

## ENERGY USAGE DATA NON-DISCLOSURE AND USE OF INFORMATION AGREEMENT

THIS AGREEMENT is by and between Navigant Consulting, Inc. ("Company"), through the undersigned ("Undersigned") authorized employee of Company (together, Company and Undersigned are referred to as the "Recipient"), and PACIFIC GAS AND ELECTRIC COMPANY ("PG&E") on the date set forth below [and terminating on \_\_\_\_]. Undersigned and PG&E agree as follows:

**1. Mutual Agreement for Services to Benefit PG&E and Its Customers.** For mutual consideration received, PG&E and the Recipient agree that the Recipient will perform certain services and work for the benefit of PG&E and its customers as more specifically described in Exhibit A ("*Scope of Energy Usage Data Research*") to this Agreement.

**2. Access to Confidential Information.** The Recipient acknowledges that in the course of performing services and work for PG&E as described in Exhibit A *Scope of Energy Usage Data Research*, the Recipient may be given access to certain Confidential Information, which includes (a) the customer account information and information relating to their facilities, equipment, processes, products, specifications, designs, records, data, software programs, customer identities, marketing plans or manufacturing processes or products, (b) any technical, commercial, financial, or customer information of PG&E obtained by Recipient in connection with this Contract, either during the Term or prior to the Term but in contemplation that Recipient might be providing the work or services, including, but not limited to customer-specific or other energy usage and billing data, data, matters and practices concerning technology, ratemaking, personnel, business, marketing or manufacturing processes or products, all of which is information owned by PG&E and which constitutes valuable confidential and proprietary information, intellectual property and/or trade secrets belonging to PG&E, and (c) PG&E Data as defined in Exhibit B, *Confidentiality and Data Security* (collectively, "Confidential Information"). "Confidential Information" shall not include any information to the extent that the information: (i) was or becomes generally available to the public or in the industry other than as a result of a disclosure by the Recipient in violation of the provisions of this Agreement, (ii) was available to the Recipient prior to disclosure by PG&E (iii) is obtained by the Recipient from a third party not known by the Recipient to be under any obligation to PG&E not to disclose such information or (iv) is required by law to be disclosed. :

**3. Protection of Confidential Information.** In consideration of being made privy to such Confidential Information, and of the contracting for the Recipient's professional services by PG&E, the Recipient hereby shall hold the same in strict confidence, and not disclose it, or otherwise make it available, to any person or third party (including but not limited to any affiliate of PG&E that produces energy or energy-related products or services), other than the survey house as described in Exhibit A, without the prior written consent of PG&E. The Recipient agrees that all such Confidential Information:

(a) Shall be used only for the purpose of providing work or services for PG&E as described in Exhibit A; and

(b) Shall comply with the privacy and information security requirements in Exhibit B, *Confidentiality and Data Security*, and

(c) Shall comply with all applicable privacy and information security laws and regulations, and

(d) Shall not be reproduced, copied, in whole or in part, in any form, except as specifically authorized and in conformance with PG&E's instructions when necessary for the purposes set forth in (a) above; and

(e) Shall, together with any copies, reproductions or other records thereof, in any form, and all information and materials developed by Undersigned there from, be returned to PG&E when no longer needed for the performance of Undersigned's Work or services for PG&E.

**4. Remedies for Breach.** The Recipient hereby acknowledges and agrees that because (a) an award of money damages is inadequate for any breach of this Agreement by the Recipient or any of its representatives and (b) any breach causes PG&E irreparable harm, that for any violation or threatened violation of any provision of this Agreement, in addition to any remedy PG&E may have at law, PG&E is entitled to equitable relief, including injunctive relief and specific performance, without proof of actual damages.

**5. Termination.** This Agreement is subject to termination in the discretion of either party upon thirty days written notice, except that the obligations of the Agreement regarding protection of Confidential Information provided prior to the termination shall continue in full force and effect.

**6. Choice of Laws.** This Agreement shall be governed by and interpreted in accordance with the laws of The State of California, without regard to its conflict of laws principles.

