetition executory contracts, and assign all the postpetition executory contracts, which are listed on Schedule 1.02 (collectively, the "Executory Contracts"). Buyer shall pay all cure claims required under section 365 of the Bankruptcy Code and any other costs associated with the assignment and assumption of the Executory Contracts. At any time prior to the Closing, Buyer may notify Seller in writing of its determination not to assume any of the Executory Contracts, although Buyer recognizes that the assumption and cure of executory contracts will be a relevant factor for the Trustee in determining the winning bid at the Auction.

1.03 **Excluded Assets.** Notwithstanding anything to the contrary in this Agreement, the Assets shall not include Seller's (i) cash and cash equivalents, (ii) deposits, prepaid amounts and accounts receivable; (iii) rights to the accounting software licensed to Seller, including the computer used to run such software and all accounting information and data; (iv) any assets listed in Schedule 1.03, and (v) all causes of action and lawsuits of Seller, including, without limitation, those arising under chapter 5 of the Bankruptcy Code against persons other than the parties to this Agreement.

ARTICLE II

PURCHASE PRICE

2.01 **Amount of Purchase Price.** In consideration for the transfer of the Assets, Buyer hereby agrees to pay to Seller a purchase price in the greater of \$ _____ or such higher amount as Buyer bids at the Auction (the "Purchase Price") in cash at the Closing.

2.02 **Sale Deposit.** Concurrent with the execution and delivery of this Agreement and the Bid, Buyer is delivering to the Trustee a deposit (the "Sale Deposit") in the form of a certified check in the amount of One Hundred Thousand Dollars (\$100,000) payable to the order of the Bankruptcy Estate of Cascade Grain Products, LLC, which deposit shall be held by the Trustee in escrow in a segregated account. In the event the Closing does not occur due to a valid termination of this Agreement by Buyer under Section 11.02 or Article VIII or if Buyer's Bid is neither the winning bid at the Auction nor accepted by the Trustee as a back-up offer after the Auction, as described in Section 11.01, then the Sale Deposit shall be returned to Buyer. In the event that the Closing does not occur due to a default by Buyer of this Agreement, Buyer shall forfeit all rights to the Sale Deposit, and the Sale Deposit proceeds shall be retained by the Trustee for the benefit of the Debtor.

2.03 **No Assumption of Liabilities other than Executory Contracts.** Except for the Executory Contracts, Buyer shall have no responsibility for any liabilities or obligations of Seller.

2.04 **Taxes.** Buyer shall pay all sales and use taxes, if any, that arise from the Transaction.

2.05 **Possible Higher or Better Bids.** Buyer acknowledges and is aware that the sale contemplated by this Agreement is subject to any higher or better bids at the Auction, as well as any objections by creditors and parties in interest.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

3.01 **Seller's Representations and Warranties.** Seller represents, warrants and covenants to Buyer:

(a) **Power and Authority.** Seller has the full power and authority to execute, deliver, and perform his obligations under this Agreement, subject to the approval of the Bankruptcy Court as described herein. Upon entry by the Bankruptcy Court of an order authorizing and approving this Agreement and the Transaction, this Agreement and all agreements, instruments, and documents herein provided to be executed by Seller are and as of the Closing will be duly authorized, executed, and delivered by, and are and will be binding upon Seller.

(b) No Transfer of Assets. Seller has not disposed of, transferred or agreed to transfer any of the Assets since the Conversion Date, other than pursuant to orders entered by the Court.

(c) No Litigation. To the best of Seller's knowledge, there are no actions, suits or proceedings pending or threatened in any court or before any administrative agency which would prevent Seller from completing the Transaction.

