

**CONTRACT DOCUMENTS**

**CITY OF LINCOLN  
NEBRASKA**

**University of Nebraska  
Waste Disposal Contract**

**Veolia ES Technical Solution, LLC  
700 East Butterfield Road, Suite 201  
Lombard, IL 60148**

**CITY OF LINCOLN, NEBRASKA  
CONTRACT AGREEMENT**

THIS CONTRACT, made and entered into by and between **Veolia Technical Solutions, LLC, 700 East Butterfield Road, Suite 201, Lombard, IL 60148**, hereinafter called contractor, and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called the Owner.

WHEREAS, Lincoln Municipal Code §2.18.030( c) allows the City of Lincoln to join with other units of government for cooperative purchasing; and

WHEREAS, the Owners through local inter-governmental cooperative purchasing have chosen to participate in the University of Nebraska - Waste Disposal Contract which was prepared in accordance with the University of Nebraska's usual and customary laws, procedures and policies, and has approved and adopted said documents connected with said, Work, to-wit:

for all labor, material and equipment necessary to provide waste disposal to/for City of Lincoln-Lancaster County Health, located at 3140 N. Street, Lincoln, NE, in compliance with the prices as established via the University of Nebraska - Waste Disposal Contract; and,

WHEREAS, the Contractor, in response to the City of Lincoln request to participate in said agreement, has submitted to the Owner, an offer approving our participation under the same pricing structure, terms and conditions as the University of Nebraska with only those exceptions stated herein; and,

WHEREAS, the University of Nebraska, in the manner usual and customary to their laws, policies and procedures has opened, read, examined, and canvassed the Proposals submitted in response to the proposal request, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the University of Nebraska - Waste Disposal Contract, dated 08/01/2013, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the Owner hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities necessary to provide waste disposal to/for the City of Lincoln-Lancaster County Health.
2. TERM OF THE AGREEMENT: The contract shall be effective upon execution by both parties, through July 31, 2016.
  - 2.1 Upon conclusion of the initial period ending July 31, 2016, the contract may be renewed for three (3) additional twelve (12) month periods with mutual agreement by both parties, not to exceed the term of the current University of Nebraska contract.
  - 2.2 Any renewal of the contract will be under the same terms and conditions as the original agreement.
3. PRICING: Pricing of items will be based on a cost schedule provided in the contract submitted by Veolia ES Technical Solutions LLC to the University of Nebraska, dated

August 1, 2013, copies thereof being attached and made a part of this Contract.

The City will pay for products/service, according to the pricing as listed in University of Nebraska - Waste Disposal Contract, a copy thereof being attached to and made a part of this Contract. The total cost of products or services for Lincoln-Lancaster County Health shall not exceed a total of \$4,000.00 during the contract term without approval. In the event unscheduled/emergency pickups are necessary, the Contractor will charge for material, time, labor and transportation of waste disposal, per Attachment 4.

**Special Condition:**

**Dedicated Service Pick-Up:** The City of Lincoln and Veolia will make every effort to coordinate pick-ups with the UNL shipments, however, there may be times that the City of Lincoln requests/requires a dedicated pick-up outside of the UNL schedule. Should this occur, the City of Lincoln will be invoiced at the rates below for transportation and labor. If the City of Lincoln requires shipments of hazardous materials that are not listed in the UNL contract, the materials will be quoted on a case by case basis.

**Dedicated Pick-Up Service Rate:** \$550.00 per trip, plus fuel surcharge (per the Department of Energy Index)

**On-Site Labor to Package Wastes and Complete Paperwork:** \$65.00 per person, per hour

- 3.1 Terms of payment shall be net thirty (30) days for all merchandise meeting Owners' Specifications and approval. The Owners may choose to pay the vendor using an Electronic Funds Transfer. If this option is used, any discounts available to University of Nebraska shall be made available to the Owners.
4. **INDEPENDENT CONTRACTOR:** It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
5. **INDEMNIFICATION:** The Contractor shall indemnify and hold harmless the City, their agents, officers and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the acts or omissions of the Contractor, its principals, officers, agents, or employees in the performance of this contract. Liability includes any claims, damages, losses and expenses arising out of or resulting from the performance of this Contract that results in any claim for damage whatsoever including any bodily

officers, agents, or employees in the performance of this contract. Liability includes any claims, damages, losses and expenses arising out of or resulting from the performance of this Contract that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of tangible property including the loss of use resulting therefrom. Further, Contractor shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this contract shall require either party to indemnify or hold harmless the other party from liability for the negligent or wrongful acts or omissions of said other party or its principals, officers, or employees.

