CONTRACT

FOR PURCHASE OF ALUMINUM SULFATE SOLUTION

This Contract, dated effective April 21, 2013, is between Clean Water Services (District) and General Chemical Performance Products, LLC (Seller).

RECITALS

1. Seller has submitted a bid or proposal to District for the sale of certain goods.

2. District and Seller wish to enter into a Contract under which District shall purchase the goods.

TERMS AND CONDITIONS

1. Description

District shall purchase aluminum sulfate solution (the goods) from Seller in accordance with the terms and conditions contained herein, District's Specifications (Exhibit A), the Special Terms and Conditions (Exhibit B), the Durham Plant Chemical Off-Loading Procedure (Exhibit B(1)), the Rock Creek Plant Chemical Off-Loading Procedure (Exhibit B(2)) and the Chemical Custody Form (Exhibit B(3)). All of the exhibits are attached hereto and incorporated herein. Seller’s services shall meet the highest standards prevalent in the industry or business most closely involved in providing the goods District is purchasing in this Contract.

2. Price/Payment

District shall pay Seller as set forth in Exhibit B.

3. Delivery

Time is of the essence in the performance of this Contract. Seller shall deliver the goods as set forth in Exhibit B.

4. Excusable Delays

Neither District nor Seller shall be responsible for or liable for damages resulting from delays due to causes beyond their reasonable control, including, but not limited to, acts of God, acts or omissions of governmental authorities, strikes, lockouts, acts of the public enemy, wars, blockades or civil disturbances. In the event of such a delay, the completion date for Seller’s services shall be extended for a period equal to the length of the delay. Seller shall notify District in writing not more than ten days after the occurrence of any event that Seller believes will result in such a delay. The failure of Seller to provide such notice shall result in a waiver of Seller’s right to claim that the delay is excusable.
5. **Testing**

Seller shall test the goods as set forth in Exhibit B.

6. **Repair of Damage**

Seller shall promptly repair all damage to District’s premises caused by Seller. Seller shall repair the premises to its original condition and in a manner that does not result in the cancellation or impairment of warranties issued by third parties concerning any portion of the premises.

7. **Risk of Loss**

Seller shall bear the risk of loss to the goods until Seller has completed delivery.

8. **Patent Infringement Warranty**

Seller warrants that none of the goods, the use thereof or any of the applications, processes or designs employed in the manufacture thereof infringes the valid claims of any letter patent, patent application, copyright, trade secret or any other property right of any third party. If as a result of any suit or proceeding alleging an infringement of any of the foregoing property rights District’s use of the equipment is enjoined, Seller shall at no cost to District either obtain for District a license to use the goods or modify the goods so as to avoid the infringement without any degradation in performance. If Seller cannot obtain such a license and cannot so modify the goods, Seller shall promptly refund to District the purchase price, less a reasonable amount for depreciation.

9. **Duration of Contract**

This Contract shall commence on the date written on page one and shall expire June 30, 2015.

10. **Indemnity/Hold Harmless**

To the fullest extent permitted by law, Seller shall indemnify, hold harmless, reimburse and defend District, District’s officers, employees, agents and representatives from and against all claims, demands, penalties, and causes of action of any kind or character, including the cost of defense thereof, including attorney fees at trial and on appeal, arising out of, or resulting from Seller’s performance of this Contract, but only to the extent caused by the breach of this Contract or the negligent acts or omissions of Seller, any lower-tier seller, or any individual or entity directly or indirectly employed by any of them to perform under this Contract, or anyone for whose acts any of them may be liable.
11. **Patent Indemnity**

Seller shall defend, indemnify and hold harmless District, District’s officers, employees, agents and representatives, from and against all legal expenses which may be incurred as well as all damages, losses and costs which may be assessed against or borne by District by reason of any or all actions or proceedings charging infringement of the property rights of others, including patent, trade secret or trademark rights or copyright, by reason of District’s use of the goods sold under this Contract.

12. **Bid Research/Inspection**

Seller represents that Seller has visited District’s work site or has knowledge of the circumstances and conditions of the use of the product sold under this Contract, and further represents that Seller has correlated the observations or knowledge with the requirements of the contract documents. Failure to make such observations or to possess such knowledge shall not release Seller from any obligations herein.