PACIFIC GAS AND ELECTRIC COMPANY

By \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

Company \_\_\_\_\_

Date: \_\_\_\_\_

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Company Name:-----

Authorized Agent:-----

- Name: \_\_\_\_\_

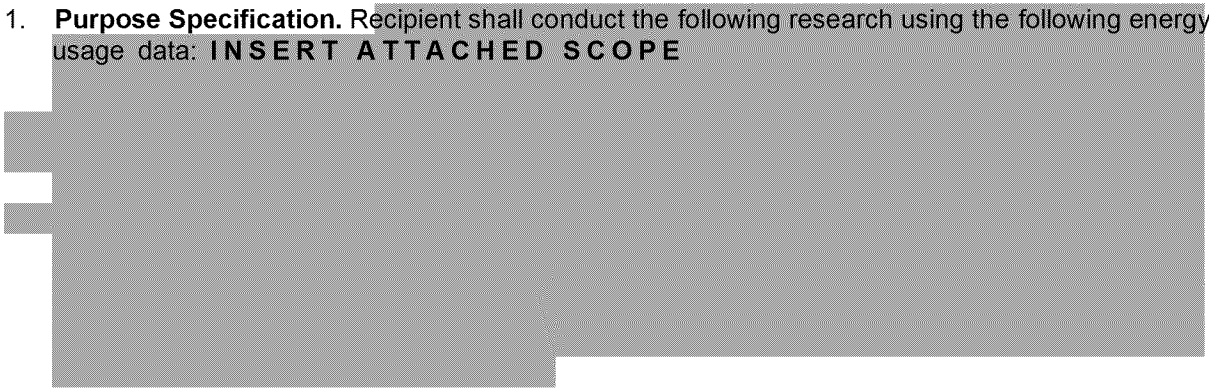
Title \_\_\_\_\_

Date: \_\_\_\_\_

## ***Exhibit A***

### **SCOPE OF ENERGY USAGE DATA RESEARCH**

1. **Purpose Specification.** Recipient shall conduct the following research using the following energy usage data: **INSERT ATTACHED SCOPE**



## Exhibit B

### CONFIDENTIALITY AND DATA SECURITY

1. In addition to the requirements set out in this Agreement and Exhibit A, Recipient shall comply with the following additional terms of this Exhibit B (Confidentiality and Data Security) regarding the handling of Confidential Information and PG&E Data from PG&E or its Customers.
2. **Non-disclosure Agreements:** Recipient shall have all of its employees, the third party survey house, SubRecipients, and SubRecipient employees who will perform work or services under this Contract sign a non-disclosure agreement in the same form as this Agreement. Upon request from PG&E, Recipient shall promptly furnish the original signed non-disclosure agreements to PG&E.
3. **Security Measures:** Recipient shall take "Security Measures" with the handling of Confidential Information to ensure that the Confidential Information will not be compromised and shall be kept secure. Security Measures shall mean industry standards and techniques, physical and logical, including but not limited to:
  - a. written policies regarding information security, disaster recovery, third-party assurance auditing, penetration testing,
  - b. password protected workstations at Recipient's premises, any premises where Work or services are being performed and any premises of any person who has access to such Confidential Information,
  - c. encryption of Confidential Information, and
  - d. measures to safeguard against the unauthorized access, destruction, use, alteration or disclosure of any such Confidential Information including, but not limited to, 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.
4. **Compliance and Monitoring:** Recipient shall comply with security policies relating to the handling of Confidential Information.
  - a. Prior to PG&E's first transfer of Confidential Information to Recipient, Recipient shall provide PG&E with documentation satisfactory to PG&E that it has undertaken Security Measures.
  - b. Recipient and PG&E agree to meet periodically, if requested by PG&E, to evaluate Recipient's Security Measures and to discuss, in good faith, means by which the Parties can enhance such protection, if necessary.
  - c. Recipient shall update its Security Measures, including procedures, practices, policies and controls so as to keep current with industry standards.
  - d. PG&E reserves the right to perform onsite security assessments upon thirty (30) days' notice, to verify the implementation and ongoing operation and maintenance of security controls. At least annually, Recipient shall assist PG&E in obtaining a copy of any report that documents Recipient's Security Measures.
  - e. In the event, PG&E determines Recipient has not materially complied with Security Measures, PG&E 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, PG&E may cancel this Contract for cause in accordance with Article 40.0 of these General Conditions.
5. **PG&E Data:** PG&E Data shall mean:
  - a. all data or information provided by or on behalf of PG&E, including, but not limited to, personally identifiable information relating to, of, or concerning, or provided by or on behalf of any Customers,
  - b. all data or information input, transferred, uploaded, migrated, or otherwise sent by or on behalf of PG&E to Recipient as PG&E may approve of in advance and in writing (in each instance),

