Pacific Gas and Electric Company®

Energy Supply Management
77 Beale Street, Rm. 2511
San Francisco, CA 94105

Mailing Address:
Mail Code B25H
P.O. Box 770000
San Francisco, CA 94177

August 30, 2013

Stephen B. Gross
Chief Executive Officer
IHI Power Services, Corp.
Rio Bravo Fresno
95 Enterprise Drive
Aliso Viejo, CA 92656

Re: Clarification of the Fourth Amendment executed on 8/22/2011 between Pacific Gas and Electric Company and Rio Bravo Fresno. (PG&E Log No. 25P026)

This letter agreement clarifies the Parties' intent of the amendment executed on 8/22/2011 by and between Rio Bravo Fresno and Pacific Gas and Electric Company ("PG&E") ("Fourth Amendment").

This letter agreement shall clarify the Fourth Amendment in the following ways.

1. The following definition shall be added to Section 1:

   "Guaranty" means a guaranty issued substantially in the form as contained in Appendix D to this letter agreement and by [redacted], provided that [redacted] maintains its Investment Grade credit rating.

   "Investment Grade" means a senior unsecured or issuer credit rating of BBB- or higher by Standard & Poor's, and Baa3 or higher by Moody's. If such ratings are not equivalent, the lower rating shall prevail. [redacted] shall be deemed to have met such requirements for purposes of this letter agreement as long as it maintains a credit rating of at least BBB with stable outlook designation by [redacted]

2. Section 3.12 shall be changed to:

   3.12 <u>Delivery Term Security</u>. To qualify for the benefits provided by Sections 3.1(e)(i) and (ii), Seller must provide to PG&E the full amount of Delivery Term Security as follows:

   a) Seller shall post and maintain Delivery Term Security in the amount of $5,796,790 per the deadlines below ("Posting Date") until the end of the Delivery Term. Seller has two options for posting:

   Option 1: Seller may post the full amount via a Letter of Credit and/or cash within 15 days of execution of this letter agreement;

   Option 2: Seller may post $2,294,064 via (i) Letter of Credit and/or cash; and (ii) $3,502,726 via Guaranty (see Appendix D) within 60 days of execution.

Upon Seller's satisfaction of the requirements in this Section 3.12(a), Buyer shall implement, no later than 45 days after such satisfaction, adjusted monthly pricing per Section 3.1(e)(i) and (ii) for the remainder of the Delivery Term so long as the Delivery Term Security is in place subject to the following: implementation of such adjusted monthly pricing shall begin in the current Contract Year once Seller meets requirements in this section 3.12(a) only if the remaining term of the then current Contract Year exceeds 10 months, otherwise adjustments will begin in the subsequent Contract Year.

b) Except as provided otherwise herein, the amount of Delivery Term Security is not a limitation on Buyer's recovery of damages under this letter agreement and the underlying PPA.

c) Buyer shall pay interest on the Delivery Term Security posted in the form of cash, as applicable, at the Interest Rate, provided that such interest shall be retained by Buyer until Seller posts the entire amount of Delivery Term Security pursuant to Section 3.12(a). Thereafter, Buyer shall transfer all accrued interest to Seller in the form of cash by wire transfer to the bank account specified under "Wire Transfer" in Appendix B, (Notices List) on or before each Interest Payment Date the Interest Amount due to Seller for such Delivery Term Security.

d) If at any time during the Delivery Term, the existing guarantor is downgraded below Investment Grade, Buyer may require Seller to provide replacement cash collateral, Letter of Credit or Guaranty issued by a successor guarantor acceptable to Buyer within ten (10) Business Days after Buyer issues a written notice to Seller of such change.

e) Buyer shall promptly return the unused portion of the Delivery Term Security, including the payment of any interest due, to Seller after the following has occurred: (i) the PPA has expired and (ii) Seller has satisfied any annual true up obligation under Section 3.l(e)(iii).

f) Upon written notice from Seller, Buyer shall promptly return the unused portion of the Delivery Term Security, if no amounts are due and owing from Seller, and Seller shall have the right to cancel the Delivery Term Security; provided, that upon such return or cancellation of the Delivery Term Security at any time, Seller shall no longer qualify for the benefits provided by Sections 3.1(e)(i) and (ii).

(g) Seller shall inform Buyer of any changes to [redacted] rating of the Guarantor within 3 business days of such change.

3. Appendix C Form of Letter of Credit is deleted in entirety and replaced with Appendix C to this letter agreement.

4. Appendix D Form of Guaranty Agreement is added.

This letter agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same agreement.

