

POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This Power Purchase and Sale Agreement is made as of this June 26, 2007 ("Execution Date"). Seller and Buyer listed below are each individually considered a "Party" and are collectively considered the "Parties" to the Agreement.

The Parties to this Agreement are the following:

Name: Klondike III Wind Power LLC, an Oregon limited liability company ("Seller")

Name: Pacific Gas and Electric Company, a California corporation ("Buyer" or "PG&E")

All Notices:

All Notices:

Street: 1125 NW Couch St., Ste. 700
City: Portland, OR Zip: 97209

Delivery Address:
Street: 77 Beale Street, Mail Code N12E
City: San Francisco, CA Zip: 94105-1702

Mailing Address:
P.O. Box 770000, Mail Code N12E
San Francisco, CA 94177

Attn: Asset Management

Attn: Kelly A. Everidge (kabd@pge.com)
Director, Contract Management and Settlements

Phone: (503) 796-7036
Facsimile: (503) 796-6907

Phone: (415) 973-2055
Facsimile: (415) 973-5507

Invoices:
Attn: Settlement Supervisor

Invoices:
Attn: Alice Gong (ax13@pge.com)
Manager, Bilateral Settlements
Phone: (415) 973-4569
Facsimile: (415) 973-2151

Phone: (503) 796-6917
Facsimile: (503) 796-6908

Scheduling:
Attn: Training/Scheduling
Phone: (503) 796-7013
Facsimile: (503) 796-6903

Scheduling:
Attn: Kevin F. Coffee (kfcl@pge.com)
Phone: (415) 973-7631
Facsimile: (415) 973-0400

Payments:
Attn: Settlement Supervisor

Payments:
Attn: Alice Gong (ax13@pge.com)
Manager, Bilateral Settlements

Phone: (503) 796-6917
Facsimile: (503) 796-6908

[REDACTED]

Credit and Collections:

Attn: Credit Manager
Phone: (503) 241-3214
Facsimile: (503) 796-6902

Contract Manager:

Attn: Contract Administration

Phone: (503) 796-7000
Facsimile: (503) 796-6904

With additional Notice of Event of Default to:

Paul J. Kaufman
PPM Energy General Counsel
Phone: (503) 796-7000
Facsimile: (503) 796-6904

Phone: (415) 973-4569
Facsimile: (415) 973-2151

[REDACTED]

Credit and Collections:

Attn: Credit Risk Management
Phone: 415-972-5188
Facsimile: 415-973-7301

Contract Manager:

Attn: Jeannette Woo (jxw7@pge.com)
Manager, Contract Management
Phone: (415) 973-5097
Facsimile: (415) 973-2207

With additional Notice of Event of Default to:

PG&E Law Department
Attn: Renewables Portfolio Standard attorney
Phone: (415) 973-4377
Facsimile: (415) 972-5952

The Parties hereby agree that the General Terms and Conditions of the Power Purchase and Sale Agreement (“General Terms and Conditions”) attached hereto are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Article Three

New Generation Facility

Add Section 3.9.

If not checked, inapplicable.

Article Five

Events of Default; Remedies

Cross Default for Seller:

Seller: Applicable

Other Entity: Scottish Power Plc,
\$100,000,000

Other Entity: Seller's Guarantor,
\$100,000,000

Cross Default for Buyer:

Buyer: Applicable; \$100,000,000

Other Entity:

If not checked, inapplicable.

Article Eight

Credit and Collateral Requirements

8.1 Seller's Credit Protection:

(a) Buyer's Financial Information:

Option A

Option B Specify:

Option C

(b) Downgrade Event:

- Not Applicable
- Applicable:

It shall be a Downgrade Event for Buyer if (i) the Buyer's Credit Rating (or, if Buyer has previously posted Performance Assurance in the form of a Guaranty, the Buyer's Guarantor's Credit Rating) falls below BBB- from S&P or Baa3 from Moody's if rated by one or more Ratings Agencies, or (ii) both S&P and Moody's no longer rate Buyer (or Buyer's Guarantor, if applicable).

