

1. ACCEPTANCE. The following terms and conditions, including the attachments referenced herein, constitute the complete and final expression of agreement and understanding of Client and Philotechnics concerning the subject matter hereof, and merge and supersede any and all prior or contemporaneous agreements, understandings, negotiations or other communications, whether written or verbal, between Client and Philotechnics concerning this agreement for services (Agreement). The terms of this Agreement may not be changed or modified except by a writing signed by an authorized representative of each party.

2. DEFINITIONS: (a) **Contract Carrier or Carrier** shall mean Philotechnics (or a subcontractor) acting under US Department of Transportation authority as a carrier for hire. The Contract Carrier shall sign the Shipping Paper as Carrier and ensure that the vehicle is placarded and that Waste is properly loaded on the vehicle. (b) **Client** refers to the party possessing the RAM and/or Mixed Waste. The Client may be referred to as the Offeror or the Licensee. (c) **Licensee** is a client that has been issued a radioactive materials license from the Nuclear Regulatory Agency or a State agency equivalent. (d) **Mixed Waste** shall mean Radioactive Materials that are combined with waste classified as such under the Resource Conservation and Recovery Act, 42 USC 6901 et seq. (e) **Offeror**. A person who offers Waste as defined in 49 CFR 172. The Offeror is responsible for pre-transportation functions required under 49 CFR. (f) **Packaged Waste** is Waste in a DoT compliant shipping container that Client tenders to Philotechnics for Transportation to Philotechnics facilities. (g) **Philotechnics Facilities** included Philotechnics radioactive material licensed facilities in Oak Ridge, TN and/or San Diego, CA. (h) **Quotation for Services** is the document identifying the type of Waste Management Services applicable to Client Waste and the associated pricing to provide these services. (i) **Radioactive Materials (RAM)** are defined as those materials which spontaneously emit ionizing radiation and which may be classified as such under applicable rules and regulations concerning the possession, transportation and disposal of the same. (j) **Transportation Services**. Transportation Services consist of Waste pick-up, inspection, loading, signing the manifest, blocking and bracing and transportation provided by a for-hire Contract Carrier. (k) **Waste**. Collectively, RAM and Mixed Waste are referred to as "Waste." (l) **Waste Management Services**. Services provided by Philotechnics consisting of receipt of Waste at Philotechnics facilities, treatment, re-packaging, processing, volume reduction and/or disposal. Waste Management Services may be performed using a combination of Philotechnics Facilities and subcontractor operated facilities.

3. SERVICES AND PRICES: (a) Philotechnics's services consist of Transportation Services and Waste Management Services and such other services described in the Quotation for Services. (b) The parties agree and understand the nature of the waste processing and disposal business may necessitate a price change in the event of, but not limited to: (i) fees/prices charged by waste processors and/or disposal site operator(s), and (ii) surcharges, taxes, fees, etc., imposed upon processing or disposal of waste by any Federal, State, or local government agency(ies). Price increases/decreases will be effectuated by notification of Client. (c) Philotechnics' payment terms are 100% Net 30 calendar days of receipt of invoice. Philotechnics shall have the right to add to Client's invoice(s), and Client agrees to pay, a service charge of one and one percent (1.0%) per month on all undisputed amounts not paid within the specified terms. Client agrees to pay collection costs, including attorney's fees, incurred by Philotechnics in connection with past due undisputed amounts. Client's failure to pay any undisputed invoice amounts when due shall constitute a material breach of this Agreement. (d) Philotechnics is, and will perform this Agreement as an independent contractor. As such, it will have and maintain sole control over its employees, agents, operations, and/or the work to be performed under such order. Neither Philotechnics nor any representative, employee or agent thereof, will be, represent, act or deemed to be a representative, employee, or agent of Client.

4. SHIPMENTS: (a) For each shipment, Client, is the Offeror and shall complete all documentation, including signing Shipping Papers required to allow the waste shipment to be tendered to the Carrier. (b) Client warrants that Waste is packaged in appropriate containers in compliant with all rules, regulations, laws and/or ordinances which apply to the safety, packaging, storage, use or transportation of such containers. (c) Waste will be inspected by Philotechnics in accordance with DoT requirements of Carriers and loaded on the vehicle. The Licensee shall be responsible for ensuring compliance with the requirements in 10 CFR 71(a). (d) Client acknowledged that Philotechnics is subject a state mandated requirement to maintain the right to return RAM and/or Mixed Waste to the prior licensed possessor. Client hereby represents, warrants and promises that it has the legal right and ability to accept, and will accept, the return of its waste (processed or unprocessed) to the Licensee or Client's facility of origin, in the event of either a non-conformance or a regulatory authority requires such return. All reasonable and allocable costs associated with such a return of waste shall be the responsibility of the Client and will be invoiced in accordance with the payments or fee provisions of this Agreement plus 10 percent.

