

SOLE SOURCE SERVICE CONTRACT
Central Generation (Cen Gen) Engine No. 1 Inspection and Repairs
Specification No. BSS-2026-728BD

THIS SOLE SOURCE CONTRACT is made and entered into as of the date fully executed below, by and between Orange County Sanitation District, with a principal place of business at 18480 Bandilier Circle, Fountain Valley, CA 92708 (hereinafter referred to as "OC San") and Cooper Machinery Services LLC with a principal place of business at 16250 Port Northwest Drive, Houston, Texas 77041 (hereinafter referred to as "Contractor") collectively referred to as the "Parties".

WITNESSETH

WHEREAS, OC San desires to retain the services of Contractor for Central Generation (Cen Gen) Engine No. 1 Inspection and Repairs, "Services" as described in Exhibit "B"; and

WHEREAS, OC San has chosen Contractor to conduct Services in accordance with OC San's current Purchasing Ordinance; and

WHEREAS, on April 22, 2026, the Board of Directors of OC San, by minute order, authorized execution of this Contract between OC San and Contractor; and

WHEREAS, Contractor is qualified by virtue of experience, training, and expertise to accomplish such Services.

NOW, THEREFORE, in consideration of the mutual promises and mutual benefits exchanged between the Parties, the Parties mutually agree as follows:

1. Introduction.

1.1 This Contract and all exhibits hereto (called the "Contract") is made by OC San and the Contractor. The terms and conditions herein exclusively govern the purchase of Services as described in Exhibit "B".

1.2 Exhibits to this Contract are incorporated by reference and made a part of this Contract as though fully set forth at length herein.

Exhibit "A" Not Applicable
Exhibit "B" Proposal
Exhibit "C" Determined Insurance Requirements Form
Exhibit "D" Contractor Safety Standards
Exhibit "E" Human Resources Policies
Exhibit "F" General Conditions

1.3 In the event of any conflict or inconsistency between the provisions of this Contract and any of the provisions of the exhibits hereto, the provisions of this Sole Source Service Contract shall in all respects govern and control.

1.4 The provisions of this Contract may be amended or waived only by a writing executed by authorized representatives of both Parties hereto.

1.5 The various headings in this Contract are inserted for convenience only and shall not affect the meaning or interpretation of this Contract or any paragraph or provision hereof.

1.6 The term "days", when used in the Contract, shall mean calendar days, unless otherwise noted as business days.

- 1.7 OC San holidays (non-working days) are as follows: New Year's Day, Lincoln's Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.
- 1.8 The term "hours", when used in this Contract, shall be as defined in Exhibit "A".
- 1.9 Contractor shall provide OC San with all required premiums and/or overtime work, as specified in this Contract, at no charge beyond the price provided under "Compensation" below.
- 1.10 Except as expressly provided otherwise, OC San accepts no liability for any expenses, losses, or action incurred or undertaken by Contractor as a result of work performed in anticipation of purchases of said services by OC San.
2. **Compensation.** Compensation to be paid by OC San to Contractor for the Services provided under this Contract shall be a total amount not to exceed One Hundred Forty-Two Thousand Nine Hundred Twenty-Two 55/100 Dollars (\$142,922.55)
3. **California Department of Industrial Relations (DIR) Registration and Record of Wages.**
- 3.1 Pursuant to Labor Code sections 1720 et seq., and as specified in Title 8, California Code of Regulations section 16000, prevailing wages are required to be paid for all work under this Contract. It is Contractor's responsibility to interpret and implement any prevailing wage requirements and Contractor agrees to pay any penalty or civil damages resulting from a violation of the prevailing wage laws.
- 3.2 Contractor and its subcontractors shall comply with the registration requirements of Labor Code section 1725.5. Pursuant to Labor Code section 1771.4(a)(1), the work is subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR).
- 3.3 Pursuant to Labor Code section 1773.2, a copy of the prevailing rate of per diem wages is available upon request at OC San's principal office. The prevailing rate of per diem wages may also be found at the DIR website for prevailing wage determinations at <http://www.dir.ca.gov/DLSR/PWD>.
- 3.4 Contractor and its subcontractors shall comply with the job site notices posting requirements established by the Labor Commissioner per Title 8, California Code of Regulations section 16461(e). Pursuant to Labor Code sections 1773.2 and 1771.4(a)(2), Contractor shall post a copy of the prevailing rate of per diem wages at the job site.
- 3.5 Contractor and its subcontractors shall maintain accurate payroll records and shall comply with all the provisions of Labor Code section 1776. Contractor and its subcontractors shall submit payroll records to the Labor Commissioner pursuant to Labor Code section 1771.4(a)(3). Pursuant to Labor Code section 1776, the Contractor and its subcontractors shall furnish a copy of all certified payroll records to OC San and/or the general public upon request, provided the public request is made through OC San, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement of the Department of Industrial Relations. Pursuant to Labor Code section 1776(h), penalties for non-compliance with a request for payroll records may be deducted from progress payments.
- As a condition to receiving payments, Contractor agrees to present to OC San, along with any request for payment, all applicable and necessary certified payrolls and other required documents for the period covering such payment request. Pursuant to Title 8, California Code of Regulations section 16463, OC San shall withhold any portion of a payment, up