8.2 Buyer's Credit Protection:

(a) Seller's Financial Information:

- Option A
- Option B
- Option C If demanded by Buyer, promptly following such demand as available, Seller's Guarantor shall deliver (which delivery may be effected through posting on an Internet page identified by Notice to Buyer) in no event later than (i) 120 days after the end of each fiscal year of the Seller's Guarantor, a copy of such Guarantor's audited consolidated financial statements for such fiscal year and (ii) 60 days after the end of each of such Guarantor's first three fiscal quarters of each fiscal year, a copy of the Seller's Guarantor's unaudited consolidated financial statements prepared in accordance with generally accepted accounting principles. For so long as the Seller's Guarantor or any Qualified Replacement Guarantor is party to a guaranty and support agreement obligating Scottish Power plc (or its successor parent company) to honor the payment obligations of such Guarantor, in the form provided to Buyer on the Execution Date, Seller shall be deemed to have satisfied such delivery requirement if unaudited and audited (as applicable) financial statements of Scottish Power plc (or its successor parent company) are publicly available on the U.S. Securities and Exchange Commission ("SEC")

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EDGAR information retrieval system or on an Internet page maintained by Scottish Power plc (or its successor parent company) for those fiscal periods that such entity is required to prepare such statements under applicable Law and exchange requirements. Should any financial statements required to be delivered pursuant to this paragraph not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default, so long as such statements are provided to Buyer promptly upon their completion. During any period in which Seller qualifies as a Qualified Replacement Guarantor (as defined in the General Terms and Conditions), the financial reporting obligations described above shall be for the financial statements of Seller. During any period in which Seller is delivering cash or a Letter of Credit as Performance Assurance pursuant to Section 8.2, the financial reporting obligations described above shall be for financial statements of Seller's ultimate parent company (as notified to Buyer from time to time), and Seller shall be deemed to have satisfied such delivery requirement if unaudited and audited (as applicable) financial statements of such company are publicly available on the U.S. Securities and Exchange Commission ("SEC") EDGAR information retrieval system or on an Internet page maintained by such company for those fiscal periods that such entity is required to prepare such statements under applicable Law and exchange requirements.

(b) Downgrade Event:

- Not Applicable
- Applicable:

It shall be a Downgrade Event for Seller if (i) the Seller's Guarantor's Credit Rating falls below BBB- from S&P or Baa3 from Moody's if rated by one or more Ratings Agencies, or (ii) both S&P and Moody's no longer rate the Seller's Guarantor.

Guarantor for Seller shall initially be Scottish Power Finance (US), Inc., and may be replaced by a Qualified Replacement Guarantor, per the terms of the Agreement.

(d) Project Development Security; Delivery Term Security

Applicable

Not Applicable

If Applicable:

8.2 (d)(i)(ii) Project Development Security
Amount: \$25,000 per MW

Type of Project Development Security:

Letter of Credit or cash

8.2 (d)(i)(iii) Delivery Term Security
Amount: \$7,800,000

Type of Delivery Term Security:

Guaranty, Letter of Credit, or cash

Article Ten

10.1 No Fault Termination

(a) Seller Termination Right

Not Applicable

Applicable

(b) PGC Funding Termination

Not Applicable

Applicable

10.11 Confidentiality

Confidentiality Applicable

If not checked, inapplicable.

Confidentiality Notification: If checked on the Cover Sheet, Seller has waived its right to notification in accordance with Section 10.11(v).

The following exhibits are included as follows:

- Exhibit A: Form of Letter of Credit
- Exhibit B: Initial Energy Delivery Date Confirmation Letter
- Exhibit C: Milestones
- Exhibit D: Project Description (Including Description of Site)
- Exhibit E: Form of Seller Guaranty
- Exhibit F: Form of Escrow Agreement (Seller)
- Exhibit G: Form of Green Attribute Attestation and Bill of Sale

The following Appendices are included as follows:

- Appendix I: Commercial Operation Certification Procedure
- Appendix II: Form of Monthly Construction Progress Report
- Appendix III: Outage Notification Form
- Appendix IV: Project Generation Schedule

POWER PURCHASE AND SALE AGREEMENT

Between

PACIFIC GAS AND ELECTRIC COMPANY

(as “Buyer”)

and

KLONDIKE WIND POWER III LLC

(as “Seller”)

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APPENDIX I: COMMERCIAL OPERATION CERTIFICATION PROCEDURE

APPENDIX II: FORM OF MONTHLY CONSTRUCTION PROGRESS REPORT

APPENDIX III: OUTAGE NOTIFICATION FORM

APPENDIX IV: PROJECT GENERATION SCHEDULE

**GENERAL TERMS AND CONDITIONS OF
THE POWER PURCHASE AND SALE AGREEMENT**

**ARTICLE 1
GENERAL DEFINITIONS**

Capitalized terms used but not defined below or in the Agreement shall have the meaning set forth in the BPA Tariff (as defined below).