6. **EQUAL EMPLOYMENT OPPORTUNITY:** In connection with the carrying out of this project, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.
7. **TERMINATION:** This Contract may be terminated by the following:
  - 7.1 Termination for Convenience. Either party may terminate this Contract upon fourteen (14) days written notice to the other party for any reason without penalty.
  - 7.2 Termination for Cause. The City of Lincoln may terminate the Contract for cause if the Contractor:
    - 7.2.1 Refuses or fails to supply the proper labor, materials and equipment necessary to provide waste disposal.
    - 7.2.2 Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
    - 7.2.3 Otherwise commits a substantial breach of any provision of the Contract Document. In the event of a substantial breach or default the City of Lincoln will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
8. The parties agree that the terms and conditions of this Contract shall prevail and govern in the case of any such inconsistent or additional terms in the contract between Veolia ES Technical Solutions, LLC and the University of Nebraska - Waste Disposal Contract, dated August 1, 2013.
9. **INSURANCE:** The Contractor shall maintain during the life of this contract the types and amounts of insurance as specified in the "Insurance Requirements for City Contracts" attached hereto and incorporated by this reference. **The City of Lincoln shall be listed as additional insured with regard to the performance of the contract services.**

10. CITY AUDIT: The following is required by Ordinance No. 4.66.100(b): The Contractor of this Agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract, as allowed by law.

The Contract Documents comprise the Contract, and consist of the following:

1. City of Lincoln Contract Agreement
2. Insurance Requirements for All City Contracts
3. Contract Agreement between Veolia ES Technical Solutions, LLC University of Nebraska dated 08/01/2013
4. Pricing Schedule listed in the University of Nebraska - Waste Disposal Contract

This Contract Agreement, together with the other Contract Documents herein above mentioned, form this Contract, and are a part of the Contract as if hereto attached.

The Contractor and the Owners hereby agree that all the terms and conditions of this Contract be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the Owners do hereby execute this contract.

**EXECUTION BY THE CITY OF LINCOLN, NEBRASKA**

ATTEST:

Teresa J. Meyer  
City Clerk



CITY OF LINCOLN, NEBRASKA

Chris Butler  
Chris Butler, Mayor

Approved by Resolution No. A-88375

Dated July 14, 2014

72619

**EXECUTION BY CONTRACTOR**

Date: \_\_\_\_\_

VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS  
Name of Corporation

IF A CORPORATION:

W124 N9451 BOUNDARY ROAD, MENOMUNEE FALLS, WI  
(Address) 53051

ATTEST:

\_\_\_\_\_  
Secretary (SEAL)

By: David E. Lambrecht DAVID E. LAMBRECHT  
Duly Authorized Official

SALES MANAGER - CENTRAL BRANCH  
Legal Title of Official

**IF OTHER TYPE OF ORGANIZATION:**

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Type of Organization

\_\_\_\_\_  
(Address)

By: \_\_\_\_\_  
Member

By: \_\_\_\_\_  
Member

Invitation 2004-12-7612

Attachment 4  
UNIVERSITY OF NEBRASKA - WASTE DISPOSAL CONTRACT

This Waste Disposal Contract (this "Contract") is entered into by and between the Board of Regents of the University of Nebraska ("UN"), a public body corporate, and Veolia ES Technical Solutions, L.L.C., a Delaware limited liability company, authorized to do business in Nebraska, ("Contractor"), effective as of August 1, 2013.

- A. UN needs certain waste packaging, handling, transportation, and disposal services;
- B. Contractor specializes in providing the services desired by UN;
- C. UN wishes to purchase and Contractor agrees to provide the Covered Services (as hereinafter defined) subject to the terms and conditions of this Contract;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and also in consideration of the premises and mutual promises herein contained, UN and Contractor agree as follows:

1. DEFINITIONS

1.1 The term "Contract Coordinator" means that person designated by UN as the person to coordinate the communications between Contractor and UN, and as set out in Attachment 5 hereto.

1.2 The term "Covered Wastes" means and refers to hazardous wastes and nonhazardous wastes generated by the Generating Institutions, but only such wastes as a Generating Institution requests the Contractor to dispose of.

1.3 The term "DOT" means the United States Department of Transportation or any successor agency thereto performing in whole or part the statutory duties and responsibilities performed by DOT on the effective date of this Agreement.

1.4 The term "EPA" means the United States Environmental Protection Agency or any successor agency thereto that performs in whole or part the statutory duties and responsibilities performed by EPA on the effective date of this Agreement.