to and including the entire payment amount, until certified payroll forms and any other required documents are properly submitted. In the event certified payroll forms do not comply with the requirements of Labor Code section 1776, OC San may continue to withhold sufficient funds to cover estimated wages and penalties under the Contract.

- 3.6** The Contractor and its subcontractors shall comply with Labor Code section 1774 and section 1775. Pursuant to Labor Code section 1775, the Contractor and any of its subcontractors shall forfeit to OC San a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any work.
- In addition to the penalty and pursuant to Labor Code section 1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor or its subcontractor.
- 3.7** Contractor and its subcontractors shall comply with Labor Code sections 1810 through 1815. Contractor and its subcontractors shall restrict working hours to eight (8) hours per day and forty (40) hours per week, except that work performed in excess of those limits shall be permitted upon compensation for all excess hours worked at not less than one and one-half (1.5) times the basic rate of pay, as provided in Labor Code section 1815. The Contractor shall forfeit, as a penalty to OC San, twenty-five dollars (\$25) per worker per calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of Labor Code sections 1810 through 1815.
- 3.8** Contractor and its subcontractors shall comply with Labor Code sections 1777.5, 1777.6, and 1777.7 concerning the employment of apprentices by Contractor or any subcontractor.
- 3.9** Contractor shall include, at a minimum, a copy of the following provisions in any contract it enters into with any subcontractor: Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860, and 1861.
- 3.10** Pursuant to Labor Code sections 1860 and 3700, the Contractor and its subcontractors will be required to secure the payment of compensation to employees. Pursuant to Labor Code section 1861, Contractor, by accepting this contract, certifies that:

“I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

Contractor shall ensure that all its contracts with its subcontractors provide the provision above.

4. Payments and Invoicing.

- 4.1** OC San shall pay, net 30 days, upon receipt, by OC San’s Engineer (“Engineer”) or designee, of itemized invoices submitted for Milestones completed in accordance with Exhibit B.
- 4.2** OC San shall approve or reject invoices within 14 days of receipt. Any invoice not rejected in writing within 14 days of receipt shall be deemed approved by OC San. OC San, at its sole discretion, shall be the determining party as to whether the Services have been satisfactorily completed. In the event OC San disputes an invoice or has a reasonable basis for determining Services have not been satisfactorily completed, OC San agrees to pay the undisputed portion of any invoice in a timely manner while both parties agree to discuss in

good faith to resolve the disputed portions of an invoice. If OC San fails to pay an undisputed invoice after receiving 30 days written notice of non-payment, Contractor shall have the right to suspend performance and Contract Term shall be extended for a time equal to the suspension for non-payment. Should suspension for non-payment last 30 days, Contractor shall have the right to terminate and OC San agrees to pay termination fees in accordance with Section 12.1.

