

Maintenance and Extended Warranty Agreement

This Maintenance and Extended Warranty Agreement (the "Agreement"), is made as of the date last below written ("the Effective Date"), by and between Coast Intelligen, Inc., a Delaware corporation ("Coast") and the County of San Mateo, California ("Owner"). For purposes of this Agreement, Coast and Owner may be referred to as the "Parties" and each individually as a "Party."

WITNESSETH

WHEREAS, Owner is the owner of the equipment listed on Exhibit A (the "Equipment"); and

WHEREAS, Owner desires that Coast assume responsibility for the maintenance of the Equipment and Coast is willing to assume such responsibility subject to the terms and conditions set forth in this Agreement;

THEREFORE, the Parties hereby agree as follows:

SCOPE

Coast shall perform all routine maintenance and emergency repairs at its sole cost and expense, including all labor, material, and other supplies necessary to perform such maintenance and repairs. In performing its obligations under this Agreement, Coast shall be permitted to use subcontractors. However, Coast shall continue to be responsible for the quality of the work performed by its subcontractors.

This Agreement is intended to be a full service contract where Coast will provide all parts and labor for the following services:

- Remote equipment monitoring
- Scheduled service
- Unscheduled service
- Major overhaul and component replacement

COVERAGE & COSTS

This Agreement covers the Equipment manufactured or supplied by Coast or its subcontractors at the installation site including, but not limited to, pumps, valves, exchangers, pipes, and electrical equipment; provided, however, that no maintenance shall be provided for other equipment located at the installation site or the facility housing the Equipment which was not manufactured or supplied by Coast (e.g., boilers, electrical equipment, etc.), whether or not such equipment may affect the operation of the Equipment. Any component of the Equipment that fails during the Term of this Agreement will be replaced and/or repaired at Coast's sole cost and expense.

This Agreement does not cover the cost of annual testing, if required, by any applicable regulatory body supervising emissions and air quality issues. Costs incurred due to new air quality rules and regulations, if any, and which require additional service trips and/or parts will be the responsibility of Owner, and will be billed separately by Coast on a time and materials basis.

TERM & CANCELLATION

The contract shall commence upon signing of this Agreement and extend for an initial term of 36 months (the "Term") from the commencement of the operation of the Equipment. This Agreement may be canceled by either party at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

PRICE & PAYMENT SCHEDULE

During the Term of this Agreement, charges for maintenance of the Equipment ("Maintenance Charges") will be calculated at a rate of \$3.00 per engine hour ("Hourly Rate") multiplied by the number of hours of operation ("Run Hours") as determined by the control system of the Equipment.

Coast shall provide Owner with a monthly statement identifying the Maintenance Charges for the preceding month. The Maintenance Charges shall be due upon receipt and shall be payable by check or wire transfer of immediately available funds within thirty (30) business days of the receipt of each monthly statement.

Notwithstanding the foregoing, in no event will the monthly amount billed be less than \$600 per month, regardless of the number of Run Hours. In no event shall total payment for services under this Agreement exceed \$174,000.00.

There will be an annual escalation of the above Maintenance Charges at a rate of 5% per annum, or the Consumer Price Index ("CPI") for the previous calendar year, whichever is lower. If Owner elects upon commencement of the Term to prepay the Maintenance Charges for the balance of the term, at an amount to be agreed upon with Coast, then there will be no such escalation during the Term.

SCHEDULED MAINTENANCE

On or before 1,000 Run Hours and each subsequent interval of 1,000 Run Hours, representatives or agents of Coast shall perform routine maintenance and inspection of the Equipment.

UNSCHEDULED MAINTENANCE

In the event of breakdown, malfunction or failure of the Equipment, or other equipment subject to the maintenance services to be provided pursuant to this Agreement, Coast shall use its reasonable efforts to repair such equipment in a timely fashion.

However, if such breakdown, malfunction or failure results from any of the Exclusions, below, Coast shall be paid for its work based on its prevailing rate per hour for service personnel plus travel expenses and material costs. Work performed after 5:00 p.m. will be billed at a 50% premium to the normal hourly charge and work performed on holidays and/or Sundays will be billed at a 100% premium to the normal hourly charge.