1.5 The term "Generating Institution" means the component institution that generated the Covered Wastes.

1.7 The term "Institution Coordinator" means the person designated by the Generating Institution to coordinate communications between Contractor and the Generating Institution, as set out in Attachment 5 hereto, or his or her delegate.

1.8 The term "NDEQ" means the Nebraska Department of Environmental Quality or any successor agency performing in whole or part the statutory duties and responsibilities performed by the NDEQ on the effective date of this Contract.

## 2. COVERED SERVICES

2.1 Covered Services. Contractor shall provide to UN and the Generating Institutions, including the waste from the various Research & Extension Centers, annual training and the services described in Attachment 6 hereto (the "Covered Services"). The Covered Services shall include all services fairly deemed included in, incidental to, or reasonably inferable from the services described in Attachment 6, including manual and/or electronic tracking of waste shipments (as described by Contractor in Appendix 11) and supplemental technical support, as applicable.

2.2 Contractor's Performance of Covered Services. UN is entering into this Contract in reliance on Contractor's special skills and expertise with respect to performing the Covered Services. Contractor accepts the relationship of trust and confidence established between UN and Contractor by this Contract. Contractor agrees to use its best efforts, skill, judgment, and abilities in performing the Covered Services, and to cooperate with UN in providing the Covered Services.

2.3 Industry Practices. Contractor shall perform the Covered Services in accordance with the terms and provisions of this Agreement and best industry standards and practices.

## 3. RATES

Contractor's compensation for performance of the Covered Services shall be based upon Contractor's rates as set out in Appendix 1. All rates shall remain unchanged for the full term of this Contract, except as expressly provided in Section 12. There shall be no add-ons or other fluctuations in rates.

## 4. COVERED WASTE PICK-UPS

4.1 Pick-up on Request. Contractor shall pick up Covered Wastes from any Generating Institution upon the request of the Institution Coordinator or his or her delegate. Contractor shall coordinate the pick-up with the Institution Coordinator of the Generating Institution and such pick-up shall occur within ten (10) working days of the request, unless otherwise agreed by the Institution Coordinator of the Generating Institution. The Institution Coordinator will use his or her best efforts to coordinate shipments with the other Institution Coordinators. If Contractor fails to arrive at the Generating Institution with proper personnel and equipment for

completion of the services, or to notify the Institution Coordinator of the Generating Institution of a delay, within twenty-four (24) hours of the agreed upon time on the agreed upon date, then the amount payable under this Contract for such shipment from the Generating Institution shall be reduced by five percent (5%). Each failure of Contractor to timely make a waste pick up shall result in such a discount; provided, however, that in no event shall the amount payable for any one shipment be reduced more than twenty percent (20%). In all cases, Contractor must provide service to remove Covered Wastes from any Generating Institution within the prescribed maximum regulatory timeframe (e.g., 90 days for Large Quantity Generator sites and 180 days for Small Quantity Generator sites). Failure of Contractor to do so shall result in arrangements with another vendor by the Institution Coordinator, and Contractor shall be liable for all additional costs incurred by the Generating Institution beyond the agreed contract pricing that would have applied to the shipment had Contractor met their obligation.

4.2 Pick-up Locations. Contractor shall make Covered Waste pick-ups at locations designated by the Institution Coordinator of the Generating Institution.

4.3 Normal Work-hours. Services will be provided between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday (except holidays), unless otherwise agreed in advance by the parties. If a pick-up cannot be completed in a single day, Contractor shall provide the same personnel to complete the pick-up the following day.

4.4 Limitations on Truck Size (University of Nebraska – Lincoln). Contractor will be restricted to a straight truck on City Campus in Lincoln, NE. It is preferred that a straight truck is used on East Campus in Lincoln, NE, but in some instances it may be necessary to use a larger truck (i.e. larger than usual amounts of waste being shipped, temperature controlled shipments). Use of trucks other than straight trucks will need to be approved by the Institution's Coordinator before shipment.

## 5. INVOICING AND PAYMENT

5.1 Submission of Invoices. Contractor shall submit invoices to the Generating Institution within 30 days of when services are rendered. Contractor may submit invoices to the Institution Coordinator of the Generating Institution by facsimile followed by first-class mail.

5.2 Manifest and Line Item Numbers. Invoices shall reference manifest numbers, including line item numbers on the manifest and shall be accompanied or preceded by a properly completed, signed, and fully-executed shipping manifest.