13. **Insurance**

Neither Seller nor any subcontractor, including Seller’s product transport carrier, shall commence work under this Contract until both Seller and all subcontractors have obtained all the insurance required in this section and submitted a certificate of insurance to District. Seller and all subcontractors shall maintain the insurance for the duration of this Contract. Review of the insurance by District shall not relieve or decrease the liability of Seller or Seller’s subcontractors. Seller and Seller’s subcontractors shall provide for thirty (30) days advance written notice to District's Risk Manager prior to cancellation. The following insurance is required:

i. Workers compensation in the amount required by Oregon law, and employers’ liability insurance in the amount of $500,000.

ii. Commercial general liability insurance in the amount of $1,000,000 per occurrence and $1,000,000 annual aggregate. District shall be named an additional insured. This insurance shall include coverage for environmental liability in a form that is acceptable to District.

iii. Vehicle liability insurance in the amount of $1,000,000 per occurrence and $1,000,000 annual aggregate.

14. **Pollution Insurance**

If Seller will be delivering hazardous material to District, Seller shall provide District a certificate indicating that Seller has pollution insurance in the amount required by Oregon and Federal law for the transportation of hazardous materials. The insurance shall name
15. **Termination**

A. District may terminate this Contract without cause at any time prior to the completion of delivery. In the event of such termination, District’s liability to Seller shall be limited to the reasonable value of work performed by Seller and the reimbursement of reasonable expenses incurred by Seller prior to the time Seller received District’s notice of termination. In no event shall District’s liability exceed the purchase price of the goods. In the event of such termination, District shall be entitled to all materials, work in progress and completed work included in computing the value of work performed and reasonable expenses.

B. District may terminate this Contract at any time prior to District’s acceptance if Seller has breached this Contract and has not cured the breach within five (5) days after receiving District’s written notice of breach.

16. **Compliance with Applicable Laws**

Contractor shall keep itself fully informed of and comply with all federal, state and local laws, regulations and ordinances application to this Contract, as those laws, regulations and ordinances may be adopted or amended from time to time. These laws, regulations and ordinances including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235, and 279B.270, are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be incorporated.

Contractor shall pay all taxes, including federal, state, regional, county, and city taxes, and taxes of any other governmental entity, applicable to the services performed or materials provided under this Contract. All permits, licenses, and fees necessary to prosecute and complete the work shall be secured and paid for by Contractor unless otherwise specified by District.

17. **No Contingent Fees**

Seller warrants that Seller has not employed or retained any company or person, other than a bona fide employee working solely for Seller, to solicit or secure this Contract, and that Seller has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Seller any fee or consideration of any kind, contingent upon or resulting from the award or making of this Contract. In the event Seller breaches the warranty contained in this paragraph, District shall have the right to deduct from the Contract price or otherwise recover the full amount of such fee or consideration.

18. **Change Orders, Amendments, Waivers**

This Contract, all change orders, modifications, amendments and any waiver of any portion of the Contract shall not be effective unless in writing and approved by District’s
General Manager or the General Manager’s designee and, when required by applicable District rules, District’s Board of Directors.

19. **Third Party Beneficiaries**

No provision of this Contract shall in any way inure to the benefit of any third person so as to constitute any such person a third party beneficiary of this Contract or of any one or more of the terms of this Contract, or otherwise give rise to any cause of action in any person not a party to this Contract.

20. **Attorney Fees**

If any dispute arises concerning the interpretation or enforcement of this Contract or any issues related to the U.S. Bankruptcy Code (whether or not such issues relate to the terms of this Contract), the prevailing party in any such dispute shall be entitled to recover all of its attorney fees, paralegal fees, costs, disbursements and other expenses from the non-prevailing party, including without limitation those arising before and at any trial, arbitration, bankruptcy, or other proceeding and in any appeal.

21. **Interpretation of Contract**

A. This Contract shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision.

B. In case of a conflict between the provisions contained in Exhibit B and this document, the provisions contained in Exhibit B shall have precedence.

C. The paragraph headings contained in this Contract are for ease of reference only and shall not be used in constructing or interpreting this Contract.