(d) No Other Warranties by Seller/Release and Waiver by Buyer. Seller is selling the Assets on an "AS IS, WHERE IS" basis, with all defects, apparent and not apparent, with no representations or warranties of any kind, express or implied, either oral or written, with respect to the physical condition or value of the Assets. Upon the Closing, Buyer shall assume all risk, responsibility, liability and obligation for the physical condition, quality, performance and status of the Assets. Buyer assumes the entire cost of all necessary servicing or repair should defects appear. Seller has made no warranty or representation whatsoever regarding the fitness for a particular purpose, quality or merchantability of the Assets. SELLER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE ASSETS. ACKNOWLEDGING THAT THIS IS AN "AS IS" TRANSACTION, TO THE FULLEST EXTENT ALLOWED BY LAW, BUYER HEREBY RELEASES AND WAIVES ANY AND ALL CLAIMS, WHENEVER ARISING OR ACCRUING, WHETHER KNOWN OR UNKNOWN, RELATING TO OR ARISING FROM THE CONDITION, QUALITY, PERFORMANCE OR STATUS OF THE ASSETS AT ANY TIME, AGAINST (1) SELLER, (2) THE PRIOR OWNER(S) OF THE ASSETS, AND (3) ANY CONTRACTORS, SUBCONTRACTORS, SUPPLIERS, CONSULTANTS OR DESIGN PROFESSIONALS OF EVERY TIER PERFORMING ANY WORK OR SERVICES IN CONNECTION WITH THE ASSETS DURING ORIGINAL DESIGN OR CONSTRUCTION OR AT ANY TIME BEFORE THIS SALE IS FINAL (collectively, the "Seller Parties"). This waiver applies to claims under any legal theory, including but not limited to negligence, negligence per se, negligent misrepresentation, defective design or construction, breach of contract or breach of express or implied warranty, breach of fiduciary duty, strict liability, nuisance, trespass or any other theory, whether arising from statute, contract, tort or otherwise. This release and waiver shall be binding upon Buyer and all successor owners, buyers or users of the Assets and their respective employees, contractors, property managers, brokers, heirs, successors, assigns, guests and invitees. Buyer agrees to require that this release and waiver be included as a term in any future sale or lease of the Assets on or before August 31, 2018, and that Buyer shall indemnify, defend, reimburse and hold the Seller Parties harmless from any claim, suit, demand, damage, liability or expense resulting from the failure to do so. This waiver shall act as a complete bar and defense against any released or waived claim.

3.02 **Buyer's Representations and Warranties.** Buyer represents, warrants and covenants to Seller that:

(a) Corporate Organization. Buyer is a [corporation] [limited liability company] duly organized, validly existing and in good standing under the laws of [state].

(b) Power and Authority. Buyer has all requisite power and authority to enter into this Agreement and carry out all of its obligations under this Agreement. The officer or officers of Buyer who shall execute and deliver this Agreement have been duly authorized to do so by all requisite action on the part of Buyer.

(c) No Litigation. To the best of Buyer's knowledge, there are no actions, suits or proceedings pending or threatened in any court or before any administrative agency which would prevent Buyer from completing the Transaction.

(d) Capability. Buyer is willing, authorized, capable and qualified financially, legally and otherwise, to unconditionally perform all obligations under this Agreement in the event that the Trustee accepts Buyer's Bid as the winning bid at the Auction and this Agreement is approved by the Court.

ARTICLE IV

CONDITIONS PRECEDENT TO CLOSING

4.01 Buyer's Conditions. Buyer's obligation to complete the Transaction is subject to the satisfaction at or prior to the Closing of each of the following conditions (any of which contained in subsections (c) and (d) may be waived in writing by Buyer):

(a) Trustee Approval of Bid. Pursuant to the terms of the Notice of Intent and of the Auction rules approved by the Court, the Trustee shall have determined that Buyer's Bid is the highest and best bid and that the sale of the Assets to Buyer pursuant to this Agreement is in the best interests of Debtor's estate.

(b) Bankruptcy Court Approval. The Bankruptcy Court shall have entered a final order (which has not been stayed on appeal) (the "Sale Approval Order") approving Seller's motion for approval of the Transaction and the Agreement, and (i) authorizing Seller to transfer the Assets to Buyer free and clear of all liens, claims (specifically including, but not limited to, all claims for successor liability against Buyer), encumbrances, and other interests except as otherwise provided herein, (ii) authorizing Seller to assume and assign the Executory Contracts, and (iii) determining that Buyer is a good-faith purchaser. Seller's notice of the motion shall include a specific statement that the sale is free and clear of all claims for successor liability against Buyer.

(c) Performance of Obligations. All terms, covenants, agreements and conditions set forth in this Agreement to be complied with and performed by Seller on or prior to the Closing shall have been fully complied with and performed in all material respects, and all representations and warranties of Seller shall be true on the Closing in all material respects as if made on and as of such date.

(d) Delivery of Documents. Seller's transfer and sale of Assets hereunder shall be effected by the delivery by Seller to Buyer at the Closing of a bill of sale for all items of personal property, a bargain and sale deed for the transfer of the real property and other good and sufficient instruments of sale, transfer, assignment and conveyance and all consents of third

parties necessary thereto as shall be required, or as may be reasonably necessary in order to effectively vest in Buyer good and marketable title to the Assets and effectuate the Transaction.

