

**Contractual Agreement
for
Water Treatment Services**

This agreement for water treatment services (hereafter referred to as the "Agreement") is made and entered into this 1st day of July 2010, by and between State of Iowa Regents Institutions (hereafter also referred to as "Regents Institutions") and Nalco Company (hereafter also referred to as "Nalco").

For consideration of the mutual promises and covenant contained in this document, the Regents Institutions and Nalco agree as follows:

1. **GENERAL:** Nalco agrees to provide water chemical treatment services, consultation, and water treatment products to State of Iowa Regents Institutions. The participating Regents Institutions are comprised of Iowa State University, University of Iowa, University of Northern Iowa, and Iowa School for the Deaf. *Consultation and water treatment services are included in the price of the water treatment products.*

2. **PRICING**
 - 2.1 Water Treatment Products

Regents Institutions will receive pricing for a ten year period based on the attached (Attachment A) **IOW Catalogue July 2010 – June 2011**, column: **Iowa Regents Price List (\$/lb) – 10% discount.** (The pricing reflects a 10 % discount from the column: **Current Iowa Regents Price List (\$/lb)**)
Pricing is firm for the period July 1, 2010 through June 30, 2011. Annual price increases after the first year will not exceed 3% unless the combined average of the US Department of Labor Consumer Price Index and the Producer Price Index exceed 3%. Nalco will provide a new price list for each year an annual price increase is calculated.

 - 2.2 Water Treatment Equipment
 - 2.2.1 Pricing for equipment is based on current book price in the Nalco Equipment Solutions Catalogue.

3. **PAYMENT TERMS:** Net 30

4. **FOB:** All pricing under this Agreement is delivered pricing to each Regent Institution with no minimum order.

5. **TERM:** The term of this agreement shall be from July 1, 2010 through June 30, 2020.

6. **WATER CHEMICAL TREATMENT SERVICES**
 - 6.1 Service Levels
 - 6.1.1 Nalco will perform weekly service visits (unless required less by the Regent Institution) at each Regent Institution and document with written service reports.

- 6.1.2 Nalco will perform periodic assessments of specific plant systems as requested to insure best practices, control, and monitoring of the systems that are in place.
- 6.1.3 Nalco will provide annual performance assessment of water treatment systems and document in a service report.
- 6.1.4 Nalco will provide training of Regent Institution personnel as needed and requested. Training will be available in classroom, hands on, or multi-media form.
- 6.1.5 Nalco will provide maintenance, support, and upgrades to the Vantage Data Trending Software at no charge. If new versions become available, they will be provided at no cost at all.

6.2 Communication & Documentation

- 6.2.1 Nalco service reports shall be supplied to the designated recipients as determined at each Regent Institution.
- 6.2.2 Nalco will maintain a Program Administration Manual at each Regent Institution that will include contact information, treatment chemical information such as Product Bulletins and MSDS sheets, program requirements, performance parameters, system monitoring and control procedures.
- 6.2.3 Nalco service reports will include performance monitoring data, trends, and analysis of system performance.
- 6.2.4 Nalco will work with each Regent Institution to develop/update a project list to report progress on projects, issues, requests, analytical results, and other program monitoring issues.
- 6.2.5 Product information will be included in the Program Administration Manual as stated above.
- 6.2.6 Nalco will conduct an annual business review with each Regent Institution each year to review program costs, performance monitoring, projects completed and future projects for the upcoming year.

6.3 Services Required by Specific Regents Institutions

6.3.1 Iowa State University

6.3.1.1 Programs included under this agreement:

- Boiler programs - main power plant, Vet Med & Applied Science.
- Chilled Water programs - main power plant, Vet Med & Applied Science.
- Cooling Water programs - main power plant, Vet Med, Applied Science and North Chilled Water Plant.

- Wallace/Wilson Residence Halls
- Miscellaneous programs & services at other campus facilities.

6.3.1.2 ISU would like to encourage the use of ISU students for part time Nalco employees as Nalco completes the services described in this Agreement.

6.3.2 University of Iowa

6.3.2.1 The University of Iowa would like to have Nalco monitor and maintain chemical inventories as part of their weekly service visits. Nalco would order chemicals as needed to maintain adequate inventories.

6.3.2.2 Programs included under this agreement:

- Boiler programs – main power plant and Oakdale campus.
- Future programs – Oakdale campus hot water loop.

6.3.3 University of Northern Iowa

6.3.3.1 Programs included under this agreement:

- Boiler program – main power plant.
- Cooling water program – main power plant.