Best regards,

Marino Monardi

Name: Marino Monardi

Title: Director, Portfolio Management

Pacific Gas and Electric Company

AGREED AND ACCEPTED DATE:

8/30/2013

ACCEPTED AND AGREED:

RIO BRAVO FRESNO,
a California general partnership

By: ______________________
Name: Stephen B. Gross
Title: Chief Executive Officer
IHI Power Services, Corp.,
Its General Partner

______________________________ AGREED AND ACCEPTED DATE:

Name: ______________________ ________________________

Title:________________________

Pacific Gas and Electric Company

ACCEPTED AND AGREED:

RIO BRAVO FRESNO,
a California general partnership

By: ________________________
Name: Stephen B. Gross
Title: Chief Executive Officer
IHI Power Services, Corp.,
Its General Partner

Appendix C - Form of Letter Of Credit

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXX

Date: [insert issue date]

Beneficiary: Pacific Gas and Electric Company
77 Beale Street, Mail Code B28L
San Francisco, CA 94105
Attention: Credit Risk Management

Applicant: Rio Bravo Fresno
95 Enterprise Drive
Aliso Viejo, CA 92656

Letter of Credit Amount: [insert amount]

Expiry Date: [insert expiry date]

Ladies and Gentlemen:

By order of Rio Bravo Fresno, a California general partnership ("Applicant"), we hereby issue in favor of Pacific Gas and Electric Company (the "Beneficiary") our irrevocable standby letter of credit No. **[insert number of letter of credit]** ("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $ **[insert amount in figures followed by (amount in words)]** ("Letter of Credit Amount"). This Letter of Credit is available with **[insert name of issuing bank, and the city and state in which it is located]** by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on **[insert expiry date]** (the "Expiry Date").

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents:

1. Beneficiary's signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. **[insert number]** and stating the amount of the demand; and

2. One of the following statements signed by an authorized representative or officer of Beneficiary:

   A. "Pursuant to the terms of the Power Purchase Agreement dated December 12, 1984, as subsequently amended, (the "Agreement"), between Beneficiary and Rio Bravo Fresno, a California general partnership, Beneficiary is entitled to draw under Letter of Credit No. **[insert number]** amounts owed by Rio Bravo Fresno, a California general partnership, under the Agreement; or

   B. "Letter of Credit No. **[insert number]** will expire in thirty (30) days or less and Rio Bravo Fresno, a California general partnership, has not provided replacement security acceptable to Beneficiary.

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;

3. This Letter of Credit is not transferable;
4. A drawing for an amount greater than the Letter of Credit Amount is allowed, however, payment shall not exceed the Letter of Credit Amount; and
5. The Expiry Date of this Letter of Credit shall be automatically extended (without an amendment hereto) for a period of one (1) year from the Expiry Date or any future Expiry Date, unless Rio Bravo Fresno, a California general partnership, has provided replacement security acceptable to Beneficiary, or Beneficiary has returned this Letter of Credit to Rio Bravo Fresno, a California general partnership, prior to the Expiry Date.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at our offices at **[insert issuing bank's address for drawings]**.

All demands for payment shall be made by presentation of originals or copies of documents; or by facsimile transmission of documents to **[insert fax number]**, Attention: **[insert name of issuing bank's receiving department]**, with originals or copies of documents to follow by overnight mail. If presentation is made by facsimile transmission, you may contact us at **[insert phone number]** to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the sixth (6th) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision,* International Chamber of Commerce (ICC) Publication No. 600 (the "UCP 600"); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at **[insert number and any other necessary details]**.

Very truly yours,

[insert name of issuing bank]

By: ______________________________
Authorized Signature

Name: **[print or type name]**

Title: ______________________________

Exhibit A to Appendix C Form of Letter of Credit

SIGHT DRAFT

TO
[INSERT NAME AND ADDRESS OF PAYING BANK]

AMOUNT: $______________________ DATE: ________________________

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF PACIFIC GAS AND ELECTRIC COMPANY THE AMOUNT OF U.S.$_______(_____________ U.S. DOLLARS)

DRAWN UNDER [INSERT NAME OF ISSUING BANK] LETTER OF CREDIT NO. XXXXXX.