4.02 **Seller's Conditions.** Seller's obligation to complete the Transaction is subject to the satisfaction at or prior to the Closing of each of the following conditions (any which contained in subsections (c) and (d) may be waived in writing by Seller):

(a) **Trustee Approval of Bid.** Pursuant to the terms of the Notice of Intent and of the Auction filed by the Trustee with the Court, the Trustee shall have determined that Buyer's Bid is the highest and best bid and that the sale of the Assets to Buyer pursuant to this Agreement is in the best interests of Debtor's estate.

(b) **Bankruptcy Court Approval.** The Bankruptcy Court shall have entered the Sale Approval Order.

(c) **Performance of Obligations.** All terms, covenants, agreements and conditions set forth in this Agreement to be complied with and performed by Buyer on or prior to the Closing shall have been fully complied with and performed in all material respects, and all representations and warranties of Buyer shall be true on the Closing in all material respects as if made on and as of such date.

(d) **Delivery of Documents.** Buyer and shall have executed and delivered to Seller all documents and evidence requested by Seller in its reasonable discretion to determine whether Buyer is willing, authorized, capable and qualified financially, legally and otherwise, to unconditionally perform all obligations under this Agreement in the event that the Trustee accepts Buyer's Bid as the winning bid at the Auction and this Agreement is approved by the Court.

ARTICLE V

CLOSING

5.01 **Closing.** The closing of the Transaction (the "Closing") shall occur at the offices of the Trustee's attorney or as otherwise mutually agreed, after all conditions to Closing shall be satisfied, but in any event, no later than eleven (11) days following the Sale Approval. At or before the Closing, (i) Buyer shall pay in cash to Seller the Purchase Price by wire transfer of immediately available funds and shall deliver all documents reasonably requested by Seller, and (ii) Seller shall deliver to Buyer possession of the Assets and all documents reasonably requested by Buyer.

ARTICLE VI

COVENANTS AND ACKNOWLEDGEMENTS PENDING CLOSING

6.01 **Conduct of Business.** Seller covenants that, pending the Closing, without Buyer's prior written consent:

(a) Contracts. Seller shall not modify any Executory Contract or enter into any contract relating to the Assets;

(b) Preserving Assets. Seller shall use his reasonable best efforts to preserve the Assets and maintain them in the same condition as of the date of this Agreement, reasonable wear and tear excepted;

(c) Sale of Assets. Seller shall not sell or otherwise dispose of any material asset which constitutes a portion of the Assets; and

(d) Insurance. Except for directors' and officers' liability insurance, if any, Seller shall continue to carry the existing insurance of the Assets.

6.02 **Representations True**. The representations and warranties contained herein shall continue to be true and correct on and as of the Closing as if made on and as of the Closing; and Seller shall advise Buyer promptly in writing of any condition or circumstance occurring from the date hereof up to and including the Closing which would cause the representations and warranties of Seller to become untrue in any material respect.

6.03 **Buyer's Acknowledgements**. Buyer acknowledges that its obligations under this Agreement, including with respect to payment of the Purchase Price and Closing under Section 5.01, shall not be contingent on any condition other than as set forth in Section 4.01. Without limiting the foregoing, Buyer's obligations shall not be contingent on any (i) financing contingency, (ii) contingency relating to the completion of due diligence or (iii) contingency relating to the approval of the Transaction by Buyers officers, directors or other internal approvals or consents. Buyer further acknowledges that the Trustee has discretion to accept or reject Buyer's Bid and that in the event that the Closing does not occur for any reason, Buyer shall not be entitled to any breakup fee, topping fee, expense reimbursement or other similar arrangement.

ARTICLE VII

COVENANTS OF ACCESS AND COOPERATION

7.01 **Access**. Seller shall give Buyer access during normal business hours throughout the period prior to the Closing to the Assets and to Seller's books, contracts, commitments and other records with respect thereto, and shall furnish Buyer during such period with such information in Seller's possession concerning the Assets as Buyer may reasonably request.

7.02 **Permits and Approvals**. Each party covenants and agrees to promptly furnish the other with all information and data in the furnishing party's possession requested in writing by the requesting party which is reasonable and necessary in order to assist the requesting party to secure the permits, licenses, approvals, financing and/or consents required to complete the Transaction, if any.

7.03 **Litigation: Claims**. Each party covenants and agrees to promptly notify the other of any claim, action, suit, proceeding or investigation which is commenced or threatened and

becomes known to any of them between the date of this Agreement and the Closing and relating to or affecting the Assets.