5. POSSESSION. (a) Licensee will deliver Packaged Waste to a loading dock or appropriate location within its premises. Philotechnics will load Packaged Waste on the vehicle and will perform the responsibilities of Carrier in compliance with 49 CFR 397 while in transit. (b) Philotechnics will take possession of Waste and title to Waste upon delivery to Philotechnics's Facility. Waste will be inspected by Philotechnics in accordance with the applicable radioactive materials license of the receiving facility and other applicable Federal, State or local laws, regulations, licenses or permits. Material found to be non-conforming with the Shipping Papers shall be rejected and may be returned to Client. (c) Waste leaving Philotechnics Facility will be manifested and transported in compliance with applicable laws, rules and regulations to subcontractor treatment facility for further processing or a disposal facility for land disposal. (d) If the Quotation for Services states that Philotechnics will perform services other than Transportation Services or Waste Management Services such as waste packaging, decommissioning/demolition or health physics surveys, such other services will be performed under Client's radioactive materials license or under a Philotechnics radioactive materials license with reciprocal agreement from the NRC or state agency equivalent.

6. FORCE MAJEURE (a) The performance of this Agreement, except for the payment of money, may be suspended without any liability whatsoever by either party in the event of act beyond the reasonable control of such party, which event prevents the delivery, transportation, acceptance or disposal of waste. (b) The performance may be suspended by either party in the event of any Federal, State or local government requests, laws, regulations, orders, directives or actions, including but not limited to those arising out of or incidental to the Low-Level Radioactive Waste Policy Act of 1980 any amendments thereto, the effect of which is to prevent the delivery, transportation, acceptance or disposal of low-level radioactive wastes. (c) If Philotechnics suspends the performance under the terms of this Force Majeure clause, Philotechnics shall not be responsible for any costs or expenses which may arise as a result of such suspended performance.

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7. **ASSIGNMENT.** This Agreement may not be assigned, conveyed, or transferred without the prior written consent of Philotechnics. Any attempted assignment, conveyance or transfer without the required consent will be null and void. The respective rights and obligations of the parties under this Agreement shall inure to the benefit of, and be binding upon, the parties' permitted successors and assigns.

8. **WAIVER.** The failure of either party to insist, in any one or more instances, upon the strict performance of any provision of this Agreement shall not be construed as a waiver or other relinquishment of such party's right to insist upon such strict performance of said provision or any other provision hereof or any other provision of this Agreement. Any waiver by either party of any provision hereof or any other provision of Agreement shall be in writing signed by an authorized representative of the party to be bound and shall not be construed or deemed to be a waiver of any subsequent breach of the same provision or of any other provision unless such a waiver is expressed in writing as aforesaid.

9. **NOTICES.** Any notice, communication, or statement required to be given to Philotechnics under this Agreement must be in writing to: Philotechnics, Ltd., 201 Renovare, Oak Ridge, TN 37830, Attn: Contracts Administrator.

10. **WARRANTY.** (a) Philotechnics understands the risks presented to persons, property and the environment in the handling, transportation, storage, treatment and disposal of radioactive waste, and that Philotechnics is qualified to perform the services required hereunder. Accordingly, Philotechnics warrants that it possesses, and will maintain, all permits, licenses, certificates and approvals necessary for the performance of the services hereunder. (b) Philotechnics warrants to Client that the services to be performed hereunder will: (i) be performed by qualified and competent personnel in accordance with industry practice appropriate to the nature of the services rendered at the time performed; (ii) comply with all applicable laws, rules, regulations and ordinances; and (iii) be performed in a safe and workmanlike manner. This warranty of the services to be performed shall expire with respect to a given service one (1) year after such service was performed. In the event any portion of the services to be performed hereunder fails to comply with this warranty obligation and Philotechnics is promptly notified in writing of such failure, and in no event later than thirty (30) days after the expiration of the applicable warranty period, Philotechnics will promptly re-perform such portion of the services work without additional compensation from Client or, if re-performance is impracticable in the sole judgment of Philotechnics, then Philotechnics will refund the amount of the compensation paid to Philotechnics for such portion of the services. (c) Without limiting Philotechnics' rights under this clause, Philotechnics will reasonably consult with Client as to the election, timing and manner of any re-performance, replacement or adjustment to be made by Philotechnics, giving consideration to such factors as Client's operating requirements and costs, as well as the respective costs to Philotechnics of the various alternatives. After Philotechnics has made its election, it will notify the Client, who shall have the opportunity to request an alternative corrective action; provided such alternative corrective action does not enlarge or adversely affect Philotechnics' warranty obligations under this clause and Client and Philotechnics agree on any necessary price adjustments as a result, Philotechnics will take such alternative corrective action. (d) All guarantees made by Philotechnics in connection with this Agreement are limited to those set forth in this Article. Philotechnics makes no other warranties or guarantees, express or implied. **IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE ARE SPECIFICALLY EXCLUDED.**