5.3 Payments Due. Invoiced amounts shall be due upon receipt of the invoice by the Institution Coordinator for the Generating Institution. The invoice shall set forth, among other things, a description of the Covered Services performed, together with all documentation, other information (e.g. drum numbers, disposal method as described in Appendix 1, container size, unit price, total price), certificates and attachments required by the Generating Institution. The Generating Institution shall review each invoice and may make such exceptions as it deems

reasonably necessary or appropriate. The Generating Institution shall notify Contractor in writing of any such exceptions or disputed amounts, including a full description of the reason for the exception. The Generating Institution shall make payment of all undisputed amounts to Contractor within forty-five (45) days after receipt of the invoice.

5.4 Acceptance of Services. No payment made by UN shall constitute evidence of Contractor's performance of services either in whole or part and no payment shall be construed to be an acceptance of defective or improper services.

5.5 Deficient Work. If, in the opinion of the Contract Coordinator, any work is unreasonably delayed, executed carelessly, or in noncompliance with the requirements of the law or of this Agreement, the Contract Coordinator may notify Contractor in writing, and if Contractor fails to submit a corrective plan of action within five (5) days from the delivery of notice and correct the deficiencies noted to the satisfaction of Contract Coordinator within thirty (30) days, then Contractor shall, upon demand of Contract Coordinator, discontinue said work. UN shall be relieved of all responsibility to pay for such carelessly executed or deficient work unless otherwise agreed to in writing.

## 6. TRANSPORTATION AND DISPOSAL OF COVERED WASTES

6.1 Packaging Covered Wastes. Except to the extent wastes are prepackaged by the Generating Institution as permitted by paragraph 6.10, Contractor shall label and package all Covered Wastes in accordance with all applicable laws and regulations, including without limitation NDEQ, EPA and DOT regulations. Covered Wastes that are lab-packed shall be packed as efficiently as possible in accordance with such regulations and allowable exceptions. If the Contractor elects to package such wastes in a manner that is less than optimum, Contractor shall charge the Generating Institution for Covered Services as if Contractor had optimally packed the wastes.

6.2 Dedicated Cargo Beds. Contractor and its subcontractors shall transport Covered Wastes which are hazardous wastes only in vehicles with cargo beds dedicated to hazardous waste shipments.

6.3 UN-Approved Transporters. Contractor shall transport Covered Wastes itself or subcontract such transportation to a transporter, as listed by the Contractor in Appendix 3 [no more than two (2) transporters] and as approved by UN. UN reserves the right to withdraw its approval of any transporter by giving written notification to Contractor.

6.4 UN-Approved TSD Facilities. Contractor shall transport hazardous wastes only to a properly registered, permitted, or licensed treatment, storage or disposal facility, to a recycling facility, or Clean Water Act regulated facility as listed by the Contractor in Appendices 4 and 5 [no more than ten (10) facilities]. Contractor shall notify the Contract Coordinator and each Institution Coordinator immediately should Contractor become aware of any regulatory action, including without limitation administrative action taken or pending, with respect to any Facility

owned or operated by Contractor or listed by the Contractor in Appendices 4 and 5. Prior to pick-up of Covered Wastes, Contractor shall notify the appropriate Institution Coordinator when Covered Wastes will be shipped to a Facility which requires the Generating Institution to submit additional generator reports or notifications to the appropriate state regulatory agency having jurisdiction over the Facility.

6.6 UN-Approved Disposal Facilities. All hazardous wastes will be disposed of at Disposal Facilities listed in Appendix 5 attached hereto. Contractor shall provide to the Contract Coordinator copies of all information reasonably requested by the Contract Coordinator to confirm that any such disposal facility is properly permitted or licensed, maintains adequate insurance, and operates in compliance with all Applicable Laws, as hereinafter defined.

6.7 Prohibited Disposal Methods. Contractor shall not dispose of any Covered Wastes by deep-well injection or placement in a municipal or C&D landfill, except with the prior written approval of the Contract Coordinator and the Institution Coordinator for the Generating Institution. Contractor shall use the most cost effective method to dispose of the Covered Wastes, in compliance with all Applicable Laws, unless a Generating Institution specifies, in writing, a particular method of disposal.

6.8 Procedural Changes. Contractor may implement changes governing methods of packaging, hazardous waste classification, description, or other pertinent disposal information, only with the prior written approval of the Institution Coordinator for the Generating Institution, which approval shall not be unreasonably withheld.

6.9 Contractor's Employees Providing Covered Services. A Generating Institution may request that Contractor provide a specific field crew supervisor. In such event, Contractor shall make all reasonable efforts to accommodate such request. On the request of the Institution Coordinator for the Generating Institution, Contractor shall provide a description of the training received by, and the experience of, each of Contractor's employees providing Covered Services.