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

DRAWER

BY:

NAME AND TITLE

Appendix D – Form of Guaranty Agreement

GUARANTY AGREEMENT

Rio Bravo Fresno, a California general partnership (referred to herein as the "Counterparty") and PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (referred to herein as "PG&E"), are parties to a certain Power Purchase Agreement, dated as of December 12, 1984, as amended, and a certain Letter Agreement re: Clarification of the Fourth Amendment, dated as of ___________, 2013 (collectively referred to herein as "Contract(s)"). Counterparty is an affiliate of [redacted] a corporation established under the laws of __________ and with its principal offices at ____________________ (referred to herein as the "Guarantor"). To induce PG&E to enter into the Contract(s) with Counterparty, and for valuable consideration, the Guarantor is entering into this Guaranty Agreement (referred to herein also as the "Guaranty") and hereby agrees as follows:

(a) **Guaranty and Obligations.** The Guarantor, irrevocably and unconditionally guarantees to PG&E, its successors, endorsees and assigns, the due and punctual payment in full of all amounts owed by the Counterparty to PG&E under the Contract(s), whether due or to become due, secured or unsecured, absolute or contingent; provided, however, that the Guarantor's aggregate liability hereunder shall not exceed **THREE MILLION FIVE HUNDRED TWO THOUSAND SEVEN HUNDRED TWENTY-SIX DOLLARS ($3,502,726)** (all referred to herein as "Obligations"). In addition, the Guarantor hereby also agrees to reimburse PG&E for any reasonable attorneys' fees and all other costs and expenses incurred by PG&E in enforcing this Guaranty. The liability of the Guarantor hereunder is a continuing guaranty of payment when any Obligation is owing or when the Counterparty is in default or breach under the Contract(s), without regard to whether recovery may be or has become barred by any statute of limitations or otherwise may be unenforceable. In case of the failure of the Counterparty to pay or perform the Obligations punctually, the Guarantor hereby agrees, upon written demand by PG&E, to pay or cause to be paid any such amounts punctually when and as the same shall become due and payable pursuant to a demand by PG&E. Such demand shall state the amount the Counterparty has failed to pay with a specific statement that PG&E is calling upon the Guarantor to pay under this Guaranty. The Guarantor agrees to pay or cause to be paid such amounts in U.S. dollars, in immediately available funds, within seven (7) days of receipt by the Guarantor from PG&E of written demand for such payment. The Guarantor hereby also agrees to reimburse PG&E for any reasonable attorneys' fees and all other costs and expenses incurred by PG&E in enforcing this Guaranty. Subject to the other terms of this Guaranty, the liability of the Guarantor under this Guaranty is limited to payments expressly required to be made under the Contract(s) and herein, and except as specifically provided therein and herein, the Guarantor shall not be liable for, or required to pay, any consequential or indirect loss (including, but not limited to, loss of profits), exemplary damages, punitive damages, special damages or any other damages or costs. If at any time during the term of this Guaranty, the credit rating of the Guarantor falls below Investment Grade, PG&E may require the Counterparty to replace the Guaranty with one or a combination of (i) cash collateral, (ii) Letter of Credit and/or (iii) guaranty meeting the requirements of the Contract(s).

(b) **Guaranty of Payment.** The Guarantor hereby agrees that its obligations under this Guaranty constitute a guaranty of payment when due and not of collection.

(c) **Nature of Guaranty.** The Guarantor hereby agrees that its obligations under this Guaranty shall be irrevocable and unconditional, irrespective of the validity, or enforceability of the Contract(s) against the Counterparty (other than as a result of the unenforceability thereof against PG&E), the absence of any action or measure to enforce the Counterparty's obligations under the Contract(s), any waiver or consent of PG&E with respect to any provisions thereof, the entry by the Counterparty and PG&E into amendments to the Contract(s) for additional services under the Contract(s) or otherwise, or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor (excluding the defense of payment). The Guarantor agrees that the obligations of the Guarantor under this Guaranty will upon the execution of any such amendment by the Counterparty and PG&E extend to all such amendments without the taking of further action by the Guarantor, the Counterparty, or PG&E. The Guarantor agrees that the Counterparty and PG&E may, without prior written consent of the Guarantor, mutually agree to modify the Obligations or the Contract(s) or any agreement between the Counterparty and PG&E, without in any way impairing or affecting this Guaranty.

(d) **Termination.** This Guaranty may not be terminated by the Guarantor and shall remain in full force and effect until the earlier of (i) such time as all of the Obligations of the Counterparty under or arising out of the Contract(s) have been fully performed; (ii) the Counterparty causes this Guaranty to be canceled by written notice to PG&E, or (iii) the Counterparty causes this Guaranty to be replaced with one or a combination of (A) cash, (B) a fully effective letter of credit acceptable to PG&E and/or (C) another fully effective guaranty acceptable to PG&E and otherwise meeting the requirements of the Contract(s) (the "Expiration Date"); provided, however, that the Guarantor shall remain liable hereunder for Obligations that arose or are due and owing prior to the Expiration Date.

