

## MASTER SERVICES AGREEMENT

On this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, the parties, Alanco Energy Services, Inc. ("AES"), a Colorado corporation, with a place of business located at 138 S. Park Square, Ste 201, Fruita, Colorado and [\_\_\_\_\_] ("Customer"), a [\_\_\_\_\_] with its principal place of business located at [\_\_\_\_\_] have entered into this Master Services Agreement (the "Agreement").

### TERMS AND CONDITIONS

1. **Scope of Services.** AES agrees to receive Customer's Produced Water, as produced along with the exploration and production of oil and gas, meeting the quality specifications of AES ("Produced Water") and delivered to AES' produced water disposal and storage facility, known as the Deer Creek facility (the "Deer Creek Facility").
2. **Price and Payment.**
  - a. AES' prices for the acceptance, and disposal of Customer's Produced Water at the Deer Creek Facility are as listed on Work Order per Attachment A hereto, as the same may be modified from time to time and specified in separate work orders for the delivery of Customer's Produced Water (each, a "Work Order"). Applicable taxes and similar assessments are as specified in Attachment A, as the same may be modified by individual Work Orders.
  - b. Payments are due within fifteen (15) days of the invoice date. AES and Customer agree that, in the event Customer fails to make payment when due, an amount equal to 1.5% per month (18% per annum) will be added to all amounts outstanding which have not in good faith been disputed by Customer. In the event that Customer in good faith disputes the charges set forth in an invoice, Customer shall so notify AES within 15 days of its receipt of such invoice. Customer will pay all undisputed charges in accordance with this Section 2.
3. **Term and Termination.**
  - a. The term of this Agreement shall commence on the date first written above and shall continue for a period of one (1) year or for so long as any Work Order remains outstanding, unless earlier terminated as provided herein. Unless either party gives the other written notice within 60 days of expiration of the current term, this Agreement shall automatically renew for the same term thereafter and shall continue to renew at the expiration of each subsequent term.
  - b. Either party may terminate this Agreement, (without prejudice to any other remedy the terminating party may have):
    - i. Immediately if the other party is adjudicated insolvent, seeks any remedy for itself under any present or future law related to bankruptcy, insolvency or other relief for debtors; or
    - ii. If the other party fails to perform in accordance with this Agreement or breaches any term of this Agreement and fails to correct such default or neglect within 15 days after notice thereof.
  - c. Termination in accordance with this Section 3 shall not affect the parties' uncompleted obligations, including payment for Services rendered by AES.
  - d. If any change or communication from any municipal, local, state, provincial, federal or interstate agency occurs with respect to any laws, rules, regulations or ordinances applicable to the rights or obligations contained in this Agreement or which materially impacts either party hereto (including but not limited to changes which increase the cost of providing Services or affect facility permit status), either party shall have the option to immediately terminate this Agreement

or to have the terms of this Agreement renegotiated to bring this Agreement and the respective obligations or rights of the parties into compliance with such change or changes.

- e. Should Customer terminate this Agreement for any reason other than those listed in this Section 3, Customer agrees to pay AES an amount as described in Attachment A or any outstanding Work Order.

**4. Composition of Produced Water.** AES will accept Customer's Produced Water at the Deer Creek Facility. Customer acknowledges and agrees that it shall retain title to, and all responsibility and liability for, Produced Water at all times prior to AES' acceptance of such Produced Water at the Deer Creek Facility. Customer agrees to provide AES with information concerning the Produced Water in a form acceptable to AES so that AES may prepare a description which characterizes and classifies the chemical and physical properties of the Produced Water for Customer's acknowledgement and signature (the "Description"). The Description shall include a description of the chemical components of the Produced Water, including the percentage composition of each such component which shall be in ranges acceptable to AES; the process used to create or mine the Produced Water; analytical results of the testing of the Produced Water, and a listing of physical characteristics of the Produced Water. Customer agrees and acknowledges that AES bases its testing, evaluation and procedures for accepting produced water based in part upon the Description of Customer's Produced Water. Upon request by AES, Customer agrees to provide AES with a sample of the Produced Water in an appropriate container. AES has the right, but is not obligated, to inspect, sample, analyze, test, or retain the Produced Water before acceptance.

