

**PACIFIC GAS AND ELECTRIC COMPANY - KEMA
NONDISCLOSURE AND USE OF INFORMATION AGREEMENT
FOR EVALUATION, MEASUREMENT AND VERIFICATION ACTIVITIES AT REQUEST OF
CALIFORNIA PUBLIC UTILITIES COMMISSION**

This Nondisclosure and Use of Information Agreement (this "Agreement" or "NDA") is entered into by and between Pacific Gas and Electric Company ("Utility") and KEMA, Inc. ("Recipient"). Pursuant thereto, Utility may disclose to Recipient, and Recipient may learn of, Confidential Information (as defined below). As a condition to such disclosure by Utility to each of the Recipient's directors, officers, employees, agents, consultants, contractors, subcontractors, or advisors who have a direct need to access such Confidential Information in the course of pursuing evaluation, measurement and verification activities ("EM&V") at the request of the California Public Utilities Commission (collectively "Representatives"), the Recipient hereby agrees as follows:

1. **DEFINITION.** "Confidential Information" means, for purposes of this Agreement, any and all information, materials, software, equipment, technology, Customer Specific Information and Customer usage Data (defined below), plans, processes and data, which is confidential and proprietary or a trade secret of Utility, its present and future direct or indirect subsidiaries, affiliates or parent, whether or not prepared in connection with EM&V objectives, including without limitation, customer specific information any business plans, documentation, source code, object code, diagrams, flow charts, research, development, processes, marketing techniques and materials, development or marketing timetables, strategies, development plans, customer, supplier or employee names or information, pricing policies and financial and valuation information, and other information of a similar nature that relates to the EM&V and any trade secrets, information observed when at a facility of a Party including that which is owned by third parties and in the possession of Utility when disclosed under this NDA, that is disclosed either (a) in writing or other tangible form and conspicuously marked as "Confidential" or "Proprietary", or (b) orally or visually, however Confidential Information disclosed orally or visually shall be identified as Confidential Information and shall be followed within ten (10) days by delivery to the Receiving Party by the Utility of a brief written summary of the Confidential Information so disclosed. Confidential Information shall also include Customer Specific Information and Customer Usage Data. "Customer Specific" Information means customer specific billing, credit, or usage information as set forth in Section 394(a) of the California Public Utilities Code but not generic information regarding the usage, load shape, or other general characteristics of a group or rate classification, unless the release of that information would reveal Customer Specific Information because of the size of the group, rate classification, or nature of the information. "Customer Usage Data" means electrical or gas consumption data about a customer's electrical or natural gas usage that is made available as part of an advanced metering infrastructure, and includes the name, account number, or residence of the customer as set forth in Sections 8380(a) and 8381(a) of the California Public Utilities Code.

Confidential Information shall not include information: (1) known to Recipient or its Representative(s) prior to obtaining the same from Utility; (2) in the public domain at the time of disclosure by Recipient; (3) obtained by Recipient or its Representative(s) from a third party who did not receive same, directly or indirectly, from Utility; or (4) approved for release by written authorization of an authorized officer of Utility. In no event will Customer Specific Information be subject to the exclusions contained in (1) through (4) of this paragraph. Customer Specific Information will be treated as confidential unless the customer provides consent in writing, and in that event, will be subject to disclosure only to the extent of the customer's written authorization. Confidential Information will be marked by Utility at the time of such disclosure as "proprietary," "confidential," or "trade secret." Without limiting the foregoing, for purposes of this NDA, Confidential Information will remain the property of Utility and neither Recipient nor its Representative(s) will be deemed by virtue of this NDA to have acquired any right, title or interest in or to Utility's Confidential Information.

2. LIMITED USE; NONDISCLOSURE. Recipient hereby agrees that it shall use and shall require Representatives to use the Confidential Information solely for the purposes of EM&V. Only Recipient and its Representatives shall have access to Confidential Information. Recipient shall not: (i) use the Confidential Information for its or its Representatives' own benefit other than for the limited purposes set forth herein, or (ii) disclose the Confidential Information to any person or third party, including any employee, agent, consultant, contractor or affiliate that produces or provides energy. Except as otherwise provided herein, Recipient will keep confidential and not disclose, the Confidential Information to any third party. No Representative shall inspect, participate in discussions regarding, or otherwise be granted access to, Confidential Information unless and until Representative has first completed and executed, at Utility's sole discretion, a similar NDA, agreement containing similar nondisclosure terms, or Non-Disclosure Certificate, attached hereto as Appendix A, and at the option of the Utility, delivered a copy of the original, signed NDA, other agreement containing similar nondisclosure terms, or Non-Disclosure Certificate to Utility. This requirement will not apply to the employees of Recipient or any Representative of Recipient having executed an NDA with Recipient. Recipient agrees to implement and maintain reasonable security procedures and practices appropriate to the nature of the Confidential Information to the extent required by Section 3, to protect the Confidential Information from unauthorized access, destruction, use, modification, or disclosure, and to prohibit the use of the Confidential Information for a secondary commercial purpose without the customer's consent.