- 4.3 Invoices shall be emailed by Contractor to OC San Accounts Payable at APStaff@OCSD.com and "INVOICE" with the Purchase Order Number and Specification No. BSS-2026-728BD shall be referenced in the subject line.
5. **Audit Rights.** Contractor agrees that, during the term of this Contract and for a period of three years after its termination, OC San shall have access to and the right to examine any directly pertinent books, documents, and records of Contractor relating to the invoices submitted by Contractor pursuant to this Contract. OC San agrees all audits are subject to confidentiality and non-disclosure provisions and are limited to the purpose of OC San verification of payment and invoicing records, except to the extent required by a government agency.
6. **Scope of Work.** Subject to the terms of this Contract, Contractor shall perform the Services identified in Exhibit "B". Contractor shall perform said Services in accordance with generally accepted industry and professional standards.
7. **Modifications to Scope of Work.** Requests for modifications to the Scope of Work or due to delays solely attributable to OC San hereunder can be made by either party at any time. All modifications must be made in writing, approved and signed by both Parties before any Work on the modification shall begin. In the event of a modification, time of performance and payment for work shall be altered accordingly.
8. **Contract Term.** The Services provided under this Contract shall be completed within forty (40) calendar days from the effective date of the Notice to Proceed.
9. **Renewals.** Not Used
10. **Extensions.** The term of this Contract may be extended only by written instrument signed by both Parties.
11. **Performance.** Time is of the essence in the performance of the provisions hereof.
12. **Termination.**
- 12.1 OC San reserves the right to terminate this Contract for its convenience, with or without cause, in whole or in part, at any time, by written notice from OC San of intent to terminate. OC San also reserves the right to terminate this Contract for default in accordance with section 12.2 and 12.3. Upon receipt of a termination notice for convenience or terminate notice under 12.3, Contractor shall immediately discontinue all work under this Contract (unless the notice directs otherwise). In all cases of termination whether for convenience or default, OC San shall thereafter, within thirty 30 days, pay Contractor for work performed (cost and fee) to the date of termination, including any reasonable costs and expenses incurred by Contractor as a direct result of such termination for any goods or services in progress prior to the effective date of termination. Contractor expressly waives any claim to receive anticipated profits to be earned during the uncompleted portion of this Contract. Such notice of termination shall terminate this Contract and Contractor shall release OC San from any further fee, cost or claim relating to the terminated portion of the Contract, hereunder by Contractor.

- 12.2 OC San reserves the right to terminate this Contract upon determination that Contractor has materially breached any of the terms of this Contract and failed to commence to cure within 10 days with continual diligent efforts following receipt of written notice of such breach. In the event of termination under this section, Contractor total liability shall not exceed the actual and reasonable documented costs and expenses to complete the terminated Scope of Work.
- 12.3 OC San may also immediately cancel for default of this Contract in whole or in part by written notice to Contractor:
- if Contractor becomes insolvent or files a petition under the Bankruptcy Act; or
- 12.4 All OC San property in the possession or control of Contractor shall be returned by Contractor to OC San upon demand, or at the termination of this Contract, whichever occurs first.
13. **Insurance.** Contractor and all subcontractors shall purchase and maintain, throughout the life of this Contract and any periods of warranty or extensions, insurance in amounts equal to the requirements set forth in the signed Determined Insurance Requirements Form (attached hereto and incorporated herein as Exhibit "C "). Contractor shall not commence work under this Contract until all required insurance is obtained in a form acceptable to OC San, nor shall Contractor allow any subcontractor to commence service pursuant to a subcontract until all insurance required of the subcontractor has been obtained. Failure to maintain required insurance coverage shall result in termination of this Contract. Any requirements for additional insured, waiver of rights of subrogation or recognition of Contractor's insurance as primary shall apply only to the extent of the legally binding indemnities agreed to by Contractor in the Contract.
14. **Bonds.** Not Applicable
15. **Indemnification and Hold Harmless Provision.** Contractor shall assume responsibility for direct damages to property and/or injuries to persons, including accidental death, to the extent such damages arise out of or are caused by the negligence of Contractor under this Contract, or by the negligence of its subcontractor(s) or by anyone directly or indirectly employed by Contractor, and whether such damage or injury shall accrue or be discovered before or after the termination of the Contract. Contractor shall indemnify, protect, defend and hold harmless OC San, its elected and appointed officials, officers, agents and employees, from and against any and all claims, liabilities, damages or expenses of any nature, including attorneys' fees: (a) for injury to or death of any person or damage to property , to the extent arising out of or in connection with Contractor's negligent performance under the Contract, and/or (b) to the extent on account of use of any copyrighted or uncopyrighted material, composition, or process, or any patented or unpatented invention, article or appliance, furnished or used directly by Contractor or its subcontractor(s) under the Contract. This indemnification provision shall apply to any acts or omissions, willful misconduct, or negligent misconduct, whether active or passive, on the part of Contractor or of anyone employed by or working under Contractor. Notwithstanding the foregoing, Contractor has no responsibility to and will not indemnify OC San, or its elected and appointed officials, officers, agents and employees, for claims, liabilities, expenses, or damages of any nature to the extent arising from, caused by or in connection with OC San's negligence (sole, joint, or concurrent), gross negligence, willful misconduct or any other fault on the part of OC San.
16. **Contractor Safety Standards.** OC San requires Contractor and its subcontractor(s) to follow and ensure their employees follow all Federal, State, and local regulations as well as the Contractor Safety Standards while working at OC San locations. If during the Contract it is discovered that the Contractor Safety Standards do not comply with Federal, State, or local regulations, then the Contractor is required to follow the most stringent regulatory requirement