**5. Title and Nonconforming Waste.**

- a. Provided the Produced Water is as described in the applicable Description and the Produced Water is properly coded, marked and labeled, title, risk of loss and all other incidents of ownership with respect to the Produced Water will be transferred from Customer to AES at the time AES accepts the Produced Water at AES's Deer Creek Facility. Any marketable or usable material AES may recover from the Produced Water shall be the sole property of AES.
- b. Customer's Produced Water will be considered nonconforming waste ("Nonconforming Waste") if it fails to conform to AES' stated quality specifications and standards, the applicable Description, or if any analysis of water, provided by Customer, is not in accordance with applicable Laws and requirements provided in advance to Customer by AES. In the event Produced Water is determined to be Nonconforming Waste, AES may reject or revoke its acceptance of the Nonconforming Waste. The rejection or revocation of acceptance shall be effective immediately upon receipt of notice, verbal or written, by Customer or its agent and if delivered to AES's site, may be rejected and not unloaded from the truck delivering it.
- c. AES's acceptance of any load of Nonconforming Waste shall not be deemed a waiver of AES's right to reject any other loads of Nonconforming Waste.
- d. In the event of a dispute under this Section 5, AES may have a sample or samples of such Produced Water analyzed by a qualified, reputable, independent chemical laboratory. If chemical analysis shows that the produced water in question has the chemical composition as described in the Description as accepted by AES, then AES will pay the expense of the independent laboratory in performing the chemical analysis and continue its services as originally agreed. If the chemical analysis shows that the chemical composition of the Produced Water is not as described in the Description or does not meet AES' stated standards, then AES will proceed as set forth in this Section 5 and Customer will pay the expense of the independent laboratory in performing the chemical analysis.

**6. AES Representations and Warranties.** AES represents and warrants that it:

- a. is engaged in the business of disposal of Produced Water and understands the currently known hazards related to the handling of the Produced Water;
- b. will perform all work in a safe and efficient manner and using industry accepted practices; and
- c. will comply with all requirements of federal, state, provincial and local laws, rules, regulations, by-laws, ordinances and orders (“Laws”) applicable to the services to be performed hereunder.

**7. Customer Representations and Warranties.** Customer agrees, represents and warrants that:

- a. it will sign the applicable Work Order(s) required to dispose of Produced Water;
- b. any Description of or information regarding the Produced Water given to AES by Customer will be true, accurate and complete, regardless of whether or not AES has sampled or analyzed the Produced Water;
- c. it will notify AES immediately upon any change to the process by which characterized Produced Water is generated;
- d. it has not and will not mix the Produced Water with any other materials, including, without limitation, nonconforming waste, materials containing PCBs, or otherwise alter the characteristics of the Produced Water;
- e. it is currently in compliance and will comply during the term of this Agreement with all of applicable Laws relating to the Produced Water; and
- f. it holds clear title to all Produced Water to be transferred hereunder, and it is under no legal restraint or order which would prohibit transfer of possession or title to such to AES.

**8. Insurance Requirements.** Customer agrees to procure and maintain at least the following insurance.

- a. General Liability (combined single limit)  
\$1,000,000 per occurrence, \$2,000,000 annual aggregate
- b. Commercial Automobile Liability (and MCS-90 Motor Carriers Act of 1980 endorsement)  
\$1,000,000 combined single limit and such policy must be endorsed with the Extended Pollution Endorsement
- c. AES will be listed as Additional Insured for items a and b above and Customer will provide certificates documenting said coverage.
- d. Customer agrees to procure and maintain a workers compensation policy with employer liability limits of \$1,000,000.

In addition, Customer assures that any trucks or vehicles it dispatches to the AES facility have insurance meeting the following requirements.

- a. General Liability (combined single limit)  
\$1,000,000 per occurrence, \$2,000,000 annual aggregate
- b. Commercial Automobile Liability (and MCS-90 Motor Carriers Act of 1980 endorsement)

\$1,000,000 combined single limit and such policy must be endorsed with the Extended Pollution Endorsement

- c. AES will be listed as Additional Insured for items a and b above and Customer will provide certificates from third party contractors dispatched to AES documenting said coverage.
- d. Any third party contractors for which Customer dispatches to AES, agrees to procure and maintain a workers compensation policy with employer liability limits of \$1,000,000.