1.1 “AAA” means the American Arbitration Association.

1.2 “Affiliate” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.3 “Agreement” has the meaning set forth in Section 2.2.

1.4 “Arbitration” has the meaning set forth in Section 12.2.

1.5 “As-Available Product” means a Product of the Project that, subject to the terms of this Agreement, (i) Seller is obligated to sell and deliver and (ii) Buyer is obligated to purchase and receive the energy component of such Product from the Project whenever energy is capable of being generated from the Project and delivered under the terms of this Agreement.

1.6 “Assumed Output” has the meaning set forth in Section 3.1(d)(iii).

1.7 “Bankrupt” or “Bankruptcy” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.8 “Bid Deposits” shall mean the sum of the deposits posted by Seller upon being shortlisted by Buyer for its response to the Buyer’s 2005 RPS solicitation and its response to the Buyer’s 2006 RPS solicitation, which deposits total \$255,000.

1.9 “Bid Price” means the price as bid by Seller in response to the RFP or such other price as may be arrived at through negotiation.

1.10 “BPA” means the Bonneville Power Administration.

1.11 “BPA Tariff” means the BPA Open Access Transmission Tariff, as amended or replaced from time to time.

1.12 “Business Day” means any day except a Saturday, Sunday, or a U.S. Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.13 “Buyer” means Pacific Gas and Electric Company.

1.14 “Buyer Cure” has the meaning set forth in Section 8.1(e)(i).

1.15 “Buyer Issuer” has the meaning set forth in Section 8.1(f).

1.16 “CAISO” means the California Independent System Operator Corporation or any successor entity performing similar functions.

1.17 “California Renewables Portfolio Standard” means the renewable energy program and policies established by Senate Bill 1038 and 1078, codified in California Public Utilities Code Section 399.11 through 399.16 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

1.18 “Capacity Attributes” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the capacity of the Project to produce Energy or ancillary services, including but not limited to any accounting construct so that up to the full Contract Capacity of the Project may be counted toward a Resource Adequacy Requirement or any similar requirement by the CPUC, the CAISO, the FERC, or any other entity vested with the authority under federal or state Law, to require Buyer to procure, or to procure at Buyer’s expense, Resource Adequacy or other such products.

1.19 “CEC” means the California Energy Commission or its successor agency.

1.20 “CEC Certification and Verification” means that the CEC has certified (or, with respect to periods before the Project is operational, that the CEC has pre-certified) that the Project is an ERR for purposes of the California Renewables Portfolio Standard and that all Energy produced by the Project qualifies as generation from an ERR for purposes of the Project.

1.21 “Claiming Party” has the meaning set forth in Section 3.7(d).

1.22 “Claims” means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination or expiration of this Agreement.

1.23 “COB” means the cut-plane where the two 500-kV transmission lines between Malin Substation and Round Mountain Substation and the one 500-kV transmission line between Captain Jack Substation and Olinda Substation cross the border between the State of California and the State of Oregon, parallel to such border.

1.24 “Commercial Operation” means the Project is operating and able to produce and deliver the As-Available Product to Buyer pursuant to the terms of this Agreement.

1.25 “Commercial Operation Date” means the date on which Seller notifies Buyer that Commercial Operation has occurred, which shall not occur unless Units representing at least ninety-five percent (95%) of the Installed Capacity of the Project are confirmed as operational by the certification of a Licensed Professional Engineer (accepted in writing by Buyer, which acceptance shall not be unreasonably withheld, conditioned or delayed) with respect to the Project providing an As-Available Product in compliance with the Commercial Operation Certification Procedures set forth in Appendix I hereto.

1.26 “Conditions Precedent” shall mean the conditions set forth in Section 11.1.

1.27 “Contract Capacity” shall be thirty-eight and one one hundredth percent (38.01%) of the Installed Capacity, net of all auxiliary loads, station electrical uses, and Electrical Losses. The Contract Capacity is anticipated to be approximately 85 MW.

1.28 “Contract Price” means the price in \$U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in Section 4.1.

1.29 “Contract Quantity” has the meaning set forth in Section 3.1(d).

1.30 “Contract Year” means a period of twelve (12) consecutive months, with the first Contract Year commencing on the Delivery Term Start Date and each subsequent Contract Year commencing on the anniversary of the Delivery Term Start Date.