22. **Binding Effect**

Seller shall not assign Seller’s rights in this Contract without first obtaining District’s consent. District’s consent to assignment shall not be unreasonably withheld.

23. **Severability/Survival**

If any of the provisions contained in this Contract are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this Contract for any cause.

24. **Relationship of Parties**

No provision of this Contract shall be construed to create a partnership or joint venture relationship, an employer-employee relationship, a landlord-tenant relationship, or a principal-agent relationship.
25. **Choice of Law/Venue**

This Contract and all rights, obligations and disputes arising out of the Contract shall be governed by Oregon law, including the Uniform Commercial Code as adopted by the State of Oregon. All disputes and litigation arising out of this Contract shall be decided by the state courts in Oregon. Venue for all disputes and litigation shall be in Washington County, Oregon.

26. **Integration**

This Contract constitutes the entire Contract between the parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject. No course of dealing between the parties and no usage of trade shall be relevant to supplement any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract and no waiver by a party of any right under this Contract shall prejudice the waiving party’s exercise of the right in the future.

The foregoing notwithstanding, any provision in any document prepared by Seller, including but not limited to, Seller's invoice or bill of sale, which contradicts or purports to render any provision in any document prepared by District, including but not limited to, this document, void and of no further effect, shall be void and of no further effect.

GENERAL CHEMICAL PERFORMANCE PRODUCTS, LLC

By: _________________________
Title: _________________________

CLEAN WATER SERVICES

By: _________________________
Title: _________________________

General Manager or Designee

APPROVED AS TO FORM

________________________________
District Counsel
# Exhibit A

## SPECIFICATIONS

### Aluminum Sulfate Solution ("Alum")

<table>
<thead>
<tr>
<th>Specification</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Trade Name:</strong></td>
<td>Alum</td>
</tr>
<tr>
<td><strong>Chemical Formula:</strong></td>
<td>$\text{Al}_2(\text{SO}_4)_3\cdot14\text{H}_2\text{O}$</td>
</tr>
<tr>
<td><strong>American Water Works Association Standard:</strong></td>
<td>B403-93</td>
</tr>
<tr>
<td><strong>Specific Gravity:</strong></td>
<td>1.32 – 1.38</td>
</tr>
<tr>
<td><strong>Minimum Free Acid Content:</strong></td>
<td>0.1%</td>
</tr>
<tr>
<td><strong>Maximum Free Acid Content:</strong></td>
<td>1.5%</td>
</tr>
<tr>
<td><strong>% Dry Aluminum Sulfate in Water:</strong></td>
<td>Minimum 48% by weight</td>
</tr>
</tbody>
</table>
1. District shall purchase District's requirement of aluminum sulfate solution from Seller for use at District's Durham and Rock Creek wastewater treatment facilities.

2. District shall order all shipments of aluminum sulfate solution from Seller by telephone. Seller shall comply with District's instructions concerning quantity, delivery date and delivery location. Seller shall not, however, be required to deliver more than three (3) 4,500 gallon truck loads within 24 hours of District's order. District's delivery locations shall be the Rock Creek Wastewater Treatment Plant, located at 3235 SW River Road, Hillsboro, Oregon and the Durham Wastewater Treatment Plant, located at 16060 SW 85th, Tigard, Oregon. Seller shall make all deliveries between 8:00 a.m. and 3:00 p.m.

3. During off-loading work, Seller shall park Seller's delivery vehicle in the location provided for that purpose by District. Seller shall not park Seller's vehicle in other locations. Seller shall follow District's written procedures for off-loading chemicals in Exhibit B(1) for the Durham Plant and Exhibit B(2) for the Rock Creek Plant. Seller shall execute District's Chemical Custody form upon completing each delivery.

4. Seller's off-loading equipment shall be compatible with District's chemical storage equipment. Seller shall not connect Seller’s off-loading hose or other off-loading device to District’s aluminum sulfate solution storage tank without the presence of an authorized District representative at the point of connection. Seller shall not begin off-loading aluminum sulfate solution until Seller and District’s representative have jointly confirmed that the aluminum sulfate solution will be off-loaded into District’s aluminum sulfate solution storage tank and not a storage tank used for a different chemical. Seller shall be responsible for all damages arising out of the improper off-loading of aluminum sulfate solution, including spillage and any delivery to the wrong storage tank.