6.10 Prepacking by Generating Institution. A Generating Institution may elect to prepack Covered Wastes for pick-up by Contractor and may elect to provide the appropriate materials and supplies for prepacking. If requested and at the discretion of the Generating Institution, the Contractor shall provide at no additional cost to the Generating Institution a format by which information exchange required for prepacking may be electronically submitted; or, utilize the Generating Institution's existing information exchange system.

6.11 Drum Disposal. Contractor shall ensure that all drums or other containers which contained Covered Wastes which are hazardous wastes are (i) properly cleaned and prepared for reuse and all labels removed, as specified at 49 CFR Sec. 173.28, or (ii) permanently destroyed so that they cannot be reused for any purpose. The Generating Institution may elect to provide drums or other containers.

6.12 Bulking. Contractor may bulk Covered Wastes on the premises of the Generating Institution, unless expressly prohibited by the Institution Coordinator for the Generating Institution.

6.13 Contingency Plan Conformance. Contractor shall conform to transportation routes and other requirements specified in the Generating Institution's Contingency Plan(s).

## 7. COMPLIANCE WITH LAWS AND POLICIES

7.1 Applicable Laws. Contractor shall observe and comply with all applicable laws, regulations, ordinances, orders, and directives of any governmental authority (collectively, "Applicable Laws") and shall be in compliance with all applicable license or permit requirements at all times.

7.2 Policies and Procedures. Contractor shall at all times comply with applicable policies and procedures of the Generating Institutions provided to Contractor by the Generating Institutions or UN.

## 8. EQUIPMENT AVAILABILITY AND SAFETY

8.1 Emergencies. Contractor shall notify the Generating Institution and shall respond to all emergencies that may occur while handling or transporting Covered Wastes. Contractor shall ensure that there is no danger to the public health, safety, or welfare due to the release of any hazardous wastes in any way connected with the services provided hereunder.

8.2 Safety Provisions. Contractor shall provide and require their employees to use all appropriate personal protective equipment while handling hazardous materials and hazardous wastes.

## 9. CONTRACTOR QUALIFICATIONS

9.1 Representations. Contractor represents and warrants that:

9.1.1 Contractor is a reputable firm regularly engaged in providing services such as those covered by this Contract. Contractor has provided such services for at least five (5) years. Contractor has experience with disposal of hazardous wastes in the volumes and categories generated by UN and the Generating institutions.

9.1.2 Contractor has the necessary experience, knowledge, abilities, skills, and resources to perform the Covered Services.

9.1.3 Contractor is aware of, is fully informed about, and is in full compliance with all Applicable Laws.

9.1.4 Contractor understands the conditions under which it will be required to operate.

9.1.5 Contractor will not delegate any of its duties or responsibilities hereunder to any sub-contractor, except as expressly provided herein, without the prior written approval of Contract Coordinator or the Institution Coordinator of the Generating Institution.

9.1.6 Each pick-up made by Contractor will be under the direction of a supervisor employed by Contractor who has, at a minimum, a Bachelor's degree in a scientific field and at least one (1) year field experience in the handling, packaging, transportation, storage, and disposal of hazardous wastes; or an Associate's degree in a scientific field and at least two (2) years field experience in the handling, packaging, transportation, storage, and disposal of hazardous wastes. All personnel directly involved with the handling of hazardous wastes shall be trained regarding the use of safety equipment, and personal protective equipment, including respirators (if necessary for work to be performed at the Generating Institution's site), and shall have at least six (6) months of field experience in the handling, packaging, transportation, storage, and disposal of hazardous wastes. **(This requirement is applicable only when Contractor is providing lab-packing services).**

9.1.7 None of the services performed hereunder shall be provided by trainees (i.e. personnel with less training or experience than required in subparagraph 9.1.6 above) without the prior written consent of the Institution Coordinator of the Generating Institution, which consent can be withheld for any or no reason. The Institution Coordinator of the Generating Institution may restrict in any manner he or she deems appropriate the activities of any trainee on the premises of the Generating Institution. Trainees shall be under the watchful supervision of an experienced supervisor and training shall be completed at the expense of Contractor.

## 10. TERMINATION

10.1 Termination for Cause. This Contract may be terminated by UN if the Contractor fails to perform the terms specified in the Contract. UN shall notify the Contractor, in writing, that the deficiencies shall be corrected within thirty (30) days. If the deficiencies are not corrected, UN may immediately cancel the Contract and so notify the Contractor. If UN terminates this Contract, it may acquire supplies or services similar to those terminated, and the Contractor shall be liable to UN for any excess costs for the supplies or services.