3. SECURITY. "Security" means the industry standards and techniques, both physical and logical, to ensure that the Confidential Information will not be compromised and shall be kept secure. Security shall include without limitation: a formal information security policy; a disaster recovery policy; password protected workstations at Recipient's premises and the premises of Representatives who access such Confidential Information; and encryption of Confidential Information as specified in subsection 3.d, below. Recipient represents and warrants that it shall comply with the terms of this Agreement and the security policies described in this Agreement, subject to the following:

(a) Prior to Utility's first transfer of Confidential Information to Recipient, Recipient will comply with industry standard security requirements, including without limitation: a formal information security policy; a disaster recovery policy; password protected workstations at Recipient; and provide Utility with documentation of such compliance satisfactory to Utility.

(b) Utility and Recipient agree to meet periodically, if requested by Utility to evaluate Recipient's security measures and to discuss, in good faith, means by which Utility and Recipient can enhance such protection, if necessary.

(c) Within sixty (60) days from the execution date of this Agreement ("Effective Date"), Recipient shall have implemented security procedures in accordance with the terms and conditions of this Agreement.

In the event Utility determines Recipient has not complied with Security measures of this Section 3, Utility shall provide written notice to Recipient describing the deficiencies. Recipient shall then have sixty (60) calendar days to cure. If Recipient has not cured the deficiencies within sixty (60) calendar days or notifies Utility within the same time period that it cannot conform to the requirements of this Section 3, Utility or Recipient may terminate this Agreement without penalty or liability to Recipient.

(d) Recipient shall implement prior to the delivery of Confidential Information and maintain during the term of this Agreement security procedures, practices and controls commensurate to assure that Confidential Information is only accessed by Recipient and its Representatives, and Utility and its affiliates, and its authorized users, and to safeguard against

its unauthorized access, destruction, use, alteration or disclosure of any such data and information. Security controls and safeguards shall include, without limitation, restriction of physical access to such data and information, implementation of logical access controls, sanitization or destruction of media, including hard drives, and establishment of an information security program that at all times is in compliance with the industry requirements of ISO 27001 or alternative security requirements agreed upon between the Recipient and the Utility. Any mitigating controls implemented by Recipient that do not conform to the ISO 27001 standard and are accepted by Utility shall be deemed compliant for the purposes of this Agreement. In addition, Recipient shall update its security procedures, practices, policies and controls so as to keep current with industry standards, including but not limited to NIST and NERC/CIP, as applicable. Any data center used by or on behalf of Recipient to collect, receive and/or store Confidential Information shall be data centers that satisfy the standards for a Tier 2 data center facility as specified in the TIA-942 standard published by the Telecommunications Industry Association, unless Utility determines that a higher standard for the data center is necessary. Recipient shall immediately report any unauthorized access or disclosure of Confidential Information to Utility and shall take all reasonable measures within its control to immediately stop the access or disclosure, prevent recurrences and return to Utility any copies and remove Confidential Information. Upon fifteen (15) days advance written notice, and with nondisclosure agreement(s) satisfactory to Recipient executed by Utility and/or its employees and representatives, Utility reserves the right to perform onsite security assessments to verify the implementation and ongoing operation and maintenance of security controls. If Recipient utilizes a third party collocation facility other than that of a Recipient affiliated company that complies with the requirements of this section, then at least annually, Recipient shall assist Utility in obtaining a copy of the then-current SAS 70 Type II Report from the owner of such third party collocation facility where the Confidential Information is saved and/or stored (at no cost to Utility) as well as a copy of any other report that documents Recipient's Security requirements set forth herein.

4. COURT OR ADMINISTRATIVE ORDER. Notwithstanding the provisions of Section 2, above, Recipient may disclose any of the Confidential Information in the event it is required to do so by the disclosure requirements of any law, rule, or regulation or any order, decree, subpoena or ruling or other similar process of any court, governmental agency or governmental or regulatory authority. Prior to making such disclosure, Recipient shall provide Utility with prompt written notice of any such requirement so that Utility may seek a protective order or other appropriate remedy.

5. PUBLICITY. Without the prior consent of Utility, Recipient and Representatives shall not disclose to any person or entity: (i) the fact that the Confidential Information has been made available to Recipient; or (ii) any information regarding any ongoing discussions between the parties.

6. DOCUMENT RETENTION. Upon the request of Utility, Recipient shall promptly deliver (and return, if applicable) to Utility or destroy (with such destruction to be certified to Utility): (i) all Confidential Information existing in written form or recorded in any other tangible medium (and all copies, abstracts and backups thereof, however stored) furnished to Recipient; (ii) all portions of all documents, instruments, data, reports, plans, specifications, abstracts and media (and all copies, abstracts and backups thereof, however stored) furnished to or prepared by Recipient that contain Confidential Information; and (iii) all other portions of all documents, instruments, data, reports, plans, specifications, abstracts and media (and all copies, abstracts and backups thereof, however stored) in Recipients' possession that contain Confidential Information.