1.31 “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.32 “Cover Sheet” means the multi-page document that precedes Article One: General Definitions to this Agreement.

1.33 “CPUC” or “Commission” means the California Public Utilities Commission.

1.34 “CPUC Approval” means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

(a) approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer’s administration of the Agreement;

(b) finds that any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law; and

(c) finds that any procurement pursuant to this Agreement constitutes incremental procurement or procurement for baseline replenishment by Buyer from an eligible renewable energy resource for purposes of determining Buyer’s compliance with any obligation to

increase its total procurement of eligible renewable energy resources that it may have pursuant to the California Renewables Portfolio Standard, CPUC Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable.

1.35 “Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Moody’s or any other rating agency agreed by the Parties.

1.36 “Cross Default Amount” means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.37 “Cure Delivery” has the meaning set forth in Section 3.1(d)(vi).

1.38 “Daily Delay Damages” means, with respect to the Guaranteed Commercial Operation Date, an amount equal to (i) the Project Development Security Amount required to be posted as of the first date that Daily Delay Damages are payable under this Agreement with respect to the Guaranteed Commercial Operation Date, divided by (ii) 270.

1.39 “Deemed Cover Costs” has the meaning set forth in Section 3.1(d)(ix).

1.40 “Defaulting Party” has the meaning set forth in Section 5.1.

1.41 “Default Payment” has the meaning set forth in Section 5.2(b).

1.42 “Delivered Energy” means thirty-eight and one one hundredth percent (38.01%) of all Energy produced from the Project as measured in megawatt hours (MWh) at the Project Meters, based on a power factor of precisely one (1).

1.43 “Delivery Point” has the meaning set forth in Section 3.1(c).

1.44 “Delivery Term” has the meaning set forth in Section 3.1(b).

1.45 “Delivery Term Security” means the Performance Assurance that Seller is required to maintain, as specified in Section 8.2(d), to secure performance of its Delivery Term obligations.

1.46 “Delivery Term Start Date” has the meaning set forth in Section 3.1(b).

1.47 “Disclosing Party” has the meaning set forth in Section 10.11.

1.48 “Disclosure Order” has the meaning set forth in Section 10.11.

1.49 “Dispatch Down Period” means the period of time during which (a) curtailments ordered from BPA, for reasons including but not limited to any system emergency declared or determined by the Transmission Provider, or (b) curtailments ordered by a Transmission Provider prevent (i) Buyer from receiving or (ii) Seller from delivering Delivered Energy at the Delivery Point.

1.50 “Downgrade Event” has the meaning set forth on the Cover Sheet.

1.51 “Early Termination Date” has the meaning set forth in Section 5.2(a).

1.52 “Effective Date” has the meaning set forth in Section 11.1.

1.53 “Electrical Losses” means all applicable losses, including, but not limited to any transmission or transformation losses between the Project Meters and the Delivery Point.

1.54 “Eligible Renewable Energy Resource” or “ERR” has the meaning set forth in California’s Public Utilities Code Section 399.12 and California Public Resources Code Section 25741 as either code provision is amended or supplemented from time to time; provided that, for purposes of Section 10.16, the code provisions shall not be amended or supplemented from time to time with respect to the definition of Eligible Renewable Energy Resource.

1.55 “Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

1.56 “Equitable Defenses” means any bankruptcy, insolvency, reorganization and other Laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain the same may be pending.

1.57 “Event of Default” has the meaning set forth in Section 5.1.

1.58 “Execution Date” has the meaning set forth on the first page of the Cover Sheet.

1.59 “Executive” or “Executives” has the meaning set forth in Section 12.1(a).

1.60 “Exercise Date” has the meaning set forth in Section 10.1(b)(ii)(B).

1.61 “Exempt Wholesale Generator” has the meaning provided in 18 CFR Section 366.1, et. seq.

1.62 “Exercise Period” has the meaning set forth in Section 10.1(b)(ii)(A).

1.63 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.64 “Force Majeure” means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance of any material obligation(s) excused thereby, (ii) the Party seeking to have its performance obligation(s) excused thereby has taken reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party’s ability to perform its obligations under this Agreement and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (iii) such event is not the direct or indirect result of the negligence or the failure of, or caused by, the Party seeking to have its performance obligations excused thereby. Subject to the foregoing, events that could qualify as Force Majeure include, but are not limited to the following:

(a) flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, other natural disaster or unusual or extreme adverse weather-related events;

(b) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockage, insurrection, revolution, expropriation or confiscation;

(c) except as set forth in subpart (G) below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable);

(d) emergencies declared by or a forced curtailment required by the Transmission Provider or any other authorized successor or regional transmission organization or any state or federal regulator or legislature making it impossible for the Transmission Provider to transmit Energy to be delivered pursuant to this Agreement; or

(e) Serial Defects.