10.2 Termination Without Cause. This Contract may be terminated in whole or in part by either party without penalty and prejudice to any rights that either party may have against the other, upon at least ninety (90) days prior written notice to the other party specifying the date of termination and the extent to which services are terminated.

10.3 Payment For Services. Under no circumstances shall Contractor be compensated or entitled to payment for services performed hereunder after the termination date or for work

not actually performed by Contractor, including but not limited to anticipated profits, unabsorbed overhead or interest on borrowing.

## 11. INSURANCE AND INDEMNITY

11.1 Minimum Required Insurance Coverage. Contractor shall provide and maintain throughout the term of this Contract the minimum insurance coverage specified herein with an insurance carrier rated A-IV or better by A.M. Best. Contractor shall provide certificates of such insurance to the Contract Coordinator prior to the effective date of this Contract. If such certificates are not received prior to the effective date, this Contract is null and void.

	<u>Types of Coverage</u>	<u>Limits of Liability</u>
11.1.1	Worker's Compensation & Occupational Diseases	Statutory Limits
11.1.2	Employer's Liability	\$500,000 each sublimit
11.1.3	Comprehensive General Liability	\$5,000,000 combined per occurrence
11.1.4	Contractor's Pollution Legal Liability	\$1,000,000 per occurrence \$5,000,000 annual aggregate
	This coverage (11.1.1, 11.1.2, 11.1.3 and 11.1.4) applies to contractor's handling waste on state property.	
11.1.5	Comprehensive Automobile	\$5,000,000 combined single limit
11.1.6	Environmental Impairment Sudden Accidental and Non-Sudden Accidental	\$1,000,000 per occurrence \$2,000,000 annual aggregate, exclusive of legal defense costs for treatment, storage and disposal facilities

**Point of Clarity: A Contractor who uses the services of a treatment, storage or disposal (TSD) facility not owned by the Contractor can provide Certificates of Insurance from the TSD facility to meet the requirements in paragraph 11.1.6.**

11.2 Policies and Certificates of Insurance. Contractor shall also provide copies of its Certificates of Insurance to the Contract Coordinator on or before the effective date of this Contract. The comprehensive general liability and pollution insurance policies shall name the Board of Regents of the University of Nebraska as an additional insured against loss with respect to any negligent acts or omissions of Contractor, its officers, agents, employees, sub-

contractors, or anyone directly or indirectly employed by them or any other person or persons under its direction and control. The Insurance Policies shall be endorsed to indicate that Contractor's insurers will notify the Contract Coordinator in writing at least thirty (30) days prior to cancellation of, or any change in any of said insurance.

11.3 Insurance For Others Providing Covered Services. Contractor shall ensure that insurance substantially similar to that required of Contractor shall be provided by or on behalf of any person or entity other than Contractor, including but not limited to any subcontractor, performing any Covered Services. Contractor shall maintain Certificates of Insurance from all such other persons or entities, and shall provide them to UN.

11.4 Indemnification. Contractor shall indemnify, defend and hold UN and the Generating Institutions, their officers, agents and employees, harmless from all losses, damages, liabilities, fines, penalties, claims, suits, judgments, and expenses of any nature arising from any act or omission of Contractor, its officers, agents or employees, subcontractors; breach of Contractor's obligations hereunder arising out of the transportation or disposal of Covered Wastes; or failure of any representation or warranty given by Contractor to be true, accurate, or complete. Contractor shall have no obligation to indemnify UN for any loss or damage of any kind or nature, including death, caused by UN or anyone for whom UN may be liable.

#### 11.5 Title.

11.5.1 If Contractor transports or arranges for transportation of Covered Wastes to a Contractor facility or a disposal facility chosen by Contractor, title to and risk of loss, with respect to such wastes, shall pass from UN to Contractor at such time as such wastes are loaded and signed for at UN's facility.

11.5.2 If UN transports or arranges for transportation of the Covered Wastes and provided such wastes meet the waste description applicable thereto, and such wastes are properly packaged, coded, marked and labeled, title to and risk of loss, with respect to such wastes, shall pass from UN to Contractor at such time as such wastes are delivered to Contractor's facility and signed for.

11.5.3 A justified revocation of acceptance by Contractor revests title to UN, including risk of loss and all other incidents of ownership, at the time such revocation of acceptance is communicated to UN, provided such revocation of acceptance shall not exceed thirty (30) days after the Covered Wastes are received by the TSD Facility.