at no additional cost to OC San. Contractor and all of its employees and subcontractors, shall adhere to all applicable Contractor Safety Standards attached hereto in Exhibit "D" and the Human Resources Policies (Exhibit "E").

17. California Voluntary Protection Program Annual Reporting Requirement.

If Contractor will potentially work 1,000 combined hours in a quarter, for the term of the Agreement, Contractor shall provide an annual report detailing its safety and health information, including, but not limited to, its total number of employees, work hours, number of injuries and illnesses, and number of injury and illness cases involving days away from work, restricted work activity and/or job transfer. Contractor shall furnish this report to OC San no later than January 20th each calendar year.

Failure to provide this data by the required due date may result in suspension of Contractor's services with OC San. Any delay arising out of or resulting from such suspension shall be Contractor's sole responsibility and considered Contractor caused delay, which shall not be compensable by OC San.

18. Warranties. In addition to the warranties stated in Exhibit "A", the following shall apply:

- 18.1** Where applicable, Contractor supplier's standard warranty shall apply. To the extent possible, Contractor shall transfer its supplier's warranties to OC San for the work as complete.

Contractor's Warranty (Guarantee): Contractor warrants that any goods, parts, repairs, or upgrades supplied by Contractor under this Contract shall (i) be free from any materials and workmanship for the specified warranty period, (ii) conform to the specifications mutually agreed in Exhibit "A" (herein incorporated by reference), and (iii) all Services will be performed in a competent and diligent manner in accordance with generally accepted standards for such services. If within a one-year period of completion of all work as specified in Exhibit "B", OC San informs Contractor in writing that any portion of the Services provided fails to meet the standards required under this section 17 of the Contract, Contractor shall, within the time agreed to by OC San and Contractor, repair, replace, or re-perform the noted non-conforming deficiency(ies) in goods or Services at Contractor's sole option and expense. If the good or Service cannot be made to conform to the warranty in this section by repair, replace, or re-performance, Contractor's responsibility shall be to refund the portion of the purchase price allocated to the non-conforming goods or Services. The remedies set forth in this section constitute the sole and exclusive remedies for all claims arising out of or related to any defect or non-conformity in the products, parts, goods, or services regardless when the defect or non-conformity arises. Contractor shall have no responsibility to repair or replace defective equipment or component parts resulting from the use of repair or replacement parts not of Contractor's manufacture or approved by Contractor or from OC San's failure to store, install, maintain, and operate the equipment according to Contractor's written instructions and drawings and standard industry practice. Deterioration and wear occasioned by chemical and abrasive action or excessive heat shall not constitute defects. Transportation of products to and from Contractor's service facility shall be borne to OC San when a repair is not covered by warranty. Warranty work provided under this Contract does not assure uninterrupted operation of the products. Equipment and accessories furnished by third parties which are not incorporated in the equipment manufactured by Contractor are warranted only to the extent of the original manufacturer's warranty to Contractor. THE WARRANTIES SET FORTH IN THIS SECTION 17 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS, AND GUARANTEES, WHETHER WRITTEN OR ORAL. NO IMPLIED WARRANTY OR CONDITION, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.