Force Majeure shall not be based on:

(A) Buyer's inability economically to use or resell the Product purchased hereunder;

(B) Seller's ability to sell the Product at a price greater than the price set forth in this Agreement;

(C) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Project;

(D) insufficient wind;

(E) Seller's failure to obtain additional funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Buyer pursuant to this Agreement;

(F) a Forced Outage except where such Forced Outage is caused by an event of Force Majeure of the specific type described in any of subsections (a) through (e) above;

(G) a strike, work stoppage or labor dispute limited only to any one or more of (1) Buyer or Seller, or (2) with respect to Seller, any Affiliate of Seller, Seller's EPC contractor or subcontractors thereof, or any other third party employed by Seller to work on the Project; or

(H) any equipment failure except if such equipment failure is caused solely by an event of Force Majeure of the specific type described in any of subsections (a) through (e) above.

1.65 "Forced Outage" means an unplanned reduction or suspension of the electrical output from the Project in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction.

1.66 "Funding Termination Deadline" has the meaning set forth in Section 10.1(a)(i).

1.67 “Gains” means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction for the remaining term of such Transaction, determined in a commercially reasonable manner, subject to Section 5.2 hereof. Subject to clauses (a) and (b) below, factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, market price referent, market prices for comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining term of the applicable Transaction and include the value of Green Attributes. In addition to the foregoing and the other provisions of this Agreement, in computing Gains with respect to any Terminated Transaction, the following specific factors shall apply:

(a) in the event that the Defaulting Party is Seller and the Shaping and Firming Agreement is terminated due to the Event of Default hereunder, Gains shall be determined based upon an assumed Contract Price of \$71.50 per MWh of monthly firm deliveries at COB (to reflect the inclusion of anticipated benefits from the Shaping and Firming Agreement);

(b) in the event that the Defaulting Party is Seller and the Shaping and Firming Agreement has been previously terminated, Gains shall be determined based upon the then-current Contract Price and the then-current delivery structure (including Delivery Point); and

(c) in the event the Defaulting Party is Buyer, Gains shall be determined based upon the then-current Contract Price and the then-current delivery structure (including Delivery Point).

1.68 “General Terms and Conditions” has the meaning set forth on the Cover Sheet hereto.

1.69 “Good Utility Practice” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in the WECC area during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be a range of acceptable practices, methods, or acts generally accepted in the region and consistently adhered to in the region relevant to this Agreement.

1.70 “Governmental Authority” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question.

1.71 “Governmental Charges” has the meaning set forth in Section 9.2.

1.72 “Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its displacement of conventional Energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water

such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any Energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or landfill gas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

1.73 "Guaranteed Annual Energy Production" means the minimum amount of Delivered Energy to be delivered by Seller to Buyer in at least one Contract Year of each Performance Measurement Period, as described in Section 3.1(d).

1.74 "Guaranteed Commercial Operation Date" has the meaning set forth in Section 3.9(b)(ii).

1.75 "Guarantor" means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet or any Qualified Replacement Guarantor providing a replacement Guaranty of that Party's obligations as provided herein. A Party's Guarantor (a) that is incorporated or organized in a jurisdiction in the United States shall not re-incorporate or re-organize in a jurisdiction outside the United States or in another domestic jurisdiction without the prior consent of the other Party and (b) shall at all times remain in good standing in the jurisdiction of its organization.

1.76 "Guaranty" means a guaranty provided by a Guarantor in the form attached hereto as Exhibit E, in the case of Seller's Guarantor, or in a form reasonably acceptable to Seller, in the case of Buyer's Guarantor.

1.77 "Hourly Firm Energy" has the meaning set forth in Section 3.4.

1.78 "Initial Energy Delivery Date" has the meaning set forth in Section 3.1(b).

1.79 "Initial Negotiation End Date" has the meaning set forth in Section 12.1(a).

1.80 "Installed Capacity" has the meaning set forth in Section 3.1(e).

