BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF
AltEn Facility AND AltEn
Facility Response Group

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (Agreement) is entered into voluntarily by the AltEn Facility Response Group (the members of which are identified in Attachment A) pursuant to the authority vested in the Department of Environment and Energy (DEE) by the Remedial Action Plan Monitoring Act (RAPMA), Neb. Rev. Stat. § 81-15,181 et seq. (Reissue 2014), the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 et seq. (Reissue 2014, Cum. Supp. 2020), and all rules and regulations promulgated thereunder.

FINDINGS

1. The DEE is the agency of the State of Nebraska authorized pursuant to Neb. Rev. Stat. § 81-1504(1) to exercise exclusive general supervision, administration, and enforcement of NEPA, and all rules, regulations, and orders promulgated thereunder, including the issuance of orders requiring the adoption of remedial action to prevent, control, or abate land and water pollution, and to encourage voluntary cooperation by persons to achieve the purposes of NEPA. The DEE is further authorized pursuant to Neb. Rev. Stat. §§ 81-15,183 through 81-15,185 to administer RAPMA.

2. The members of the AltEn Facility Response Group, with principal offices identified on Attachment A, are the parties executing this Agreement. Each member is a "person" within the meaning of Neb. Rev. Stat. § 81-1502(10).

3. The property that is the subject of this Agreement is an ethanol plant in and/or near Mead, Nebraska ("Site"). An overview of the Site is hereto attached to this Agreement as Attachment B. Another overview showing the location of relevant areas and buildings at the Facility is attached as Attachment C.

4. DEE has conducted an environmental investigation of the Site and collected information that evidences that "land pollution," as defined by Neb. Rev. Stat. § 81-15,182(1), and "water pollution," as defined by Neb. Rev. Stat. § 81-15,182(2), exists at the Site.

5. Pursuant to Neb. Rev. Stat. § 81-15,184, AltEn Facility Response Group has submitted to the DEE an application for oversight of the remedial action it plans to conduct at the Site, as well as a nonrefundable application fee of $2,000. In addition, AltEn Facility Response Group has posted an initial deposit of $3,000 to be used by the DEE to cover the DEE's direct and indirect costs related to technical review, oversight, guidance, and other activities associated with the Work (defined below) at the Site. The DEE shall review and approve or deny the application and notify AltEn Facility Response Group in writing. If the application is denied, the notification will state the reason for the denial. If the DEE determines that an application does not contain adequate information, the DEE shall return the application to AltEn Facility Response Group. AltEn Facility Response Group will have sixty (60) days to resubmit the required information or the application will be deemed denied.

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AGREEMENT

6. The purpose of this Agreement is to memorialize the AltEn Facility Response Group's commitment to: (a) continue the voluntary implementation of signifcant interim measures at the Site, to be further described in the remedial action plan, including drawdown and maintenance of wastewater lagoon levels, evaluation of lagoon liners, providing emergency response, and managing environmental impacts from wet cake and waste materials onsite through containment and stormwater management; and (b) prepare a remedial action plan in accordance with RAPMA with DEE approval and oversight (collectively, the "Work").

7. AltEn Facility Response Group agrees to perform the Work at the Site in accordance with RAPMA, NEPA and all rules and regulations promulgated thereunder. AltEn Facility Response Group shall be responsible for making all reasonable and necessary efforts to obtain any necessary permits, licenses, access and other authorizations required under this Agreement. Nothing in this Agreement shall be deemed to impose any additional liabilities or obligations on AltEn Facility Response Group, other than those specifically stated herein. Nothing shall relieve AltEn Facility Response Group from complying with all other applicable federal, state and local laws, rules and regulations.

8. AltEn Facility Response Group agrees to maintain insurance coverage, including self-insurance or insurance held by contractors engaged for actions at the Site, sufficient to cover significant risks to AltEn Facility Response Group's employees, agents, and contractors, performing the actions under this Agreement.

9. Nothing in this Agreement, including any document the DEE issues as agreed to herein, shall be interpreted to constitute a release or waiver of liability for any of the conditions which existed at the Site before, during, or after execution of this Agreement nor limit the DEE's authority to respond to such conditions, including the authority under Neb. Rev. Stat. §§ 81-1507, 81-1508, 81-1508.01, 81-1508.02, and 81-15,188. In accordance with Neb. Rev. Stat. § 81-15,185.02, DEE shall have the authority to terminate this Agreement to respond to such conditions in addition to requiring further remedial action under the circumstances described in Paragraph 21 of this Agreement. AltEn Facility Response Group reserves the right to raise any and all defenses under state or federal law, to any action brought by DEE for conditions that existed on the Site not resulting from the Work under this Agreement.