7.04 **Post Closing Access.** On the Closing Date, Seller shall irrevocably instruct all attorneys and servants and agents of Seller to provide to Buyer full access to all books, records, communications and information of Seller in the possession or control of attorneys and servants and agents of Seller, whether or not privileged, to the same extent as such access was available to Seller and its directors before the Closing to the extent the books, records, communications and information relate to the Assets. Such instructions shall be confirmed by Seller after completion if reasonably requested by Buyer.

ARTICLE VIII

RISK OF LOSS

Risk of loss to the Assets shall not pass to Buyer until the Closing. In the event of the material destruction or damage of any material Assets prior to Closing, Seller shall promptly notify Buyer in writing. Buyer shall have ten (10) days from receipt of such notice to notify Seller of its election to terminate this Agreement. Upon Buyer providing such notice to Seller, this Agreement shall cease and terminate and be of no further force or effect, and neither party shall have any rights against the other by reason of this Agreement and/or such termination. In the alternative, Buyer may elect to accept insurance proceeds payable to Seller to cover the loss, may propose a reduction in the Purchase Price to reflect the loss or may propose other modified terms and, in such event, Seller and Buyer shall negotiate in good faith to reach an agreement to a revised Transaction. Seller agrees to support a modification that has been bargained and agreed to in writing and signed on behalf of both Seller and Buyer and, as needed, to immediately seek Bankruptcy Court approval of the modifications on shortened notice, if so requested by Buyer.

ARTICLE IX

NOTICES

9.01 All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of delivery, if delivered personally or by telecopy or similar transmittal (with receipt acknowledged), to the party to whom notice is to be given, or on the fifth business day after mailing if mailed by first class mail, registered or certified, postage prepaid and properly addressed as follows:

If to Seller:

Peter C. McKittrick, Trustee
13607 NW Cornell Road
PMB #229
Portland, OR 97229

with a copy to:

Farleigh Wada Witt
121 SW Morrison, Suite 600
Portland, OR 97204
Attn: Tara J. Schleicher

If to Buyer:

with a copy to:

9.02 **Changes.** Any party hereto may change its address or fax number for the purpose of receiving notices or demands as herein provided by a written or faxed notice given in the manner provided above to the other parties hereto, which notice of change of address or fax number shall not become effective, however, until the actual receipt thereof by the other parties.

ARTICLE X

INDEMNIFICATION

10.01 **Seller's Indemnity.** Seller covenants and agrees to indemnify and save and hold Buyer harmless at all times after the Closing in respect of any and all liabilities, actions, suits, proceedings, demands, assessments, judgments, costs and expenses, including attorneys' fees, whether known or unknown, disclosed or undisclosed, arising from any misrepresentation, breach of warranty or nonfulfillment of any agreement on the part of Seller under this Agreement, or in any certificate or other instruments or agreements provided for in this Agreement. Notwithstanding anything to the contrary herein, Seller's indemnity obligation shall be limited to \$200,000, and shall expire as of the date the Case is closed. Seller's obligations with respect to indemnity pursuant to this Section 10.01 shall be limited to the extent that the aggregate of Buyer's indemnification claims must first exceed \$50,000 (the "Claim Basket") and then Seller's indemnification obligations shall be only for the amounts in excess of the Claim Basket.

10.02 **Buyer's Indemnity.** Buyer covenants and agrees to indemnify and save and hold Seller harmless at all times after the Closing in respect of any and all liabilities, actions, suits, proceedings, demands, assessments, judgments, costs and expenses, including attorneys' fees, whether known or unknown, disclosed or undisclosed, arising from any misrepresentation, breach of warranty or nonfulfillment of any agreement on the part of Buyer under this Agreement or in any certificate or other instruments or agreements provided for in this Agreement. Buyer's obligations with respect to indemnity pursuant to this Section 10.02 shall be limited to the extent that the aggregate of Seller's indemnification claims must first exceed

\$50,000 (“Buyer’s Claim Basket”) and then Buyer’s indemnification obligations shall be only for the amounts in excess of Buyer’s Claim Basket.