5. Seller shall plug, cap, blind-flange or contain all discharge connections and hose ends to prevent any spillage of aluminum sulfate solution. Seller shall be responsible for the cleanup and removal from District's premises of all spillage, contaminated matter and contaminated cleanup material. District shall notify Seller of all spillage, contaminated matter and contaminated cleanup material not cleaned up and removed by Seller's truck driver. If Seller does not clean up and remove all spillage, contaminated matter and contaminated cleanup material from District's premises within four (4) hours of District's notification, District shall clean up and remove the spillage, contaminated matter and contaminated cleanup material and Seller shall reimburse District for the entire cost of cleanup. District may deduct the cleanup costs from amounts owed to Seller under this Contract.

6. Seller shall mail, fax or e-mail an Affidavit of Compliance with the specification information listed below for each delivery. The Affidavit shall be delivered to District within seven (7) days of District’s receipt of the delivery to which it refers. Seller shall
inform District prior to commencing deliveries of the identity of Seller’s personnel who will be authorized to sign the Affidavit. The Affidavit shall contain the following:

**Aluminum Sulfate solution**
A. Name of manufacturer  
B. Date of manufacture  
C. Batch ID number  
D. Aluminum oxide (Al2O3) concentration (percent) or dry Alum (AL2(SO4)3-14H2O) concentration (percent) of batch  
E. Specific gravity of batch

7. Each quarter Seller shall test at least one sample of the aluminum sulfate solution delivered to District. On or before the last day of each quarter, Seller shall provide a quarterly batch analysis laboratory report to District that identifies the amounts of the items listed below contained in the sample of aluminum sulfate solution. The report shall be delivered with an invoice. Seller shall inform District prior to commencing deliveries of the identity of Seller’s personnel who will be authorized to sign the report. The report shall contain the following:
   A. Available aluminum (percent by weight)  
   B. Free acid content (as H2SO4)  
   C. Date of Shipment

8. Seller shall weigh each load pre-delivery and post delivery at state certified on-site scales where provided, otherwise at scales certified by the state in which the scales are located. Seller shall deliver a weigh slip with each load.

9. In the event the off-loading of aluminum sulfate solution is not completed within three (3) hours of Seller's arrival at the delivery point and District is the sole cause of the delay, District shall pay Seller $75 for each hour in excess of three (3) hours that it takes for Seller to complete the off-loading work. In computing the delay period, all fractions of hours shall be rounded to the nearest hour. In order for Seller to be eligible for payment under this paragraph, Seller's driver shall notify District's authorized representative on the day the delay occurred and prior to leaving the delivery site that Seller intends to seek compensation for delay. In addition, Seller shall mail a written request for compensation within ten (10) days of the occurrence of the delay. The request for compensation shall indicate the time of arrival at the delivery point, the time off-loading was completed and the cause of the delay.

10. Seller shall provide District with a telephone number where District can either communicate with Seller or leave messages at all times. Seller shall return all calls no later than two (2) hours after District leaves a message.

11. Seller warrants that Seller's product will meet District's specifications, attached to this Contract as Exhibit A. District shall have the right to test Seller's product at any time. Seller shall provide a sample from a delivered quantity of aluminum sulfate solution at
District's request. In the event Seller's Affidavit of Compliance or laboratory report or District's tests indicate that Seller's product does not meet District's specifications, District shall have the right to require Seller to pay for the testing of the aluminum sulfate solution and Seller shall not charge District for the load tested. The foregoing shall not be construed to limit District's legal rights in the event of Seller's breach of warranty.

12. Seller shall ensure that Seller's subcontractors, including delivery contractors and delivery truck drivers, have read and understand these specifications.