10. AltEn Facility Response Group denies that the members caused land or water pollution at the Site in violation of Neb. Rev. Stat. § 81-1506(1)(a), but agrees that DEE may file an action against the members of the AltEn Facility Response Group if it fails to comply with or terminates this Agreement. The members of the AltEn Facility Response Group waive any affirmative defenses regarding jurisdiction. However, nothing in this Agreement shall constitute a waiver of any member's right to contest the authority of the DEE to take any enforcement action against any member of the AltEn Facility Response Group, other than an action to enforce this Agreement. AltEn Facility Response Group and its members do not admit and retain the right to dispute any of the factual or legal statements or determinations made herein in any judicial or administrative proceeding, except in an action to enforce this Agreement. This Agreement shall not be admissible in any judicial or administrative proceeding against the AltEn Facility Response Group or any of its members, as proof of liability or an omission of any fact dealt with herein, except that it shall be admissible in an action to enforce this Agreement.

11. Remedial Action Plan. In accordance with Neb. Rev. Stat. § 81-15,184, AltEn Facility Response Group shall work expeditiously to provide to DEE a complete Remedial Action Plan (RAP) for the proposed project that conforms to all federal and state environmental standards and substantive requirements and that is subject to review and approval of the DEE. DEE approval

shall be void upon failure to comply with the approved RAP or willful submission of false, inaccurate, or misleading information by AltEn Facility Response Group. DEE shall not commence technical review, oversight, guidance, or other activities associated with the RAP until this Agreement is executed and AltEn Facility Response Group has submitted a complete RAP to the DEE. DEE may approve extensions of time as may be appropriate.

New information about the presence of land pollution or water pollution at the Site obtained after approval of the RAP may require additional remedial action. To respond to such pollution, AltEn Facility Response Group shall submit any subsequent work plans on a schedule agreed to by AltEn Facility Response Group and the DEE.

12. If AltEn Facility Response Group believes any such data or information is protected by a privilege, it will retain the data and information and notify the DEE of the nature of the document and the privilege claimed. AltEn Facility Response Group may also request that the DEE keep data or information contained in any submission confidential, pursuant to Title 115 - Rules of Practice and Procedure.

13. Upon receipt of the RAP, the DEE shall review and approve or disapprove the RAP and notify AltEn Facility Response Group of its decision in writing. If the RAP is disapproved, the notification shall state the reason for disapproval. DEE shall provide AltEn Facility Response Group an opportunity to resubmit the RAP.

    If the DEE intends to approve the RAP, DEE shall issue a public notice of its intent pursuant to § 81-15,185 in a local newspaper of general circulation in the area affected and make the RAP available to the public. The public shall have thirty days from the date of publication during which any person may submit written comments to the DEE regarding the proposed remedial action. Such person may also request or petition the Director of Environment and Energy, in writing, for a hearing and state the nature of the issues to be raised. The Director shall hold a public hearing if the comments, request, or petition raise legal, policy, or discretionary questions of general application and significant public interest exists.

14. The DEE and its authorized representatives and contractors shall have access at all reasonable times to the Site and any related lands, to the extent access is controlled by or granted to AltEn Facility Response Group for the purpose of conducting technical review, oversight, guidance, or other activities associated with remedial action at the Site.

15. The AltEn Facility Response Group is not the current owner or operator of the Site and does not have a written access agreement executed with the owner of the Site at the time of submittal of this Agreement. If access to the Site is revoked or denied after this Agreement is entered, DEE may exercise its legal authority, including enforcement authority against any responsible party, to the extent allowed by law to assist in securing necessary Site access for the AltEn Facility Response Group to perform the activities that are the subject of this Agreement. The parties recognize that the inability to obtain access may limit the ability of the AltEn Facility Response Group to conduct the Work covered by this Agreement.

16. AltEn Facility Response Group shall notify the DEE as soon as practicable before any scheduled well drilling, installation of equipment, or sampling for the purpose of affording the DEE the opportunity to observe and collect split samples, if wanted. If either party is collecting samples, the other party or its authorized representative shall be allowed to take split samples of all samples collected.

17. In addition to any other obligation required by law, AltEn Facility Response Group shall notify the DEE as soon as practicable upon knowledge of any condition posing an immediate threat

to human health and welfare or the environment. In the event that any action or occurrence under this Agreement causes or threatens an emergency situation or presents an imminent threat to human health or welfare or the environment, AltEn Facility Response Group shall promptly take all appropriate action to prevent, abate, or minimize such emergency or imminent threat in accordance with applicable law. Nothing in this paragraph shall be deemed to limit the authority of the DEE or State of Nebraska to take, direct, or order all appropriate action to protect human health or welfare and the environment or to prevent, abate, respond to, or minimize an actual or threatened release from the Site regardless of whether a condition existed at the Site before, during, or after execution of this Agreement.