Owner will not authorize anyone other than Coast's representatives to work on the Equipment during the Term of this Agreement.

In the event of a partial or complete failure of the Equipment, Coast will endeavor to respond within twenty-four (24) hours following written or telephone notification from the Owner, and will affect such repairs as soon as reasonably possible to restore the operation of the Equipment.

ACCESS TO PREMISES

Subject to conditions reasonably expected at a secure facility, Owner hereby grants to Coast or its representatives a non-exclusive right of entry to the facility during business hours, or such other times as mutually agreed upon, for the purposes of performing its duties pursuant to this Agreement and to make other periodic inspections of the Equipment. In addition, Owner will make arrangements to provide access to the premises in the event of a need to make emergency repairs at other times.

TELEPHONE LINE(S)

Owner shall provide, at Owner's expense two (2) dedicated, voice quality telephone lines for connection of communications equipment via an internal modem in the Equipment. Owner acknowledges that the operation of the machines may be interrupted for periods of time where phone lines are unavailable.

EXCLUSIONS

This Agreement does not cover any maintenance or repairs that result in whole or in part from:

- a) willful damage, misconduct, vandalism or other unauthorized acts;
- b) fire, theft or other risks now or hereafter normally covered by an "all risks" policy of insurance, including extended coverage;
- c) war, riots, civil commotion, flood, storm, earthquake, or any similar event;
- d) any alteration, addition to, substitution, repair, service or replacement of any part of the Equipment or related electrical, plumbing, or fuel connection not authorized by Coast;
- e) any use of the Equipment in any manner other than its designated use;
- f) Owner's failure to perform any covenant contained in this Agreement.

PARTS REPLACEMENT

Owner agrees that upon replacement of any parts or material by Coast, the parts or materials removed shall become the property of Coast. Each engine contained in the Equipment will be overhauled or replaced by Coast as determined in its sole discretion. In the event Coast determines that it is necessary to replace an engine, Coast, in its sole discretion, may supply a similar new engine or a similar rebuilt engine.

FORCE MAJEURE

Coast shall not be liable for any damages, direct or consequential, arising out of any delay in performance of its obligations under this Agreement, including, but not limited to, the repair of, or failure to repair, any Equipment or other equipment covered by this Agreement, due to a cause beyond Coast's reasonable control, including, but not limited to, an act of God, explosion, accident, fire, flood, strike or other labor trouble, insurrection or riot, war, the public enemy, the acts or orders of a governmental authority, or freight embargo and the obligations of Coast under this Agreement in respect of the operation, maintenance and repair of the Equipment shall be suspended for the period of any such delay or failure.

LIMITATIONS OF LIABILITY

In no event, whether as a result of breach of contract, tort (including negligence), strict liability, or otherwise, shall Coast be liable for lost profits or revenues, claims of customers, loss of use of any equipment or software (except that included in this Agreement), loss of data or information, lack or loss of productivity, interest charges or cost of capital, cost of substitute equipment or software (except that included in this Agreement), systems or services, downtime costs.

INSURANCE

At all times during the Term of this Agreement, Coast shall maintain insurance coverage as follows:

a). **Commercial Liability.** Coast shall provide and maintain general commercial liability insurance, including coverage for products and operations, with a combined single limit of not less than \$2,000,000 per occurrence, and shall cause Owner to be named as an additional insured under such policy.

b). **Workers' Compensation.** Coast shall maintain, and shall cause its agents, subcontractors and contractors to maintain, workers' compensation insurance in such amounts and as otherwise required by law.

c). **Automobile Liability.** Coast shall maintain business automobile liability insurance covering all vehicles it utilizes, with a policy limit of not less than \$1,000,000 combined for bodily injury and property damage.

d). **Insurance Certificates.** When requested in writing by Owner, Coast shall furnish evidence of the insurance required by this section to Owner.

MISCELLANEOUS

Independent Contractor. Each party to this Agreement is an independent contractor with respect to the other party and is not an agent for the other party. This Agreement shall not be deemed to create any partnership or joint venture for the operation or use of the Equipment.

Entire Agreement. This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and can be amended, supplemented or changed only by written instrument making specific reference to this Agreement and signed by all parties hereto. Any provision hereof can be waived only by written instrument making specific reference to this Agreement signed by the party against whom enforcement of any such waiver is sought.