13. District shall pay Seller a fixed price of $339 per dry ton of aluminum sulfate solution for the period April 21, 2013 through June 30, 2013. On or about June 15, 2013, and every six months thereafter for the term of this Agreement and any extension periods, the parties will establish a new six month price for the aluminum sulfate provided under this Contract based on the percent change in United States Bureau of Labor Statistics Producer Price Indices for Sulfuric Acid, ID No. WPU0613020T, and Aluminum Compounds, ID No. WPU06130209. The new price shall go into effect July 1, 2013, and every six months thereafter. For purposes of these price adjustment calculations only 75% of the price will be adjusted. Of that 75%, 60% will be assigned to sulfuric acid and 40% will be assigned to aluminum compounds for index adjustment purposes. District’s total payment under the Contract shall not exceed $200,000 from the start of the Contract through June 30, 2013 and $1,001,750 annually thereafter unless the parties enter into an amendment.

A price adjustment percentage will be created using the previous six month average of the two Indices and the beginning Indices values for the first month of the previous six month period at the assigned percentages listed above as shown here.

\[
\text{((\text{six month index average} - \text{beginning index value})/\text{beginning index value})}*100
\]

This adjustment will be applied to 75% of the price. This calculation plus 25% of the price will create the new price for the next six month period.

The adjustment formulation is as follows:

\[
((\text{price} * .75) * \text{price adjustment percentage}) + (\text{price*.25}) = \text{new price for the next six month period}
\]

Example Calculation with Initial Bid Price of $100.00 per dry ton

Index Calculations

Beginning Sulfuric Acid Index value: 179
Ending Six Month Average Sulfuric Acid Index Value: 187
So, \((187-179)/179)*100 = 4.47\% \text{ Price Adjustment Percentage}

Beginning Aluminum Compounds Index Value: 143
Ending Six Month Average Aluminum Compounds Index Value: 149
So, \((149-143)/143)*100 = 4.2\% \text{ Price Adjustment Percentage}
Adjustment Calculations

$100.00 * .75 = $75.00, amount to be adjusted, $25.00 not to be adjusted

Sulfuric Acid Portion

.60 * $75.00 = $45.00, so, $45.00 * 1.047 = $47.12

Aluminum Compounds Portion

.40 * $75.00 = $30.00, so, $30.00 * 1.042 = $31.26

Hence, $47.12 + $31.26 = $78.38, Adjusted Portion

So, $78.38 + $25.00 = $103.38/dry ton, New Adjusted Six Month Price

All price adjustment calculations that fail to support a need to adjust price by at least 1.00% will not be implemented. When this happens, the subsequent price change will be calculated by comparing the current indices values to the indices values last used to calculate an allowable price change. This will allow for the accumulation of multiples less than 1.00% price changes.

14. Seller shall invoice District no more frequently than weekly. Seller's invoices shall contain the delivery date, gallons delivered and net weight of each load delivered during the billing period and the amount due. District shall pay each invoice within thirty (30) days of receipt.

15. Seller shall address all invoices as follows: Clean Water Services, 2550 SW Hillsboro Hwy, Hillsboro, Oregon 97123, Attention: Accounts Payable. District shall place a date stamp on each invoice on the date the invoice is received and shall mail a copy of the invoice to Seller with payment. In the event of a dispute concerning the timing of payment, the date stamp on Seller's invoice and the postmark on the envelope containing District's payment shall be determinative. In the event of a dispute concerning the quantity of aluminum sulfate solution delivered, District's payment of the invoice for the quantity in question shall not be construed as a waiver of District's legal rights.

16. If at any time during the Contract period another vendor submits a written offer in good faith to sell District aluminum sulfate solution at a unit price that is at least 10% below the unit price contained in this Contract, and the offer is made on terms that are otherwise identical to the terms contained in this Contract, District may inform Seller of the offer. Within ten (10) days of receiving notice of the offer, Seller shall either inform District that Seller is willing to match the offer or inform District that Seller is not willing to match the offer. If Seller notifies District that Seller is willing to match the offer, District and Seller shall sign an amendment to this Contract that changes the unit price to the unit price offered by the competing vendor and lengthens the duration of this Contract by an amount that is equal to the time elapsed since the date written on page one of the
Contract. If Seller notifies District that Seller is not willing to match the offer, District may terminate this Contract and solicit new bids. Except under the conditions stated in this paragraph, District shall not terminate this Contract because District has received an offer to sell aluminum sulfate solution at a reduced price. The foregoing is an exception to District’s right to terminate this Contract for convenience pursuant to paragraph 15 of the Contract.