19. Liquidated Damages. Not Applicable

20. **Damages.** Contractor's total responsibility for any claims, including but not limited to indemnity claims under Section 15, damages, losses or liabilities arising out of or related to its performance of this Contract or the products and Services covered hereunder shall not exceed two times the Contract price. EXCLUDING CLAIMS RESULTING FROM GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL CONTRACTOR OR OC San BE LIABLE FOR PUNITIVE, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND AS DEFINED BY THE LAW GOVERNING THIS CONTRACT RESULTING FROM OR ARISING OUT OF THIS CONTRACT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFIT, REVENUE, PRODUCTION OR USE HOWSOEVER SAME MAY BE CAUSED.
21. **Force Majeure.** Neither party shall be liable for delays caused by accident, flood, acts of God, fire, labor trouble, war, acts of government or any other cause beyond its control, but said party shall use reasonable efforts to minimize the extent of the delay. Work affected by a Force Majeure condition may be rescheduled by mutual consent or may be eliminated from the Contract.
22. **Freight (F.O.B. Destination).** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
23. **Familiarity with Work.** By executing this Contract, Contractor warrants that: 1) it has investigated the work to be performed; 2) it has investigated the site of the work and is aware of all conditions there; and 3) it understands the facilities, difficulties and restrictions of the work under this Contract. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by OC San, it shall immediately inform OC San of this and shall not proceed, except at Contractor's risk, until written instructions are received from OC San.
24. **Regulatory Requirements.** Contractor shall perform all work under this Contract in strict conformance with applicable Federal, State, and local regulatory requirements including, but not limited to, 40 CFR 122, 123, 124, 257, 258, 260, 261, and 503, Title 22, 23, and California Water Codes Division 2.
25. **Environmental Compliance.** Contractor shall, at its own cost and expense, comply with all Federal, State, and local environmental laws, regulations, and policies which apply to the Contractor, its subcontractors, and the Services, including, but not limited to, all applicable Federal, State, and local air pollution control laws and regulations.
26. **Licenses, Permits, Ordinances and Regulations.** Contractor represents and warrants to OC San that it has obtained all licenses, permits, qualifications, and approvals required to be in Contractor's name of whatever nature that are legally required to engage in this work. Any and all fees required by Federal, State, County, City and/or municipal laws, codes and/or tariffs that pertain to the work performed under the terms of this Contract will be paid by Contractor.
27. **Applicable Laws and Regulations.** Contractor shall comply with all applicable Federal, State, and local laws, rules, and regulations. Contractor also agrees to indemnify and hold harmless from any and all damages and liabilities assessed against OC San as a result of Contractor's noncompliance therewith. Any permission required by law to be included herein shall be deemed included as a part of this Contract whether or not specifically referenced.

28. Contractor's Employees Compensation.

- 28.1 General Prevailing Rate** – OC San has been advised by the State of California Director of Industrial Relations of its determination of the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and overtime work in the locality in which the work is to be performed for each craft or type of work needed to execute this Contract, and copies of same are on file in the Engineering Department. The Contractor agrees that not less than said prevailing rates shall be paid to workers employed on this Contract as required by Labor Code Section 1774 of the State of California. Per California Labor Code 1773.2, OC San will have on file copies of the prevailing rate of per diem wages at its principal office and at each project site, which shall be made available to any interested party upon request.
- 28.2 Forfeiture For Violation** – Contractor shall, as a penalty to OC San, forfeit \$50.00 for each calendar day or portion thereof for each worker paid (either by the Contractor or any subcontractor under it) less than the prevailing rate of per diem wages as set by the Director of Industrial Relations, in accordance with Sections 1770-1780 of the California Labor Code for the work provided for in this Contract, all in accordance with Section 1775 of the Labor Code of the State of California.
- 28.3 Apprentices** – Sections 1777.5, 1777.6, 1777.7 of the Labor Code of the State of California, regarding the employment of apprentices are applicable to this Contract and the Contractor shall comply therewith if the prime contract involves \$30,000.00 or more or 20 working days or more; or if contracts of specialty contractors not bidding for work through the general or prime Contractor are \$2,000.00 or more or five working days or more.
- 28.4 Workday** – In the performance of this Contract, not more than eight hours shall constitute a day's work, and the Contractor shall not require more than eight hours of labor in a day from any person employed by it hereunder. Contractor shall conform to Article 3, Chapter 1, Part 7 (Section 1810 et seq.) of the Labor Code of the State of California and shall forfeit to OC San as a penalty, the sum of \$25.00 for each worker employed in the execution of this Contract by Contractor or any subcontractor for each calendar day during which any worker is required or permitted to labor more than eight hours in any one calendar day and 40 hours in any one week in violation of said Article. Contractor shall keep an accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed by Contractor in connection with the project.