## 12. CONTRACT TERM, EXTENSIONS, and RATES

This Contract shall be effective commencing on August 1, 2013 and continuing through July 31, 2016. UN may extend this Contract for three (3) additional periods of twelve (12) months each. One year after the effective date of this Contract, Contractor may propose to increase the rates

set out in Appendix 1, Rate Schedule, one (1) time each year to reflect any increased cost of providing such services; provided, however, that any increase in the rates for any particular service must be approved by the Contract Coordinator. Contractor shall give written notice of any proposed increases to Contract Coordinator and the Institution Coordinator for each Generating Institution not later than January 1 of each year and any approved increases shall become effective as of the following August 1. If notice is not received by January 1, the then current Contract's Rate Schedule shall continue in effect.

### 13. MISCELLANEOUS PROVISIONS

13.1 Entire Agreement. This Contract constitutes the sole and only agreement between the parties hereto and supersedes any prior agreements written or oral between the parties with respect to the services provided hereunder. No modification, alteration or waiver of this Agreement or any provision hereof shall be effective unless in writing and signed by both parties hereto.

13.2 Relationship of the Parties. Contractor will, at all times during the performance of this Contract and in connection with any services rendered by Contractor to UN or any Generating Institution, be considered an independent contractor. No relationship of employer-employee is created by this Contract or by Contractor's service. Contractor hereby acknowledges that neither UN nor any of the Generating Institutions are obligated to provide Worker's Compensation Insurance covering Contractor's personnel or any other employee insurance or benefits of Contractor. Contractor's employees, and the methods, equipment, and facilities used by Contractor shall at all times be under Contractor's exclusive direction and control, and UN and the Generating institutions shall not exercise any control over Contractor except to the extent necessary to ensure compliance with this Contract. Contractor acknowledges that it is responsible for the actions of its employees both on and off Generating Institutions' facilities and assumes full responsibility for any loss, damage, or claim arising from any act or omission of its employees.

13.3 Confidentiality. Contractor shall not, except as necessary in the performance of this Contract or as authorized in writing by the Contract Coordinator, supply, dispose, or otherwise permit access at any time to any information concerning or in any way related to UN or any of the Generating Institutions or other matters pertaining to UN or any of the Generating Institutions' business. Contractor shall not publicize this Contract or disclose, confirm, or deny any details thereof to third parties, or use any photographs or video recordings of any UN or Generating Institution officer, employee, invitee, or guest or use the UN or Generating Institution name in connection with any sales promotion or publicity event without the prior written approval of the Contract Coordinator and the Institution Coordinator for the Generating Institution involved.

13.4 Propriety. Contractor warrants that it has fully disclosed to UN any relationship, whether by family relation, business associate, capital funding agreement, or any other such kinship exists between Contractor, its officers or directors, and any UN or any Generating

Institution, officer or employee. Contractor agrees that upon its discovery of any such relationship, it will immediately make full disclosure to the Contract Coordinator in writing.

13.5 Assignment and Subcontracting. No duties or responsibilities of Contractor hereunder may be transferred or assigned or subcontracted except as expressly provided for herein or with the prior written approval of the Contract Coordinator or the Institution Coordinator for the Generating Institutions affected. Any attempt to assign or subcontract the same without having first obtained such written consent shall be null and void.

13.6 Survival of Provisions. Termination of this Contract for any reason whatsoever shall not affect (i) any right or obligation of any party which accrued or is vested prior to such termination, and any provision of this Contract relating to any such right or obligation shall be deemed to survive the termination of this Contract or (ii) any continuing obligation, liability, or responsibility of Contractor which would otherwise survive termination of this Contract, including without limitation Contractor's indemnification obligations under this Contract. Unless otherwise specifically limited in this Contract, the rights and remedies available hereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available at law or in equity.

13.7 Enforceability. In case any one of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

13.8 No Agency. Contractor shall not represent itself or any of its employees to be an agent or representative of UN or any of the Generating Institutions or any other agency or instrumentality of UN or the State of Nebraska.

13.9 Exclusive Contract. This Contract is an exclusive agreement to provide the Covered Services. Exclusivity of this contract does not extend to the following waste categories: elemental mercury, scrap metal, mercury contained in manufactured articles, fluorescent/HID lamps, computer components, electronic equipment, cylinders, D.O.T Temperature Controlled items, PCB-containing items, waste oil, photographic fixer, batteries, pesticides, recyclable materials, general refuse, non-RCRA regulated chemical wastes, special wastes, bio-hazardous/infectious wastes, radioactive materials including low-level radioactive and mixed wastes, and other similar materials. These waste categories may or may not be managed through the Contractor.