(e) **Rescinded Payment; Independent Liability.** The Guarantor further agrees that this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time, payment, or any part thereof, of any Obligation or interest thereon is rescinded or must otherwise be restored or returned for any reason whatsoever, and the Guarantor shall remain liable hereunder in respect of such payments or interest thereon as if such payment had not been made. PG&E shall not be obligated to file any claim relating to the Obligations owing to it in the event that the Counterparty becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of PG&E to file shall not affect the Guarantor's obligations hereunder. The Guarantor's obligations hereunder are independent of the Obligations of the Counterparty. The liability of the Guarantor hereunder is independent of any security for or other guaranty of payment received by PG&E in connection with the Contract(s), is not affected or impaired by (i) any voluntary or involuntary liquidation, dissolution, receivership, attachment, injunction, restraint, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, the Counterparty or any of its assets, including but not limited to any rejection or other discharge of the Counterparty's obligations imposed or asserted by any Court, trustee or custodian or any similar official or imposed by any law, statue or regulation in such event, or (ii) the extension of time for the payment of any sum, in whole or in part, owing or payable to PG&E under the Contract(s) or this Guaranty or the extension of the time for the performance of any other obligation under or arising out of or on account of the Contract(s) or this Guaranty, or (iii) any failure, omission or delay on the part of PG&E to enforce, assert or exercise any right, power or remedy conferred on PG&E in the Contracts(s) or this Guaranty or any action on PG&E's part granting indulgence or extension in any form, or (iv) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or (v) any payment to PG&E by the Counterparty that PG&E subsequently returns to the Counterparty pursuant to court order in any bankruptcy or other debtor-relief proceeding, or (vi) any amendment, modification or other alteration of the Contract(s), or (vii) any indemnity agreement the Counterparty may have from any party, or (viii) any insurance that may be available to cover any loss. The Guarantor waives any right to the deferral or modification of the Guarantor's obligations hereunder by virtue of any such debtor-relief proceeding involving the Counterparty.

(f) **Guarantor Waivers; Defenses.** The Guarantor hereby waives (i) promptness, diligence, presentment, demand of payment, protest, order and, except as set forth in paragraph (a) hereof, notice of any kind in connection with the Contract(s) and this Guaranty; (ii) any requirement that PG&E exhaust any right to take any action against the Counterparty or any other person prior to or contemporaneously with proceeding to exercise any right against the Guarantor under this Guaranty; (iii) to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability under or the enforcement of this Guaranty; and (iv) any right to require PG&E to (A) proceed against or exhaust any insurance or security held from the Counterparty or any other party, or (B) pursue any other remedy available to PG&E. The Guarantor reserves to itself all defenses that the Counterparty may have under the Contract(s) to payment of all or any portion of the Obligations except defenses arising from the bankruptcy, insolvency, dissolution or liquidation of the Counterparty and other defenses specifically waived herein. The Guarantor agrees that PG&E may, at its election, foreclose on any security held by PG&E, whether or not the means of foreclosure is commercially reasonable, or exercise any other right or remedy available to PG&E without affecting or impairing in any way the liability of the Guarantor under this Guaranty, except to the extent the amount(s) owed to PG&E by the Counterparty have been paid. The Guarantor further agrees that until all amounts owed by the Counterparty to PG&E are paid in full, even though such amounts may in total exceed the Guarantor's liability hereunder, the Guarantor shall have no right of subrogation, waives any right to enforce any remedy that PG&E has or may have against the Counterparty, and waives any benefit of and any right to participation in any security from the Counterparty now or later held by the Guarantor. The Guarantor assumes all responsibility for keeping itself informed of the Counterparty's financial condition and all other factors affecting the risks and liability assumed by the Guarantor hereunder, and PG&E shall have no duty to advise the Guarantor of information known to it regarding such risks.

(g) **No Assignment of Guaranty Obligations Without Consent.** The Guarantor may not assign or otherwise transfer its obligations under this Guaranty to any other party without the prior written consent of PG&E, the exercise of which shall be in PG&E's sole discretion.

(h) **Governing Law.** This Guaranty shall be governed by and construed in accordance with the laws of the State of New York, without reference to choice of law doctrine.