Record of Wages; Inspection – Contractor agrees to maintain accurate payroll records showing the name, address, social security number, work classification, straight-time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by it in connection with the project and agrees to require that each of its subcontractors do the same. All payroll records shall be certified as accurate by the applicable Contractor or subcontractor or its agent having authority over such matters. Subject to the audit provisions herein, Contractor further agrees that its payroll records and those of its subcontractors shall be available to the employee or employee's representative, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards and shall comply with all of the provisions of Labor Code Section 1776, in general. Penalties for non-compliance with the requirements of Section 1776 charged to OC San may be deducted from project payments per the requirements of Section 1776.

- 29. South Coast Air Quality Management District's (SCAQMD) Requirements.** It is Contractor's responsibility that all equipment furnished and installed be in accordance with the latest rules and regulations of the South Coast Air Quality Management District (SCAQMD). All Contract work practices, which may have associated emissions such as

sandblasting, open field spray painting or demolition of asbestos containing components or structures, shall comply with the appropriate rules and regulations of the SCAQMD.

30. California Air Resources Board Mobile Source Regulations.

Contractor and its applicable consultants, subconsultants, and subcontractors shall comply with the following California Air Resources Board Mobile Source Regulations:

- Advanced Clean Fleet (ACF): 13 CCR 2013-2013.4; 13 CCR 2015-2015.6
- Truck & Bus Regulation (T&B): 13 CCR 2025
- Clean Truck Check (CTC): 13 CCR 2195-2199.1
- Off-Road Diesel Amendments (ORD): 13 CCR 2449-2449.2

31. Governing Law. This Contract shall be governed by and interpreted under the laws of the State of California and the Parties submit to jurisdiction in the County of Orange, in the event any action is brought in connection with this Contract or the performance thereof.

32. Breach. The waiver of either party of any breach or violation of, or default under, any provision of this Contract, shall not be deemed a continuing waiver by such party of any other provision or of any subsequent breach or violation of this Contract or default thereunder. Any breach by Contractor to which OC San does not object shall not operate as a waiver of OC San's rights to seek remedies available to it for any subsequent breach.

33. Remedies. With respect to that subject matter and/or circumstances or events for which specific remedies are set forth in this Contract, including, without limitation, those remedies with respect to the Services performed by Contractor hereunder, then such remedies shall be the exclusive remedies of the parties. If no such specific remedy is provided, then the parties shall have available to them any remedy available under applicable law or in equity.

34. Dispute Resolution.

34.1 In the event of a dispute as to the construction or interpretation of this Contract, or any rights or obligations hereunder, the Parties shall first attempt, in good faith, to resolve the dispute by mediation. The Parties shall mutually select a mediator to facilitate the resolution of the dispute. If the Parties are unable to agree on a mediator, the mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Agreement, through the alternate dispute resolution procedures of Judicial Arbitration through Mediation Services of Orange County ("JAMS"), or any similar organization or entity conducting an alternate dispute resolution process.

34.2 In the event the Parties are unable to timely resolve the dispute through mediation, the issues in dispute shall be submitted to arbitration pursuant to California Code of Civil Procedure, Part 3, Title 9, Sections 1280 et seq. For such purpose, an agreed arbitrator shall be selected, or in the absence of agreement, each party shall select an arbitrator, and those two arbitrators shall select a third. Discovery may be conducted in connection with the arbitration proceeding pursuant to California Code of Civil Procedure Section 1283.05. The arbitrator, or three arbitrators acting as a board, shall take such evidence and make such investigation as deemed appropriate and shall render a written decision on the matter in question. The arbitrator shall decide each and every dispute in accordance with the laws of the State of California. The arbitrator's decision and award shall be subject to review for errors of fact or law in the Superior Court for the County of Orange, with a right of appeal from any judgment issued therein.