1.81 “Institutional Investor” means collectively, any institutional investor or investors who acquire a direct or indirect interest in Seller as part of a transaction to ensure that the Project is owned at least partly by an entity that can use the tax subsidies the federal government offers to encourage production of electricity from wind farms (including any transferees of such investors). For purposes of Section 10.6, “financing providers” shall include Institutional Investors.

1.82 “Interconnection Facilities” means all means required pursuant to BPA’s interconnection rules, and apparatus installed, to interconnect and deliver power from the Project to the Delivery Point, including, but not limited to, connection, transformation, switching, metering, communications, control, and safety equipment, such as equipment required to protect (a) BPA’s electric system (or other systems to which BPA’s electric system is connected), and (b) the Project from faults occurring on BPA’s electric system or on the systems of others to which the BPA’s electric system is directly or indirectly connected. Interconnection Facilities also include any necessary additions and reinforcements by BPA to BPA’s electric system, pursuant to the Interconnection Agreement, required as a result of the interconnection of the Project to BPA’s electric system, or electric systems of others to which BPA’s electric system is directly or indirectly connected.

1.83 “Interest Rate” means the Prime Rate as specified in the Wall Street Journal on the Business Day immediately preceding the first day of the period with respect to which interest is to be calculated.

1.84 “Law” means any statute, law, treaty, rule, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which becomes effective during the Delivery Term; or any binding interpretation of the foregoing.

1.85 “Letter(s) of Credit” means one or more irrevocable, non-transferable standby letters of credit issued by a Qualified Bank, substantially in the form as contained in Exhibit A to this Agreement.

1.86 “Licensed Professional Engineer” means a person selected by the Seller who is acceptable to Buyer in its reasonable judgment and who (i) is licensed to practice engineering in Oregon, (ii) has training and experience in the power industry specific to the technology of the Project, (iii) has no economic relationship, association, or nexus with Seller, other than Seller’s (or an Affiliate’s) engagement of such person, on an arms-length basis, to perform engineering or related services for Seller or an Affiliate, and payment of fees by Seller or an Affiliate in connection therewith, (iv) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Project or generating facility or of a manufacturer or supplier of any equipment installed in or at the Project or generating facility, and (v) is licensed in an appropriate engineering discipline for the required certification being made.

1.87 “Losses” means with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction for the remaining term of such Transaction, determined in a commercially reasonable manner subject to Section 5.2. Subject to clauses (a) and (b) below, factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant

market data in the relevant markets, the market price referent, market prices for comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g. NYMEX), all of which should be calculated for the remaining term of the applicable Transaction and include the value of Green Attributes. In addition to the foregoing and the other provisions of this Agreement, in computing Losses with respect to any Terminated Transaction, the following specific factors shall apply:

(a) in the event that the Defaulting Party is Seller and the Shaping and Firming Agreement is terminated due to the Event of Default hereunder, Losses shall (i) exclude any loss of Production Tax Credits and (ii) shall be determined based upon an assumed Contract Price of \$71.50 per MWh monthly firm deliveries at COB (to reflect the inclusion of anticipated benefits from the Shaping and Firming Agreement);

(b) in the event that the Defaulting Party is Seller and the Shaping and Firming Agreement has been previously terminated, Losses shall be determined based upon the then-current Contract Price and the then-current delivery structure (including Delivery Point); and

(c) in the event the Defaulting Party is Buyer, Losses shall be determined based upon the then-current Contract Price and the then-current delivery structure (including Delivery Point).

1.88 “Lost PGC Funds” has the meaning set forth in Section 10.1(b)(ii)(A).

1.89 “Manager” has the meaning set forth in Section 12.1(a).

1.90 “Market Price Referent” means the market price referent applicable to this Agreement, as determined by the CPUC in accordance with the Public Utilities Code Section 399.15(c).

1.91 “Mid-C” means an area which includes points at any of the switchyards associated with the following four hydro projects: Rocky Reach, Rock Island, Wanapum and Priest Rapids. These switchyards include: Rocky Reach, Rock Island, Wanapum, McKenzie, Valhalla, Columbia, Midway and Vantage. Mid-C shall also include points in the “Northwest Hub,” as defined by BPA. For scheduling purposes, the switchyards described above shall dictate the delivery point name for the then current WECC scheduling protocols. If the switchyards change during the Term, a mutually agreed upon set of switchyards that describes an area containing the most liquidity for trading purposes shall apply.