**9. Indemnification.**

- a. AES agrees to indemnify, hold harmless and defend Customer, its directors, officers, employees and agents from and against any and all liabilities, claims, penalties, forfeitures, suits, and the reasonable costs and expenses incident thereto (including costs of defense, settlement and reasonable attorneys' fees, consultant or other professional fees and the reasonable costs of investigation, containment and cleanup and any remedial actions required by law, regulation or order, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or comparable state superfund law) (collectively referred to as "Damages"), which it may hereafter incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of Laws, to the extent that such Damages were caused by: (i) AES's breach of any term or provision of this Agreement; (ii) the failure of any representation or warranty of AES to be true, accurate and complete; or (iii) any negligent act or omission or willful misconduct of AES or its employees or agents.
- b. Customer agrees to indemnify, hold harmless and defend AES, its directors, officers, employees and agents from and against any and all liabilities, claims, penalties, forfeitures, suits, and the reasonable costs and expenses incident thereto (including costs of defense, settlement and reasonable attorneys' fees, consultant or other professional fees and the reasonable costs of investigation, containment and cleanup and any remedial actions required by law, regulation or order, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or comparable state superfund law) (collectively referred to as "Damages"), which it may hereafter incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of Laws, to the extent that such Damages were caused by: (i) Customer's breach of any term or provision of this Agreement; (ii) the failure of any representation or warranty of Customer to be true, accurate and complete; or (iii) any negligent act or omission or willful misconduct of Customer or its employees or agents.
- c. If any legal action is commenced because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs (including costs of collection), in addition to any other relief to which it may be entitled.
- d. In no event shall either party be liable for any special, indirect, incidental, punitive or consequential damages, whether based in contract, warranty, indemnity or tort, negligence or strict liability.

**10. Confidentiality.**

- a. The parties recognize that the other party's business involves specialized and proprietary knowledge, information, methods, processes, techniques and skills peculiar to their security and growth. The parties acknowledge that any disclosure of such information relating to the other party's business or technology including, but not limited to, financial information or data, marketing techniques and materials, business plans and strategies, business operations and systems, pricing policies, information concerning employees, customers, and/or vendors, trade secrets, discoveries, inventions, improvements, research, development, know-how, designs, products, compositions, prototypes, and manufacturing processes, and any copy or reproduction

of the information ("Confidential Information") would substantially injure the party disclosing such information (the "Disclosing Party") business, impair its investments and goodwill. The party receiving such Confidential Information (the "Recipient") hereby understands that any Confidential Information revealed to it by the Disclosing Party will remain the exclusive property of the Disclosing Party and its successors and assigns, unless expressly stated otherwise.

- b. The Recipient agrees to use the Confidential Information solely for the purpose of performing under this Agreement ("Business Purpose") and to only disclose it to those of its affiliates, officers, directors, employees, attorneys or agents (collectively, "Representatives") who have a need to know the information in order to perform under this Agreement and will not use the Confidential Information for any other purpose or disclose it to any third party except as otherwise expressly provided herein for a period of five (5) years from termination of this Agreement. Recipient will be responsible for breach of this Agreement by any of its Representatives. The Recipient agrees to treat and maintain the Confidential Information with the same or greater degree of care as it accords to its own confidential or proprietary information but, in no event shall this degree of care be less than a reasonable degree of care. The Recipient shall notify the Disclosing Party in writing immediately upon discovery of any disclosure or use of the Confidential Information in violation of this Agreement. The Recipient shall cooperate with the Disclosing Party in regaining possession of the Confidential Information and preventing its further unauthorized disclosure or use.
  - c. Confidential Information shall not include information that (i) was lawfully in the Recipient's possession at the time the Disclosing Party disclosed the information to the Recipient; (ii) was acquired by the Recipient from a third party who, to Recipient's knowledge, had the right to possess the information and did not violate any obligation regarding its disclosure or use in providing it to the Recipient in violation of this Agreement; (iii) is in or enters into the public domain, through no act or fault of the Recipient; (iv) is independently developed by the Recipient; or (v) is required to be disclosed by court order, or legal or regulatory process, provided the Recipient gives the Disclosing Party sufficient notice of such anticipated disclosure so that the Disclosing Party might, at the Disclosing Party's expense, seek a protective order or other remedy it deems appropriate to prevent disclosure of the Confidential Information.
  - d. In the event of a breach or threatened breach of the provisions of this Section 11, the Recipient agrees that no adequate remedy to enforce compliance may exist at law, and that the Disclosing Party may suffer irreparable harm. Therefore, the Disclosing Party shall be entitled to injunctive relief to enforce the terms hereof. This provision shall in no way limit the Disclosing Party's right to recover damages or exercise any other remedy available to it at law or equity.
11. **Force Majeure.** No delay or failure in performance by either party hereto, except for the payment for Services previously performed, shall constitute default hereunder or give rise to any claim for damages, if, and to the extent, such delay or failure is caused by an occurrence beyond the reasonable control and without the fault or negligence of the party affected and which said party is unable to prevent or provide against by exercise of reasonable diligence, including, but not limited to, acts of God or the public enemy, unavoidable casualties, expropriation or confiscation of facilities, changes in applicable law, court orders, acts, orders or regulations of any governmental agency, revocation or modification of governmental permits or other required licenses or approvals, war, rebellion, sabotage or riots, unavailability of labor, equipment, supplies, materials or Work, floods, adverse weather conditions, fires, explosions, or other catastrophes, strikes or any other considered acts of employees, lockouts or similar occurrences (collectively, "Force Majeure").
12. **Independent Contractor.** AES is, and shall perform this Agreement as an independent contractor and as such, shall have and maintain complete control over all of its employees and operations. Neither AES nor anyone employed by it shall be, represent, act, and purport to act, or be deemed to be the agent, representative, employee or servant of Customer.
13. **Notice.**