6.3.4 Iowa School for the Deaf

6.3.4.1 Programs included under this agreement:

- Boiler program – main power plant.
- Cooling water program – main power plant

7. **PAYMENT OF INVOICES:** Each Regents Institution is responsible for its own payment of invoices. No obligation shall be incurred by any other Regent Institution for another Regent Institution's commitments. Invoices shall be itemized and sent to the following remittance addresses:

Iowa State University
 Purchasing Payables
 3617 Administrative Services Building
 Ames, IA 50011-3617
invoices@iastate.edu

University of Iowa
 Purchasing Department
 400 Northwestern Bell Building

Correction:

Correct the remittance address for the University of Northern Iowa to the following:

**University of Northern Iowa
 Purchasing Department
 103 Gilchrist
 Cedar Falls, IA 50614-0008**

Invoices for Iowa School for the Deaf shall be sent to Iowa State University at the address listed above.

8. **INDEMNIFICATION:** Nalco agrees to jointly and severally indemnify and hold the Regents Institutions, its agents, successors, and assigns, harmless from and against all liability, loss, damage or expense, including reasonable attorney's fees which the state may incur or sustain by reason of the failure of Nalco to fully perform and comply with the terms and obligations of this Agreement. Notwithstanding any other provision in this Agreement, any exhibit hereto or any related document and even if so advised, neither party shall be liable to the other party for consequential, indirect, special or exemplary damages, including but not limited to lost profit and lost production.
9. **CONTRACT TERMINATION:** The Regents Institutions reserve the right to cancel the Agreement at any time if Nalco's performance is, in the opinion of the Regents Institutions, deemed unsatisfactory. In such event, however, the Regents Institutions shall give written notice of the unsatisfactory performance and expected remedies. Nalco shall be given at least thirty (30) days to remedy the problem. Regents Institutions will be the final authority in determining satisfactory performance.
10. **TERMINATION -- NONAPPROPRIATION OF FUNDS:** Notwithstanding any other provisions of this contract, if funds anticipated for the continued fulfillment of this contract are at any time not forthcoming or insufficient, either through the failure of the Iowa Legislature or the Federal government to provide funds or alteration of the program under which funds were provided, then the Regents Institutions shall have the right to terminate this contract without penalty by giving not less than thirty (30) days written notice documenting the lack of funding. Unless otherwise agreed to, the contract shall become null and void on the last day of the fiscal year for which appropriations were received; except that if an appropriation to cover the costs of this contract become available within sixty (60) days subsequent to termination under this clause, the Regents Institutions agree to re-establish a contract with the vendor whose contract was terminated under the same provisions, terms and conditions of the original contract.
11. **ASSIGNMENT:** This agreement may not be assigned or transferred in whole or in part by either party without the prior written consent of the other party.
12. **LAWS:**
 - a.) Terms and provisions of this contract shall be construed in accordance with the laws of the State of Iowa, and any and all litigation or actions commenced in connection with this contract shall be instituted in the appropriate courts in the State of Iowa.
 - b.) Nalco shall be in compliance with all applicable laws and regulations of the State and Federal Government, including, but not limited to, Equal Employment Opportunity provisions, the Occupational Health and Safety Act and Executive Order 11246.

13. **TAXES -- FEDERAL, STATE, AND LOCAL:** The Regents Institutions are exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on the vendor's employee's wages. The Regents Institutions are exempt from State and Local Sales and Use Taxes on the services and materials when purchased separately. A Tax Exemption Certificate will be furnished upon request.

14. **INSURANCE PROVISIONS:** Nalco shall purchase and maintain required insurance as specified below throughout the life of this Agreement, for not less than the following limits, or greater if required by law. Such insurance shall protect Nalco from claims for bodily injury or property damage which may arise out of or result from Nalco's operations under the Contract, whether such operations be by Nalco or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable

Commercial General Liability Insurance including:

Form of Coverage	Minimum Limits of Liability
a. Bodily injury and property damage	\$1,000,000 for each occurrence \$2,000,000 aggregate
b. Fire Legal Liability	\$50,000
c. Medical Expense Coverage	\$5,000
d. Contractual Liability Coverage	
e. Independent Contractor's Protective Coverage	
f. Pollution, explosion, collapse, and damage to underground utilities	
g. Products/completed operations coverage for a period of two (2) years after acceptance of work.	

Nalco shall obtain, at its own expense, commercial general liability insurance and name Iowa State University; The University of Iowa; The University of Northern Iowa; Iowa School for the Deaf; Board of Regents, State of Iowa; and the State of Iowa as additional insureds with respect to all operations and work hereunder and shall provide that such insurance applies separately to each insured against whom claim is made or suit is brought. This insurance afforded to additional insureds is to be primary of any other valid and collectible insurance including, but not limited to, any insurance ISU owns or self insurance through the State of Iowa tort system.