35. Attorney's Fees. If any action at law or inequity or if any proceeding in the form of an Alternative Dispute Resolution (ADR) is necessary to enforce or interpret the terms of this

Contract, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which he may be entitled.

36. **Survival.** The provisions of this Contract dealing with Payment, Warranty, Indemnity, and Forum for Enforcement, shall survive termination or expiration of this Contract.
37. **Severability.** If any section, subsection, or provision of this Contract, or any agreement or instrument contemplated hereby, or the application of such section, subsection, or provision is held invalid, the remainder of this Contract or instrument in the application of such section, subsection or provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, unless the effect of such invalidity shall be to substantially frustrate the expectations of the Parties.
38. **Damage to OC San's Property.** To the extent any of OC San's property is damaged by the negligence of Contractor, any subcontractors or by the personnel of either will be subject to repair or replacement by Contractor at no cost to OC San, except for that portion, if any, OC San's actions contributed to the damage.
39. **Disclosure.** Contractor agrees not to disclose, to any third party, data or information generated from this project without the prior written consent from OC San. OC San agrees not to disclose, to any third party, Contractor data or information related to this project without the prior written consent from Contractor, except to the extent required by a government agency.
40. **Independent Contractor.** The legal relationship between the parties hereto is that of an independent contractor, and nothing herein shall be deemed to make Contractor an OC San employee. During the performance of this Contract, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OC San's officers, employees, or agents. Contractor and its officers, employees, and agents shall obtain no rights to any benefits which accrue to OC San's employees.
41. **Limitations upon Subcontracting and Assignment.** Contractor shall not delegate any duties nor assign any rights under this Contract without the prior written consent of OC San. Any such attempted delegation or assignment shall be void.
42. **Third Party Rights.** Nothing in this Contract shall be construed to give any rights or benefits to anyone other than OC San and Contractor.
43. **Non-Liability of OC San Officers and Employees.** No officer or employee of OC San shall be personally liable to Contractor, or any successor-in-interest, in the event of any default or breach by OC San or for any amount which may become due to Contractor or to its successor, or for breach of any obligation for the terms of this Contract.
44. **Read and Understood.** By signing this Contract, Contractor represents that he has read and understood the terms and conditions of the Contract.
45. **Authority to Execute.** The persons executing this Contract on behalf of the Parties warrant that they are duly authorized to execute this Contract and that by executing this Contract, the Parties are formally bound.
46. **Entire Contract.** This Contract constitutes the entire agreement of the Parties and supersedes all prior written or oral and all contemporaneous oral agreements, understandings, and negotiations between the Parties with respect to the subject matter hereof.

- 47. Notices.** All notices under this Contract must be in writing. Written notice shall be delivered by personal service or sent by registered or certified mail, postage prepaid, return receipt requested, or by any other overnight delivery service which delivers to the noticed destination and provides proof of delivery to the sender. Rejection or other refusal to acceptor the inability to deliver because of changed address for which no notice was given as provided hereunder shall be deemed to be receipt of the notice, demand or request sent. All notices shall be effective when first received at the following addresses:

OC San: Jackie Lagade
Purchasing Supervisor
Orange County Sanitation District
18480 Bandilier Circle
Fountain Valley, CA 92708

Contractor: Scott Buckhout
Chief Executive Officer
Cooper Machinery Services LLC
16250 Porth Northwest Drive
Houston, Texas 77041

Each party shall provide the other party written notice of any change in address as soon as practicable.

[Intentionally left blank. Signatures follow on the next page.]

IN WITNESS WHEREOF, intending to be legally bound, the Parties hereto have caused this Contract to be signed by the duly authorized representatives.

ORANGE COUNTY SANITATION DISTRICT

Dated: _____

By: _____
Ryan P. Gallagher
Chair, Board of Directors

Dated: _____

By: _____
Kelly A. Lore
Clerk of the Board

Dated: _____

By: _____
Kevin Work
Purchasing & Contracts Manager

COOPER MACHINERY SERVICES LLC

Dated: _____

By: _____

Print Name and Title of Officer

JL