- a. Notice regarding price changes, AES Produced Water quality specifications and standards, customer service requirements and Nonconforming Waste shall be delivered either verbally followed by writing or in writing to the address of the parties as set forth below.
- b. All other notices required or permitted to be given under this Agreement shall be in writing and addressed or delivered by certified mail or overnight courier with tracking capabilities to the parties at the following addresses:

AES:

Alanco Energy Services, Inc.  
 7950 E. Acoma Drive, Suite 111  
 Scottsdale, AZ 85260  
 Attn: Danielle Haney

Customer:

[ \_\_\_\_\_ ]  
 [ \_\_\_\_\_ ]  
 [ \_\_\_\_\_ ]  
 Attn: [ \_\_\_\_\_ ]

- c. Customer will give written notice to AES of a claim for indemnification under Section 9 promptly following Customer's first knowledge of the event or occurrence which gives rise to that claim. Upon receipt of notice, and determination by AES that Customer has a valid claim for indemnification, AES shall have the right to retain counsel to defend, negotiate, adjust, and/or settle a claim against Customer. AES has no obligation to indemnify Customer when Customer does not provide timely notice of a claim allowing AES the timely opportunity to defend, negotiate, adjust, and/or settle the claim.

- 14. **Assignment.** Neither party may assign or subcontract its rights and/or responsibilities under this Agreement without the other party's prior written approval. Notwithstanding the foregoing, Customer shall have the right to assign or transfer this Agreement to its parent company or to an affiliated company owned by the same parent company, or to a successor company established as a result of internal reorganization; provided, however, that the credit worthiness of an affiliated company of Customer is not materially weaker than the credit worthiness of the Customer.
- 15. **Governing Laws.** This Agreement shall be considered as entered into and governed by the laws of the State of Colorado, excluding its conflicts of law provisions. Customer irrevocably submits to venue and exclusive personal jurisdiction in the federal and state courts in Denver, Colorado for any dispute arising out of this Agreement, and waives all objections to jurisdiction and venue of such courts.
- 16. **Defined Terms.** All defined terms herein, designated by initial capitalization, shall have the meaning so ascribed, said meaning being equally applicable to both singular and plural forms or to grammatical variations (including but not limited to masculine, feminine and neuter pronouns), as the case may be. The paragraph headings in this Agreement are inserted for the convenience of the parties only and shall not in any manner define, limit or describe the intent or scope or in any manner affect this Agreement.
- 17. **Waiver.** Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provisions or conditions.
- 18. **Severability.** If any section of this Agreement shall be found to be unenforceable, such finding shall not affect the enforceability of any other section or the Agreement as a whole.
- 19. **Entire Agreement.** Attachment A attached hereto is incorporated herein by reference. This Agreement and the applicable Work Orders constitute the entire agreement between Customer and AES related to the services performed hereunder and shall supersede all previous communications, proposals, representations and agreements, either oral or written, between the parties hereto with respect to the subject matter hereof. If any discrepancy exists between this Agreement and any Work Order, the terms and conditions of the applicable Work Order shall control. The parties agree that preprinted terms and conditions on a Customer purchase order shall be of no force and effect, even if signed by both parties. No amendment to, or modification, waiver or discharge of, any provision of

this Agreement or a Work Order shall be binding on AES or Customer unless in writing and signed by both parties.

- 20. Survival.** Sections 2 (Price and Payment), 6 (AES Representations and Warranties), 7 (Customer Representations and Warranties), 8 (Insurance), 9 (Indemnification), 10 (Confidentiality), 13 (Notice), 14 (Assignment), 15 (Governing Laws), 17 (Waiver), 18 (Severability) and 20 (Survival) of this Agreement shall survive termination of this Agreement, without regard to the reason for termination.

**IN WITNESS WHEREOF**, the parties have read, understand and agree to be bound by the terms of this Agreement and have executed this Agreement by their duly authorized representatives as of the date first written above.

**AES:**

**CUSTOMER:**

**ALANCO ENERGY SERVICES, INC.**

\_\_\_\_\_  
[Name of Customer]

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

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

**Attachment A**

**Pricing**

To be attached.