Commercial Automobile Liability

Insurance to include all owned, leased/rented, non-owned, hired, and employee non-owned vehicles

Form of Coverage	Minimum Limits of Liability
a. Bodily injury and property damage	\$1,000,000 combined single limit each accident

Workers Compensation and Employers Liability

a. Coverage A	State Statutory Limit
b. Coverage B- Employer's Liability	\$100,000 / \$500,000 / \$100,000

Worker Compensation Policy shall include a Waiver of Subrogation in favor of Iowa State University; The University of Iowa; The University of Northern Iowa; Iowa School for the Deaf; Board of Regents, State of Iowa; and State of Iowa.

Workers Compensation coverage is required for all personnel working on this contract. All of the contractor's employees, partners, members, officers and sole proprietors must be included.

Excess Liability	\$1,000,000
Professional Liability/Errors and Omissions	\$1,000,000 per claim per policy year
Environmental Impairment Liability	\$2,000,000 each occurrence \$2,000,000 aggregate

Any supplier, contractor, or sub contractor whose work involves the removal, application, transportation, disposal or other use of any substance considered hazardous must provide proof of Environmental Impairment Liability (Pollution Liability). Coverage can be provided either by endorsement to the General Liability and Auto policies or under a separate policy. If this coverage is provided on a claims made basis coverage must be maintained for a period of 5 years beyond the completion of the project. Policy also must list Iowa State University; The University of Iowa; The University of Northern Iowa; Iowa School for the Deaf; Board of Regents, State of Iowa; and State of Iowa as additional insured on a primary and non contributory basis.

Insurance required herein shall be primary to any other insurance coverage purchased and shall be issued by an insurer licenses to do business in the state of Iowa having a minimum rating of "A-VII" or higher from A.M. Best. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the project. Contractor shall be responsible for the cost of deductible payments, which shall not be a cost of the Work or passed on to Owner.

Certificate of Insurance: Additional insureds as stated above shall be listed on the Certificate of Insurance. Certificates shall be mailed to:

Iowa State University
Purchasing Department
Attn: Dennis Romsey
3616 Administrative Services Bldg.
Ames, IA 50011-3616.

Within ten (10) days of receipt of this fully signed Agreement, Nalco shall provide the Regents Institutions with a certificate of insurance, showing that the vendor is in compliance with the above conditions. The certificate shall also provide that should the policy be canceled or materially changed, thirty (30) days written notice prior to the effective date for the change or cancellation, shall be given directly to the Regents Institution. Failure to maintain insurance coverage shall be cause for termination of this Agreement.

15. **SEVERABILITY OF THE CONTRACT:** In the event any one or more of the provisions contained in this Agreement 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 of this Agreement, but this Agreement shall be construed as if such invalid or unenforceable provision had never been contained. Further, in the event that any provision of this Agreement shall be held to be unenforceable by virtue of its scope, but may be made enforceable by a limitation thereof, such provision shall be deemed to be amended to the minimum extent

necessary to render it enforceable under the laws of the jurisdiction in which enforcement is sought.

16. **INDEPENDENT CONSULTANT RELATIONSHIP:** Nalco is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent, or servant of the Regents Institutions. All persons engaged in any work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to Nalco's sole direction, supervision and control. Nalco shall exercise control over the means and manner in which it and its employees perform the work and the relationship of its employees to the university shall be that of an independent contractor and not as employees or agents of the Regents Institution. Nalco does not have the power or authority to bind the Regents Institutions in any promise, agreement or representation other than specifically provided for in this Agreement.
17. **IMMUNITY FROM LIABILITY:** Every person who is a party to this Agreement is hereby notified and agrees that the Regents Institutions, and its agents, successors and assigns are immune from liability and suit for or from Nalco's activities involving third parties and arising from this Agreement.
18. **ADVERTISING:** Nalco shall not use or reference the name of State of Iowa Regents Institutions or Iowa State University, University of Iowa, University of Northern Iowa, Iowa School for the Deaf, as a part of any commercial advertising without prior written approval of the Regents Institutions.
19. **INTERPRETATION:** Words and phrases herein shall be interpreted and understood according to the context in which they are used. This writing, including Nalco's IOW Catalogue July 2010 – June 2011, constitutes the entire agreement between the parties hereto with respect to the subject matters, hereof; and no statement, representation or promise with reference to this agreement, or any purported change in the terms of this agreement, shall be binding upon either of the parties unless in writing and signed by authorized representatives of both.
20. **SITE REPRESENTATIVES** Regents Institutions power plant site representatives for this Agreement are:

Jeff Witt
Assistant Director of Utilities
Iowa State University
Power Plant
Ames, IA 50011
515-294-8286

Mark Maxwell
Environmental Engineer
University of Iowa
103 West Burlington St.
Iowa City, IA 52242
319-335-6185

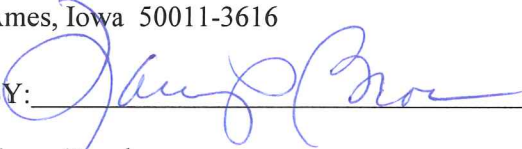
Brent Maitland
Power Plant Manager
University of Northern Iowa
Power Plant
Cedar Falls, IA 50614
319-273-2092

Rich Connell
Director of Facilities
Iowa School for the Deaf
1600 Highway 275 S.
Council Bluffs, IA 51503
712-366-3212

This agreement signed by the respective parties at the places indicated constitutes the entire agreement between the parties and may not be amended or modified without mutual written consent of all parties. The Agreement is executed in four copies with each of the copies to be considered an original.

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

Purchasing Department
3616 Administrative Services Bldg.
Ames, Iowa 50011-3616

BY: 

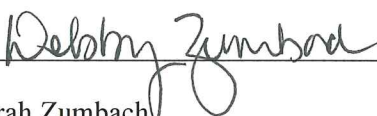
Nancy Brooks
Director of Purchasing

7/23/10

Date

UNIVERSITY OF IOWA

Purchasing Department
202 Plaza Centre One
Iowa City, IA 52242

BY: 

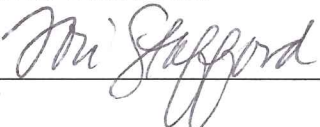
Deborah Zumbach
Director of Purchasing

7/19/10

Date

UNIVERSITY OF NORTHERN IOWA

Purchasing Services
103 Gilchrist
Cedar Falls, Iowa 50614-0008

BY: 


Tori Stafford
Director of Purchasing

7/6/10

Date

NALCO COMPANY

1601 West Diehl Road
Naperville, IL 60563

BY: 
Printed Signature Robert Dugday

July 1, 2010

Date

IOW Catalogue July 2010 - June 2011

Effective July 1, 2010 - June 30, 2011			
Catalog	PROD ID	Current Iowa Regents Price List (\$/lb)	Iowa Regents Price List (\$/lb) -10% discount
1001_IOW	1254.11	\$7.34	\$6.61
1001_IOW	156C PULV.27	\$4.09	\$3.68
1001_IOW	1700.12	\$7.78	\$7.00
1001_IOW	1700.15	\$2.47	\$2.22
1001_IOW	1700.33	\$2.60	\$2.34
1001_IOW	1700.36	\$4.00	\$3.60
1001_IOW	1720.11	\$4.76	\$4.28
1001_IOW	1720.12	\$2.81	\$2.53
1001_IOW	1720.15	\$3.22	\$2.90
1001_IOW	1720.36	\$3.20	\$2.88
1001_IOW	1720.56	\$3.37	\$3.03
1001_IOW	1820.11	\$7.75	\$6.98
1001_IOW	1820.12	\$4.95	\$4.46
1001_IOW	1820.15	\$5.40	\$4.86
1001_IOW	1820.31	\$6.43	\$5.79
1001_IOW	1820.33	\$5.01	\$4.51
1001_IOW	1820.36	\$6.45	\$5.81
1001_IOW	1820.91	\$3.74	\$3.37
1001_IOW	19 PULV.22	\$3.00	\$2.70
1001_IOW	22105.91	\$2.20	\$1.98
1001_IOW	22305.15	\$4.03	\$3.63
1001_IOW	22305.33	\$3.98	\$3.58
1001_IOW	22305.36	\$6.13	\$5.52
1001_IOW	22305.91	\$2.23	\$2.01
1001_IOW	22310.11	\$8.21	\$7.39
1001_IOW	22310.12	\$5.59	\$5.03