10.03 **Notice of Indemnity.** The indemnified party shall provide the indemnifying party notice of any such claims of liability with reasonable promptness and the indemnifying party, at its election, shall have the right of defense in such proceedings, by counsel of its own choosing, at the indemnifying party’s expense. The indemnified party shall cooperate fully in all respects with the indemnifying party in any such defense, including, without limitation, by making available to the indemnifying party all pertinent information under the control of the indemnified party. If the indemnifying party does not notify the indemnified party within ten (10) days of the indemnified party’s notice to the indemnifying party of a potential claim that the indemnifying party will defend the same, or should the indemnifying party fail to file any answer or pleading at least five (5) days before the same is due, the indemnified party may defend or settle such claim or action in such manner as the indemnified party deems appropriate, in its sole discretion. If the indemnifying party so notifies the indemnified party concurrently with the indemnifying party’s notice of election to defend, the indemnifying party may defend, but not settle, a claim without waiving its right to assert that such claim is not subject to the indemnity agreements in this Article 10. If the indemnifying party elects to defend a claim, the indemnified party may, at the indemnified party’s expense, participate in such matter with counsel of the indemnified party’s own choosing.

ARTICLE XI

TERMINATION

11.01 **Termination In Absence Of A Default.** The Agreement may be terminated at any time prior to the Auction by the written agreement of Seller and Buyer. The Agreement will terminate automatically and without notice to the other parties upon the closing of the sale of the Assets, or any part of the Assets, to a party other than Buyer. If Buyer is not the winning bidder at the Auction, this offer, as enhanced or supplemented at the Auction, will remain binding as a back-up offer for a period of fifteen (15) days following the Auction. Any party may terminate the Agreement by written notice upon the failure of the other party to satisfy, as of the Closing date, one or more of the conditions precedent set forth in Article 4 above. In the absence of any existing default by Buyer, Seller shall return the Sale Deposit to Buyer within two (2) business days after the Agreement is terminated.

11.02 **Termination As A Result Of A Default.** If any party materially breaches any covenant or representation or is otherwise in material default under the terms of the Agreement, the other party may terminate the Agreement by providing written notice to the such party.

ARTICLE XII

MISCELLANEOUS

12.01 **Further Assurances.** Each party shall, at the request of the other, at any time and from time to time following the Closing hereunder, execute and deliver to the requesting party all such further instruments as may be reasonably necessary or appropriate in order to more

effectively assign, transfer and convey to Buyer the Assets, or to perfect or record Buyer's title to or interest in the Assets, or otherwise carry out the provisions of this Agreement.

12.02 **Access to Books and Records.** After the Closing, Seller shall have reasonable access to the books and records transferred to Buyer as part of the Assets for the purpose of administering and winding down the Debtor's bankruptcy case. Upon receipt of reasonable prior notice, Buyer agrees to permit Seller and its attorneys or agents to inspect and copy books and records relating to the Assets in connection with the administration of the Debtor's bankruptcy case.

12.03 **Confidentiality.** At the request of the Trustee, Buyer shall execute a confidentiality agreement in a form satisfactory to the Trustee.

12.04 **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Oregon, without reference to conflict of law principles, and except as superseded by applicable federal laws.

12.05 **Bankruptcy Court Jurisdiction.** The resolution of any and all disputes between the parties herein concerning the Assets or this Agreement, including any indemnification claims pursuant to Section 10 shall be subject to the exclusive jurisdiction of the United States Bankruptcy Court for the District of Oregon.

12.06 **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, personal representatives, and permitted assigns.

12.07 **Arms Length Transaction.** The Transaction, and the relationship between Seller and Buyer, and their respective agents, is wholly "arms length."

12.08 **Time of Essence.** Time is of the essence of this Agreement and all of the terms, provisions, covenants and conditions hereof.

12.09 **Captions.** The captions appearing at the commencement of the sections hereof are descriptive only and for convenience in reference to this Agreement and in no way whatsoever define, limit or describe the scope or intent of this Agreement, nor in any way affect this Agreement.

12.10 **Fees and Expenses.** The parties hereto shall each bear their own expenses, including but not limited to legal fees, incident to the negotiation and preparation of this Agreement and the consummation of the transactions contemplated hereby.

12.11 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, representations, and understandings of the parties. No additions to or modification of this Agreement shall be binding unless executed in writing by all the parties. Except as may be otherwise provided in this Agreement, no waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall

any waiver constitute a continuing waiver, and no waiver shall be binding unless evidenced by an instrument in writing executed by the party making the waiver.

12.12 **Execution in Counterparts.** This Agreement may be executed by the parties in multiple counterparts, which taken together shall be deemed one original document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

Seller

Peter C. McKittrick, in his capacity as
Trustee for the bankruptcy estate of Cascade Grain Products, LLC

Buyer

By: _____
Name: _____
Title: _____

EXHIBIT A

Real Property Description

Schedule 1.02

Executory Contracts and Leases

Schedule 1.03

Excluded Assets