7. SURVIVAL. Notwithstanding the return or destruction of all or any part of the Confidential Information, the terms of this NDA shall nevertheless remain in full force and effect with respect to Confidential Information in perpetuity.

8. **ASSIGNMENT.** This Agreement shall be binding on and inure to the benefit of the successors and assigns of the Recipient. This Agreement shall not be assigned, however, without the prior written consent of the non-assigning party, which consent may be withheld due to the confidential nature of the information, data, and materials covered.

9. **REMEDIES.** The parties acknowledge that the Confidential Information is valuable and unique, and that damages would be an inadequate remedy for breach of this NDA. Accordingly, the parties agree that in the event of a violation of this NDA by Recipient, a restraining order and/or injunction may be issued against the Recipient, without the necessity of proving damages or posting any bond, in addition to any other remedy or damages Utility may have at law. Utility shall not be responsible for the accuracy of the Confidential Information. Neither party shall have any liability to the other for any special, indirect, incidental or consequential loss or damage whatsoever, including, without limitation, lost funding, even if such party has been advised in advance that such damages could occur.

10. **NONWAIVER.** It is understood and agreed that no failure or delay by Utility or Recipient in exercising any right, power or privilege available hereunder or under applicable law shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof of any other such right, power or privilege.

11. **ENTIRE AGREEMENT; AMENDMENT.** This NDA contains the entire agreement between the parties with respect to the subject matter hereof, and may be amended only in writing signed by both parties. This NDA supersedes any previous confidentiality or nondisclosure agreement or contractual provisions between the parties to the extent they relate to the subject matter hereof.

12. **GOVERNING LAW.** The formation, interpretation and performance of this NDA shall be governed by the internal laws of the State of California.

13. **THIRD PARTY BENEFICIARIES.** The parties agree that there are no third party beneficiaries of this Agreement.

14. **ATTORNEYS' FEES.** If any action at law or in equity is brought to enforce the provisions of this NDA, the prevailing party shall be entitled to recover from the unsuccessful party all costs, expenses (including expert testimony) and reasonable attorneys' fees, incurred therein by the prevailing party.

15. **VENUE AND JURISDICTION.** In the event of any litigation to enforce or interpret any terms of this NDA, the parties agree that such action will be brought in the Superior Court of the County of [Specify court], California (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court in or closest to [Specify location]), and the parties hereby submit to the exclusive jurisdiction of such courts.

16. **NOTICES.** All notices to be given under this NDA shall be in writing and either sent by a nationally recognized overnight courier service, in which case notice shall be deemed delivered as of the date shown on the courier's delivery receipt; or sent by telecopy during business hours of the recipient, with a copy of the notice also deposited in the United States mail (postage prepaid) the same business day, in which case notice shall be deemed delivered on transmittal by telecopier provided that a transmission report is generated reflecting the accurate transmission of the notices, or sent by United States mail, postage prepaid, in which case notice shall be deemed delivered as of two business days after deposit in the mail, addressed as follows:

Pacific Gas and Electric Company
ATTN: Christopher J. Warner, Law Department
P.O. Box 7442
San Francisco, CA 94120

KEMA, Inc.
ATTN: Taylore Jarvis, Legal Department
67 South Bedford Street, Suite 201E
Burlington, MA 01803

These addresses may be changed by written notice to recipient provided that no notice of a change of address shall be effective until actual receipt of the notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

17. **SAVINGS CLAUSE; EFFECT OF UNIFORM TRADE SECRETS ACT.** If any provision of this NDA or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of the NDA and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect. In the event of any conflict between any provision hereof and any provision of the Uniform Trade Secrets Act of California, the provision affording the greater degree of protection to the disclosing party shall control.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Nondisclosure and Use of Information Agreement as of the date last written below.

KEMA, INC.

By: Kathleen Gaffney

Name: Kathleen Gaffney

Title: Executive Consultant

Date: 01/06/2012

PACIFIC GAS AND ELECTRIC COMPANY

By: Christopher J. Warner

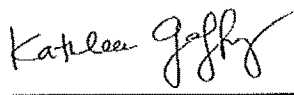
Name: CHRISTOPHER J. WARNER

Title: Chief Counsel

Date: 1/8/2012

Appendix A
NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Confidential Information is provided to me pursuant to the terms and restrictions of the Nondisclosure and Use of Information Agreement ("NDA") between Pacific Gas and Electric Company and the KEMA, that I have been given a copy of and have read the NDA, and that I agree to be bound by it and all of its terms. I understand that the contents of the Confidential Information, any notes or other memoranda, or any other form of information that copies or discloses the NDA shall not be disclosed to anyone other than in accordance with the NDA.

By: 

Title: Executive Consultant

Organization: KEMA

Representing: KEMA

Date: 01/06/2012

Signed: Kathleen Gaffney