11. **INDEMNIFICATION.** To the extent caused by the negligent or willful act or omission of either party, its employees, agents or subcontractors in the performance hereof, of this Agreement, such party ("Indemnifying Party") agrees to indemnify, save harmless and defend the other party ("Indemnified Party") from and against any and all liabilities, claims, penalties, forfeitures, proceedings, suits, and the costs and expenses incident thereto including costs of defense, settlement, and reasonable attorney's fees, but excluding special and consequential damages such as loss of profit (hereinafter "Claims"), which the Indemnified Party may hereafter incur or become responsible for as a result of death or bodily injuries to any person, destruction of property of whatever kind or any other interest, or contamination of or adverse effect on the environment, or any violation of governmental laws, regulations or orders. The indemnification obligation of each party hereunder is subject to the following: (i) the Indemnified Party shall provide prompt notice to the Indemnifying Party of any Claim for which indemnification may be sought; (ii) Indemnified Party shall have the opportunity to participate fully, at its expense, in any administrative or judicial proceeding, including any settlement negotiations, with respect to any Claim for which indemnification may be sought; (iii) no settlement agreed to with respect to any Claim for which indemnification will be sought without the prior consent of Indemnified Party which consent shall not be unreasonably withheld; and (iv) the Indemnified Party shall be obligated to exert reasonable efforts to mitigate any loss or damage for which it may seek indemnification.

12. **INSURANCE.** Philotechnics will maintain the following insurance at its expense during the term of this Agreement: (a) Worker's Compensation, Statutory; (b) Employer's Liability, \$500,000 each occurrence; (c) General Liability, \$1,000,000 per occurrence and aggregate combined single limit; (d) Automobile Liability, \$1,000,000 each occurrence combined single limit.

13. **LIMITATION OF LIABILITY.** (a) Regardless of any other provision of this Agreement, under no circumstances will Philotechnics be liable to Client whether in contract, tort (including negligence and strict liability) under any warranty or otherwise, for any incidental, indirect, special or consequential damages of any kind, nature or amount whatsoever, including but not limited to loss of profits or revenue, even if advised of the possibility of such damages. (b) The remedies set forth herein are exclusive and the total cumulative liability of Philotechnics under or in connection with this Agreement, or as a result of any act or omission in connection therewith or related thereto, whether in contract, in tort (including negligence and strict liability), under any warranty, or otherwise, shall be limited to the compensation received by Philotechnics under this Agreement. (c) The provision of this clause shall survive the expiration or termination of this Agreement, and shall apply and control notwithstanding any other conflicting or inconsistent provision hereof or this Agreement, to the fullest extent permitted by applicable law.

14. **DISPUTES AND GOVERNING LAW.** (a) The parties agree to exercise reasonable efforts toward the prompt and equitable settlement of any controversy, claim or dispute arising out of or relating to this Agreement, or breach thereof, through amicable consultation and negotiation by their respective management and, if agreed by such management representatives, through a mutually agreeable alternative dispute resolution proceeding (ADR). All such consultation and negotiation shall be confidential and shall be deemed as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and any applicable State rules of evidence. If any such controversy, claim or dispute has not been resolved or referred to ADR by agreement of such management representatives within sixty (60) days after a party's written request for management negotiation thereof, then either party is free to initiate litigation. (b) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee, except its rules regarding choice of laws. (c) Each of the Parties (i) irrevocably and

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unconditionally consents to the exclusive jurisdiction and venue of any court of competent jurisdiction (whether federal or state) sitting within the State of Tennessee, located in Knox County or the federal court of the United States, located in Knoxville, Tennessee, for purposes of enforcing the terms of this Agreement or interpreting any provision, remedying any breach, or otherwise adjudicating any dispute of or under this Agreement, (ii) expressly submits to personal jurisdiction in the State of Tennessee and consents to venue in Knox County, with respect to any suit, action, or proceeding, (iii) irrevocably and unconditionally waives any objection to the jurisdiction and venue required in this provision, and (iv) agrees not to plead or claim in any such court that any such suit, action, or proceeding has been brought in an inconvenient forum.

15. MISCELLANEOUS. The terms and conditions of this Agreement shall also apply to Purchase Orders issued in relation to this Agreement. All such Orders shall be deemed for Client's internal administrative use only, such as for invoicing and accounting purposes, and all provisions, including those on the reverse side shall be deemed deleted. Additional or different terms inserted in this Agreement by Client, or deletion thereto, whether by Purchase Order, alterations or addenda, or otherwise, shall be of no force and effect, unless consented to by Philotechnics in writing