IOW Catalogue July 2010 - June 2011

Catalog	PROD ID	Current Iowa Regents Price List (\$/lb)	Iowa Regents Price List (\$/lb) -10% discount
1001_IOW	22310.15	\$5.01	\$4.51
1001_IOW	22310.31	\$7.22	\$6.50
1001_IOW	22310.36	\$6.71	\$6.04
1001_IOW	22310.38	\$10.68	\$9.61
1001_IOW	22310.61	\$6.12	\$5.51
1001_IOW	22310.91	\$2.51	\$2.26
1001_IOW	22341.56	\$3.38	\$3.04
1001_IOW	22352.11	\$5.54	\$4.99
1001_IOW	22358.12	\$3.77	\$3.39
1001_IOW	2564 PULV.24	\$7.67	\$6.90
1001_IOW	2895 PLUS.11	\$5.00	\$4.50
1001_IOW	2895 PLUS.12	\$3.20	\$2.88
1001_IOW	2895 PLUS.15	\$2.35	\$2.12
1001_IOW	2895 PLUS.38	\$6.20	\$5.58
1001_IOW	3DT104.91	\$2.30	\$2.07
1001_IOW	3DT184.15	\$2.50	\$2.25
1001_IOW	3DT184.36	\$4.90	\$4.41
1001_IOW	3DT184.61	\$2.30	\$2.07
1001_IOW	3DT184.91	\$2.05	\$1.85
1001_IOW	3DT190.15	\$3.58	\$3.22
1001_IOW	3DT190.33	\$3.43	\$3.09
1001_IOW	3DT191.61	\$2.60	\$2.34
1001_IOW	3DT191.91	\$2.60	\$2.34
1001_IOW	3DT192.33	\$2.85	\$2.57
1001_IOW	3DT198.12	\$4.63	\$4.17
1001_IOW	3DT198.36	\$11.13	\$10.02
1001_IOW	3DT265.12	\$8.24	\$7.42

IOW Catalogue July 2010 - June 2011

Catalog	PROD ID	Current Iowa Regents Price List (\$/lb)	Iowa Regents Price List (\$/lb) -10% discount
1001_IOW	3DT265.33	\$4.52	\$4.07
1001_IOW	3DT265.36	\$5.00	\$4.50
1001_IOW	3DT701.11	\$6.89	\$6.20
1001_IOW	3DTBR40.41D	\$89.52	\$80.57
1001_IOW	7320.11	\$17.50	\$15.75
1001_IOW	7338.11	\$8.20	\$7.38
1001_IOW	7338.15	\$5.11	\$4.60
1001_IOW	7338.33	\$5.37	\$4.83
1001_IOW	7338.36	\$6.55	\$5.90
1001_IOW	7338.38	\$14.68	\$13.21
1001_IOW	7338.56	\$5.15	\$4.64
1001_IOW	73551.15	\$4.15	\$3.74
1001_IOW	7408.11	\$5.05	\$4.55
1001_IOW	7408.12	\$3.00	\$2.70
1001_IOW	7408.36	\$3.12	\$2.81
1001_IOW	750.11	\$10.12	\$9.11
1001_IOW	750.36	\$4.91	\$4.42
1001_IOW	77352NA.33	\$5.41	\$4.87
1001_IOW	7766 PLUS.33	\$3.00	\$2.70
1001_IOW	8338.11	\$7.08	\$6.37
1001_IOW	8338.15	\$4.91	\$4.42
1001_IOW	8338.56	\$4.42	\$3.98
1001_IOW	8349.11	\$6.89	\$6.20
1001_IOW	8735.11	\$4.25	\$3.83
1001_IOW	8735.12	\$2.81	\$2.53
1001_IOW	8735.33	\$2.11	\$1.90
1001_IOW	8735.38	\$5.90	\$5.31

IOW Catalogue July 2010 - June 2011

Catalog	PROD ID	Current Iowa Regents Price List (\$/lb)	Iowa Regents Price List (\$/lb) -10% discount
1001 IOW	991.11	\$13.87	\$12.48
1001 IOW	ELIMINOX.12	\$3.80	\$3.42
1001 IOW	NALPREPIII.11	\$8.95	\$8.06
1001 IOW	NALPREPIII.12	\$6.57	\$5.91
1001 IOW	NALPREPIII.15	\$5.68	\$5.11
1001 IOW	PC-7409.11	\$7.48	\$6.73
1001 IOW	PC-7409.15	\$3.63	\$3.27
1001 IOW	ST70.12	\$4.19	\$3.77
1001 IOW	ST70.36	\$4.19	\$3.77
1001 IOW	TRAC107PLUS.31	\$6.71	\$6.04
1001 IOW	TRAC107PLUS.33	\$6.71	\$6.04
1001 IOW	TRAC109.11	\$4.23	\$3.81
1001 IOW	TRAC109.15	\$1.70	\$1.53