13.10 Intellectual Property Royalties and License Fees. Contractor shall pay any royalties or license fees owing for intellectual property rights of others used in the services furnished pursuant to this Contract.

13.11 Default: No Waiver. Any failure of UN to declare any default immediately upon occurrence thereof or delay in taking any action in connection therewith shall not waive such default, but UN shall have the right to declare any such default at any time and take such action as might be lawful, either in law or in equity, or authorized hereunder.

13.12 Time is of the Essence. Time is of the essence in the performance of all Covered Services.

13.13 Force Majeure. Neither party hereto shall be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including, but not limited to, acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character.

13.14 Notices. Any notices required or permitted to be sent under this Agreement shall be delivered by hand; mailed by registered or certified mail, return receipt requested; or emailed and followed by registered or certified mail to Contractor's address and to UN and the Generating Institutions as set forth in Attachment 5. Mailed notice shall be deemed effective on the fourth day following the date of deposit into the mail; emailed notices shall be deemed effective upon receipt by the other party.

13.15 Tax Exempt. UN and the Generating Institutions are tax exempt institutions of the State of Nebraska and claim an exemption from taxes.

13.16 Highest Beneficial Use. UN and Contractor acknowledge and agree that waste minimization is an important goal and UN encourages Contractor to make all reasonable efforts, within the limits of the law, to reuse, recycle, and otherwise minimize wastes requiring disposal.

13.17 Other Public Agencies of the State of Nebraska. The Covered Services provided under this Contract and at the Contractor's Rates as set forth in Attachment 6 may be extended to any other state or governmental agency of the State of Nebraska or political subdivision which entities may negotiate separately with the Contractor as to specific terms and conditions. Under no circumstances is UN or the Generating Institution liable or responsible for any charges by any other entity.

13.18 Appendices. The following numbered Appendices are attached hereto and made a part of this Agreement for all purposes:

Attachment 5 - Coordinators

Attachment 6 - Covered Services

Appendix 1 - Typical Chemical Wastes Method 4

Appendix 2 - Disposal of Specially Priced Materials

Appendix 3 - Transporters

Appendix 4 - TSD Facilities

Appendix 5 - Disposal Facilities  
Attribute 30 - Surety Bond

13.19 Construction. This Contract shall be construed under and in accordance with the laws of the State of Nebraska. Venue for any action arising out of this Contract shall be exclusively in Lancaster County, Nebraska.

13.20 Notice to Bidders. Contractor acknowledges that, in selecting Contractor to provide the Covered Services, UN relied on statements and representations made by Contractor in responding to that certain Notice to Bidders dated [insert date], and attachments thereto. Contractor shall immediately notify UN of any material change in any statement or representation made by Contractor in such Notice to Bidders and the attachments thereto.

14. Environmental Considerations. In addition to the terms and conditions contained in the Agreement between the parties, if Services involve the transportation and disposal of hazardous waste, the following environmental provisions shall also apply:

UN warrants that Waste Materials in the Profile Sheet will contain a true and correct description of UN's Waste Material and that such Waste Material will conform to this description. If the Waste Material does not conform to the descriptions in the Profile Sheet ("Non-conforming Waste"), Contractor can, at its option, return the Waste Materials to UN or require UN to remove and dispose of the Non-conforming Waste at UN's expense, and reimburse Contractor for any expenses it may have incurred. Non-conforming waste is waste which contains a non-disclosed constituent or constituent concentration which will change the treatment technology or disposal standard. In the event Contractor performs services on premises owned or controlled by UN, UN will provide Contractor with a safe workplace, and if Contractor requests that work areas be secured, UN will be solely responsible for securing such work areas and for preventing anyone other than the designated personnel from entering the designated work areas. Contractor shall take title to UN's waste materials which conform to the descriptions and specifications stated in the Profile Sheet upon completion of loading into Contractor's transportation vehicles, or if transported by UN, upon acceptance at the Facility."

UN:  
THE BOARD OF REGENTS  
OF THE UNIVERSITY OF NEBRASKA  
Approved as to Form:

  
Signature

**Christine A. Jackson**

(Printed) Vice Chancellor for Business & Finance 3

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Date

CONTRACTOR

Veolia ES Technical Solutions, L.L.C.

*Company Name*



*Signature*

John Flaminio / General Manager

*Printed Name & Title*

7-18-2013

*Date*