17. Seller shall send a current Material Safety Data Sheet (MSDS) for the aluminum sulfate solution to the following address prior to commencing deliveries: Clean Water Services, Risk Management, 2550 SW Hillsboro Hwy, Hillsboro, Oregon 97123. Seller shall send a new MSDS to District each time the MSDS is updated.
Attention all chemical delivery truck drivers:

YOU MUST FOLLOW THIS PROCEDURE WHEN DELIVERING CHEMICALS

- When you arrive at the front gate, use the phone located near the gate to contact a plant employee. During normal delivery hours, call (503) 547-8150 and request assistance to off-load your chemical. For after hours delivery dial (503) 329-1647. If there is no answer dial (503) 681-3600.

- Show your bill of lading to the plant employee who assists you.

- The plant employee will provide you with a chemical custody form. Fill in the form, but do not sign it yet.

- Follow the chemical tank hook-up procedure contained in the form. You and the plant employee will perform certain steps together.

- Use PLANT AIR ONLY in off-loading your chemical. Do not use air from your truck. It might damage the chemical storage tank.

- When you are finished off-loading, disconnect all hoses and clean up any spilled chemical or other material. The plant employee will cap the off-load piping.

- Sign the chemical custody form and give it to the plant employee. The plant employee will give you a copy.
ROCK CREEK WASTEWATER TREATMENT PLANT

CHEMICAL OFF-LOADING PROCEDURE

Attention all chemical delivery truck drivers:

YOU MUST FOLLOW THIS PROCEDURE WHEN DELIVERING CHEMICALS

- Park the truck in front of the Chemical Building’s Chemical Shipping and Receiving Office.

- Use the telephone located inside the truck bay to contact a plant operator and request assistance to off-load. During weekday hours of 06:00 to 14:30, dial cell number (503) 961-2389. All other hours and holidays, dial cell number (503) 880-1846. If there is no response, dial the 24-hour service line (503) 547-8000.

- Show the chemical bill of lading to the plant employee to inspect the chemical and select one of three appropriate chemical receiving areas which include the chemical building truck bay, west side lime station, and dewatering building.

- The plant employee will provide you with a chemical custody form. Fill in the form, but do not sign it yet.

- Follow the chemical tank hook-up procedure contained in the form. You and the plant employee will perform certain steps together.

- Use PLANT AIR ONLY in off-loading your chemical. Do not use air from your truck. It might damage the chemical storage tank.

- When you are finished off-loading, disconnect all hoses, clean up any spilled chemical or other material, and cap the off-load piping.

- Sign the chemical custody form and give it to the plant employee. The plant employee will give you a copy.
CHEMICAL CUSTODY FORM # ______________________

FACILITY_____________________________________________________________

DATE OF ORDER  ________________ DATE RECEIVED ________________

HYPOCHLORITE _______  BISULFITE _______  POLYMER _______
DEWATERING

ALUM                    _______  FERROUS  _______  POLYMER _______
TERTIARY

CAUSTIC              _______  OTHER       _______  LIME _______
CHEMICAL VENDOR________________________________________________________
CARRIER _____________________________________________________________
DRIVER______________________________________________________________
TRUCK NUMBER_______________________________________________________
TRAILER NUMBER______________________________________________________________
BILL OF LADING NUMBER _____________________________________________

OFF LOADING AGREEMENT
CARRIER’S DRIVER AND CLEAN WATER SERVICES’ OPERATOR AGREE THAT THE ABOVE
SPECIFIED CHEMICAL HAS BEEN CONNECTED TO THE CORRECT DISCHARGE PIPING AND
CONNECTION WAS MADE IN THE PRESENCE OF BOTH THE CARRIER DRIVER AND THE
DISTRICT OPERATOR.

☐  Plant Air Only           ☐  Truck Air

CARRIER DRIVER SIGNATURE _____________________________________________

DISTRICT OPERATOR SIGNATURE ___________________________________________

COMMENTS BY DRIVER ___________________________________________________

COMMENTS BY OPERATOR _________________________________________________

Pink copy to driver – white and yellow copies to CWS