(i) **Arbitration.** Any controversy or claim arising out of or relating to this Guaranty Agreement, or any alleged breach thereof, shall be determined by arbitration administered by the American Arbitration Association in accordance with its International Arbitration Rules. The number of arbitrators shall be three, one appointed by PG&E; one appointed by Guarantor; and the third to be appointed by the first two. The party demanding arbitration shall appoint its arbitrator in its notice of arbitration ("Notice of Arbitration"). The responding party (the "Respondent") shall appoint its arbitrator within 30 days of its receipt of the Notice of Arbitration. In the event of the Respondent's failure to appoint its arbitrator within that 30-day period, the Respondent's arbitrator shall be appointed by the American Arbitration Association. The third arbitrator shall be appointed by the two arbitrators of the parties within 30 days of the appointment of the latter of the two. If the two arbitrators fail to appoint the third arbitrator within that 30-day period, then the American Arbitration Association shall appoint the third arbitrator. The place of arbitration shall be New York, New York. The arbitration shall be final, binding on the parties, not subject to any appeal, shall deal with the question of costs of arbitration and all matters related thereto, and shall award PG&E any reasonable attorneys' fees and all other costs and expenses incurred by PG&E in enforcing this Guaranty. The language of the arbitration shall be English, and the arbitration award shall be written in English. The arbitration panel shall decide in law and not as "amiables compositeurs" or ex aequo et bono. Judgment upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for a judicial recognition of the award or an order of enforcement thereof, as the case may be. Each of the parties hereto agrees that any legal suit, action or proceeding brought by any party to this Guaranty Agreement to enforce an award or an order of enforcement, or otherwise relating to any arbitration hereunder, may be instituted in any U.S. federal or state court in New York, New York, and waives any objection which it may now or hereafter have to the laying of venue of any such proceedings, and irrevocably submits to the nonexclusive jurisdiction of such courts in any suit, action or proceeding, waiving any objection or defense based on jurisdiction, venue or inconvenient forum.

(j) **Severability.** In the event that any provision of this Guaranty conflicts with the law or if any such provision is held to be invalid, illegal or unenforceable, such provision shall be deemed to be restated to reflect as nearly as possible the original intention of the parties in accordance with applicable law or, if that is not possible, the provision shall be deleted, and the remainder of this Guaranty shall remain in full force and effect.

(k) **Representations and Warranties.** The Guarantor, through its undersigned officer, represents and warrants to PG&E that (i) the Counterparty is a subsidiary or other affiliate of the Guarantor, (ii) the Guarantor is a duly organized and validly existing corporation or other legal entity in good standing under the laws of the jurisdiction of its incorporation or formation, (iii) the Guarantor has the corporate power and legal authority to execute, deliver and perform the terms and provisions of this Guaranty and has taken all necessary corporate and other action to authorize the execution, delivery and performance by it of this Guaranty, (iv) the Guarantor has duly executed and delivered this Guaranty, and (v) this Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable in accordance with its terms.

(l) **No Amendment; No PG&E Waiver.** This Guaranty shall not be amended without the prior written consent of PG&E. Any amendment to this Guaranty made in violation of this provision shall be null and void. No right, power, remedy or privilege of PG&E under this Guaranty shall be deemed to have been waived by any act or conduct on the part of PG&E, or by any neglect to exercise any right, power, remedy or privilege, or by any delay in doing so, and every right, power, remedy or privilege of PG&E hereunder shall continue in full force and effect until specifically waived or released in a written document executed by PG&E. Any such written waiver or release of a right, power, remedy or privilege on any one occasion shall not be construed as a bar to any right, power, remedy or privilege which PG&E would otherwise have on any future occasion. No single or partial exercise of any right, power, remedy or privilege by PG&E shall preclude any other or further exercise by PG&E of any other right, power, remedy or privilege. The rights and remedies provided in this Guaranty are cumulative and may be exercise singly or concurrently, and are not exclusive of any rights or remedies provided by law.

(m) **Notices.** All notices, requests, demands, and other communications required or permitted hereunder shall be in writing and shall be delivered, mailed, or sent by facsimile transmission to the address and to the individuals indicated below. Either party may periodically change any address to which notice is to be given it by providing notice of such change as provided herein.

If to the Guarantor:

[redacted]

Attn: [redacted]

If to PG&E:

Pacific Gas and Electric Company
77 Beale Street, Mail Code B28L
San Francisco, CA 94105
Attention: Credit Risk Management
Facsimile: (415) 973.7301

Any notice provided hereunder shall be effective upon actual receipt, if received during the recipient's normal business hour; or it shall be effective at the beginning of the recipient's next business day after receipt, if received after the recipient's normal business hours. If notice is provided by facsimile, the sender shall be responsible for obtaining facsimile receipt confirmation.

[*Signature page follows*]

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed in its name by its duly authorized officer as of the date set forth below.

[redacted]

By: ___________________________
Name: _________________________
Title: __________________________
Date: __________________________