18. Unless otherwise directed by the DEE, AltEn Facility Response Group shall submit two copies of all documents required by this Agreement to the person identified below, who shall be DEE's contact for the Site and for all matters concerning this Agreement:

Thomas Buell
Nebraska Department of Environment and Energy
P.O. Box 98922 245
Fallbrook Blvd
Lincoln, NE 68509-8922
Phone: (402) 471-4270
Fax: (402) 471-2909
E-mail: Thomas.Buell@nebraska.gov

19. Unless otherwise directed, the contact for AltEn Facility Response Group for all matters concerning this Agreement shall be:

Ex. 4 CBI
Senior Remediation Manager
Ex. 4 CBI
Corporate Health, Safety & Environment
Remediation Management
Ex. 4 CBI
E-mail: Ex. 4 CBI

(**) Ex. 4 CBI will serve as the initial contact until a Project Manager is engaged by the AltEn Facility Response Group at which time the Group will update DEE.

20. If the costs incurred by DEE exceed the initial deposit, an additional amount agreed upon by the DEE and AltEn Facility Response Group may be required prior to proceeding. The DEE shall prepare a summary of all DEE costs related to the Work under this Agreement and submit an invoice to AltEn Facility Response Group. Within thirty (30) days of receiving the invoice, AltEn Facility Response Group shall submit to the DEE a check payable to the "Department of Environment and Energy, State of Nebraska" for the amount of the invoice. AltEn Facility Response Group will not be released from their obligations under this Agreement until all DEE costs related to this Work under this Agreement are paid.

21. AltEn Facility Response Group or DEE may terminate this Agreement as provided in Neb. Rev. Stat. § 81-15,185.02.

22. The DEE will cease review of any submittals under this Agreement on the date it receives AltEn Facility Response Group's written notice of intent to terminate. The DEE will then prepare a summary of all costs and provide it to AltEn Facility Response Group. Once the DEE determines that AltEn Facility Response Group has fully complied with all the requirements set forth in Neb. Rev. Stat. § 81-15,185.02 the agreement shall be deemed terminated.

In accordance with Neb. Rev. Stat. § 81-15,185.02, DEE shall notify AltEn Facility Response Group in writing of its intention to terminate this Agreement and include the reason for termination. The DEE will also include a summary of all outstanding costs owed to the DEE. The DEE reserves the right to suspend this Agreement for any reason. The DEE will not consider any of the unapproved work performed during any suspension to be eligible for consideration under RAPMA.

23. This Agreement shall not be construed as an acceptance of liability by the State of Nebraska for activities conducted pursuant to RAPMA. AltEn Facility Response Group, who is proceeding under RAPMA shall indemnify and hold harmless the State of Nebraska for any further action required by the federal Environmental Protection Agency relating to land pollution or water pollution by the AltEn Facility Response Group.

24. This Agreement shall be governed and interpreted under the laws of the State of Nebraska. The powers conferred by the RAPMA shall be independent of and in addition and supplemental to any other provisions of the laws of the State of Nebraska with reference to the matters covered hereby, and the act shall be considered as a complete and independent act and not as amendatory of or limited by any other provision of the laws of the State of Nebraska.

25. This Agreement shall be binding on each party, its successors and assignees subject to the right of termination in Paragraphs 21 and 22. No change in the ownership or corporate or business status of any party, or of the Site shall alter any signatory's responsibilities under this Agreement.

26. By entering into this Agreement, the members of the AltEn Facility Response Group certify that, to the best of their knowledge and belief, they have fully and accurately disclosed to the DEE all material information known to them and to the best of its knowledge and belief, disclosed information in the possession or control of its officers, employees, contractors and agents which relates to the Work at the Site. This Agreement shall be null and void upon willful submission of false, inaccurate, or misleading information by the AltEn Facility Response Group.

27. This Agreement shall become effective upon execution by all parties and may only be modified or amended by an agreement in writing signed by all parties.

28. Signatures. The undersigned representatives of the parties certify that they are fully authorized to enter into the terms and conditions of this Agreement.

NEBRASKA DEPARTMENT OF
ENVIRONMENT AND ENERGY

Date:_____ By: _____

AltEn Facility Response Group

Member: Ex. 4 CBI

Date: 06/07/2021 By: Ex. 4 CBI

President & CEO
Title

AltEn Facility Response Group

Member: Ex. 4 CBI

Date: June 7, 2021

By: Ex. 4 CBI Ex. 4 CBI

Ex. 4 CBI Head of Environmental Protection & Remediation Management

Title

AltEn Facility Response Group

Member: Ex. 4 CBI

Date: June 7, 2021

By: Ex. 4 CBI

CEO
Title

AltEn Facility Response Group

Member: Ex. 4 CBI

Date: June 8, 2021

By: Ex. 4 CBI

Corporate Counsel

Title

Member: Ex. 4 CBI

Date: 6/15/21

By: Ex. 4 CBI

Title: V.P., General Counsel & Secretary

AltEn Facility Response Group

Member: Ex. 4 CBI

Date: 6-8-2021 By: Ex. 4 CBI

General Counsel and Secretary
Title