- c. account numbers, forecasts, and other similar information disclosed to or otherwise made available to Recipient by or on behalf of PG&E and Customers, and
  - d. all data provided by PG&E's licensors, including any and all survey responses, feedback, and reports, as well as information entered by PG&E, Recipient or SubRecipient, and Participating Customers through the Program.
6. **Security of PG&E Data:** Recipient agrees that Recipient's collection, management and use of PG&E Data during the Term shall comply with these security requirements and all applicable laws, regulations, directives, and ordinances.
- a. Vendor Security Review: Before receiving any PG&E Data, Recipient shall undergo PG&E's Vendor Security Review process. Recipient may receive PG&E Data if Recipient receives a risk rating of 3, 2 or 1 from PG&E at the conclusion of the PG&E Vendor Security Review process. If Recipient receives a risk rating of 4 or 5 from PG&E, Recipient may not receive PG&E Data until such time Recipient receives a risk rating of 3, 2 or 1.
7. **Use of PG&E Data:**
- a. License: PG&E may provide PG&E Data to Recipient to perform its obligations hereunder. Subject to the terms of the Contract, PG&E grants Recipient a personal, non-exclusive, non-assignable, non-transferable limited license to use the PG&E Data solely for the limited purpose of performing the Work or services during the Term, but not otherwise.
  - b. Limited Use of PG&E Data: Recipient agrees that PG&E Data will not be (a) used by Recipient for any purpose other than that of performing Recipient's obligations under Exhibit A, (b) disclosed, sold, assigned, leased or otherwise disposed of or made available to third parties by Recipient, (c) commercially exploited by or on behalf of Recipient, nor (d) provided or made available to any other party, other than the survey house, without written authorization
8. **Security Breach:** Recipient shall immediately notify PG&E in writing of any unauthorized access or disclosure of Confidential Information and/or PG&E Data.
- a. Recipient shall take reasonable measures within its control to immediately stop the unauthorized access or disclosure of Confidential Information and/or PG&E Data to prevent recurrence and to return to PG&E any copies.
  - b. Recipient shall provide PG&E (i) a brief summary of the issue, facts and status of Recipient's investigation; (ii) the potential number of individuals affected by the security breach; (iii) the Confidential Information and/or PG&E Data that may be implicated by the security breach; and (iv) any other information pertinent to PG&E's understanding of the security breach and the exposure or potential exposure of Confidential Information and/or PG&E Data.
  - c. Recipient shall investigate such breach or potential breach, and shall inform PG&E, in writing, of the results of such investigation, and assist PG&E (at Recipient's sole cost and expense) in maintaining the confidentiality of such Confidential Information and/or PG&E Data. In the case of an actual breach of personally identifiable information of PG&E customers which was caused by Recipient's breach of the Security Measures in this Exhibit B, Recipient agrees to provide, at Recipient's sole cost and expense, appropriate data security monitoring services for all affected persons for one (1) year following the breach breach, subject to PG&E's prior approval.
  - d. If requested in advance and in writing by PG&E, Recipient will notify the potentially affected persons regarding such breach or potential breach within a reasonable time period determined by PG&E and in a form as specifically approved in writing by PG&E. In addition, in no event shall Recipient issue or permit to be issued any public statements regarding the security breach involving Confidential Information and/or PG&E Data unless PG&E requests Recipient to do so in writing.
9. **Right to Seek Injunction:** Recipient agrees that any breach of this Exhibit B (Confidentiality and Data Security) would constitute irreparable harm and significant injury to PG&E. Accordingly, and in addition to PG&E's right to seek damages and any other available remedies at law or in equity in accordance with this Contract, Recipient agrees that PG&E will have the right to obtain,

from any competent civil court, immediate temporary or preliminary injunctive relief enjoining any breach or threatened breach of this Contract, involving the alleged unauthorized access, disclosure or use of any Confidential Information and/or PG&E Data. Recipient hereby waives any and all objections to the right of such court to grant such relief, including, but not limited to, objections of improper jurisdiction or forum non convenience.

10. **CPUC Disclosure:** Notwithstanding anything to the contrary contained herein, but without limiting the general applicability of the foregoing, Recipient understands, agrees and acknowledges as follows.

- a. PG&E hereby reserves the right in its sole and absolute discretion to disclose any and all terms of this Contract and all exhibits, attachments, and any other documents related thereto to the California Public Utilities Commission (CPUC), and that the CPUC may reproduce, copy, in whole or in part or otherwise disclose the Contract pursuant to its regulatory and legal authority.

11. **Subpoenas:** In the event that a court or other governmental authority of competent jurisdiction, including the CPUC, issues an order, subpoena or other lawful process requiring the disclosure by Recipient of the Confidential Information and/or PG&E Data provided by PG&E, Recipient shall notify PG&E immediately upon receipt thereof to facilitate PG&E's efforts to prevent such disclosure, or otherwise preserve the proprietary or confidential nature of the Confidential Information and/or PG&E Data. If PG&E is unsuccessful at preventing the disclosure or otherwise preserving the proprietary or confidential nature of the Confidential Information and/or PG&E Data, or has notified Recipient in writing that it will take no action to prevent disclosure or otherwise preserve the proprietary or confidential nature of such Confidential Information and/or PG&E Data, then Recipient shall not be in violation of this Agreement if it complies with an order of such court or governmental authority to disclose such Confidential Information and/or PG&E Data.