Effect of Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of the Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and assigns; provided, however, that no such assignment will be valid or of any force and effect whatsoever without the prior written consent of the other parties hereto, which consent shall not be unreasonably withheld.

Severability. If at any time subsequent to the date hereof, any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect, but the illegality or unenforceability of such provision shall have no effect upon and shall not impair the enforceability of any other provision of this Agreement.

Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Utility Costs. Coast shall not be held liable for any utility costs or other operating expenses incurred by the Owner as associated with scheduled or unscheduled shutdowns or failures of any of the Equipment covered by this Agreement.

Governing Law. This Agreement shall be governed by and construed under the laws of the State of California irrespective of such state's choice-of-law principles.

Compliance With All Laws. In performing the services described in this Agreement and the Exhibits thereto, Coast shall comply with all applicable federal and state laws and regulations. In the event of a

conflict between the terms of this Agreement and federal and state laws and regulations the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and (a) personally delivered (including delivery by messenger or other recognized courier); (b) sent by facsimile provided that "answer-back" confirmation is received by the sender, or, (c) sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows or to such other address as the Parties shall have given notice of pursuant hereto.

In the case of Coast:

Coast Intelligen, Inc.
245 E. 58th Street, Suite 6A
New York, NY 10022
Facsimile: 212-202-5415

In the case of the Owner:

County of San Mateo
555 County Center, 5th Floor
Redwood City, CA 94063
Attn: Mr. Gary Behrens
Facsimile: 650-361-8220

Any notice given (a) personally shall be deemed given upon receipt; (b) via facsimile shall be deemed given upon sender's confirmation of receipt from its facsimile machine; and, (c) via mail shall be deemed given five (5) days after sending.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, as of the date written below.

Coast Intelligen, Inc.

By: _____
Glen Rafflesberger
Chief Operating Officer

Date: _____

County of San Mateo

By: _____
Richard S. Gordon, President
Board of Supervisors, County of San Mateo

Date: _____

Attest:

By: _____
John L. Maltbie, County Manager/
Clerk of the Board of Supervisors

EXHIBIT A
Description of Equipment Covered

Location: Maguire Correctional Facility, 330 Bradford Street, Redwood City, CA 94063

Description of Equipment: Two (2) 150kW induction cogeneration units, with full exhaust heat recovery, catalytic converters, silencers, capacitor banks, battery start option, and load following capability.

Serial Number(s): 1500804210 and 1500804211

All associated pumps, valves, piping and controls, electrical controls and switchgear manufactured or supplied by Coast with the cogenerator. All piping, pumps, equipment, etc. not manufactured or supplied by Coast are not included in maintenance coverage.

Waiver Request Memo

Date: October 4, 2005
To: County Manager's Office
From: Mark Hahn, Project Manager, Dept. of Public Works, (x1487)
Subject: Waiver Request

The following waivers are requested:

Equal Benefits Ordinance
Non-Discrimination Enforcement Language
Hold Harmless Language

to enter into a contract with Coast Intelligen, Inc. for maintenance and extended warranty of packaged cogeneration units at Maguire Correctional Facility in the amount of \$174,000.

The waivers are necessary and in the best interest of the County for the following reason(s):

- Necessary in order to respond to an emergency
Sole Source
No compliant contractors are capable of providing the goods/service
Inconsistent with a grant, subvention or agreement with a public agency
Is part of a Cooperative or Joint Purchasing Agreement
Other

Included is a detailed explanation of the reason(s) checked above.

A cogeneration plant has been constructed at Maguire Correctional Facility with packaged units manufactured by Coast Intelligen. The project qualifies for a one-time incentive of \$300,000 from a California Public Utilities Commission program that is administered by PG&E. A three-year maintenance and extended warranty is one of the conditions required to claim the incentive payment. Coast Intelligen does not share the County's business vision and we have been unable to find other contractors that can provide this maintenance while warranting the equipment as required by the program. Failure to execute a maintenance agreement will result in forfeiture of the incentive payment and non-operation of the new cogeneration plant.

- Approved
Not Approved

Signing Authority

Date