1.92 “Mid-C Index Price” means the price on a day-ahead basis for electrical energy transactions (firm “On-Peak Hours” and firm “Off-Peak Hours”) at Mid-C, quoted in dollars per MWh, as published by the Intercontinental Exchange (“ICE”) for the applicable period. If such ICE index price is no longer available or any replacement of that index ceases to be published during the Term, each Party may propose as a replacement Mid-C Index Price a substantially equivalent index that, after any necessary adjustments, provides the most reasonable substitute quotation of the daily price of electricity (firm On-Peak Hours and firm Off-Peak Hours) for the delivery of energy for the applicable periods. If the Parties do not agree on a replacement index price within thirty (30) days after the date a Party first proposes a replacement index price, then a replacement index price shall be selected through the dispute resolution procedures set forth in Article Twelve.

1.93 “Milestones” has the meaning set forth in Section 3.9(a)(v).

1.94 “Monthly Construction Progress Report” means a report similar in form and content attached hereto as Appendix II.

1.95 “Monthly TOD Payment” has the meaning set forth in Section 4.3(c).

1.96 “Moody’s” means Moody’s Investor Services, Inc. or its successor.

1.97 “MWh” means megawatt hour.

1.98 “NERC” means the North American Electric Reliability Corporation, or a successor organization that is responsible for establishing reliability criteria and protocols.

1.99 “New Generation Facility” means a Project that (i) has not previously been operational and able to produce and deliver energy to another entity or (ii) must be re-powered or expanded in order to deliver the Product pursuant to the terms set forth in this Agreement.

1.100 “Non-Claiming Party” has the meaning set forth in Section 3.7(d).

1.101 “Non-Defaulting Party” has the meaning set forth in Section 5.2(a).

1.102 “Notice” shall, unless otherwise specified in the Agreement, have the meaning set forth in Section 10.8.

1.103 “Off-Peak Hours” means all hours ending 01:00 PPT through 06:00 PPT and hours ending 23:00 PPT through 24:00 PPT, Monday through Saturday and hours ending 01:00 PPT through 24:00 PPT, on Sundays and NERC designated holidays.

1.104 “On-Peak Hours” means all hours ending 07:00 PPT through 22:00 PPT, Monday through Saturday, excluding NERC designated holidays.

1.105 “Option” has the meaning set forth in Section 10.1(b)(ii)(A).

1.106 “Option Approval” has the meaning set forth in Section 10.1(b)(ii)(B).

1.107 “Outage Notification Form” means the notice form attached hereto as Appendix III, which shall be submitted by Seller to Buyer in accordance with the relevant provisions of Section 3.7. Buyer reserves the right to revise or change the form upon written notice to Seller.

1.108 “Party” or “Parties” has the meaning set forth on the Cover Sheet.

1.109 “Performance Assurance” means collateral in the form of either cash, Letter(s) of Credit, Guaranty, or other security acceptable to the beneficiary thereof, including, in the case where Buyer is the secured party, Project Development Security and Delivery Term Security, as set forth in the Cover Sheet and, in the case where Seller is the secured party, collateral required to be delivered by Buyer pursuant to Section 8.1(b).

1.110 “Performance Measurement Period” has the meaning set forth in Section 3.1(d).

1.111 “Performance Requirement” has the meaning set forth in Section 3.1(d).

1.112 “Performance Termination Option” has the meaning set forth in Section 3.1(d)(iv).

1.113 “PGC Fund Amount” has the meaning set forth in Section 10.1(a)(i).

1.114 “PGC Funding Award” means the final award of allocated PGC Funds from the CEC to Seller, pursuant to Section 25743(a) of the California Public Resource Code, as shall be modified or amended from time to time.

1.115 “PGC Funding Confirmation” means a written notice from the CEC to Seller acknowledging Seller’s request for PGC Funds and the availability of such funds for Seller in a future PGC Funding Award.

1.116 “PG&E” means Pacific Gas and Electric Company, a California corporation.

1.117 “Planned Outage” means removing the equipment from service availability for inspection and/or general overhaul of one or more major equipment groups of the Project. To qualify as a Planned Outage, the maintenance (i) must actually be conducted during the Planned Outage, and in Seller’s sole discretion must be of the type that is necessary to reliably maintain the Project, (ii) cannot be reasonably conducted during Project operations, and (iii) causes the Installed Capacity to be reduced by at least ten percent (10%).

1.118 “Product” means each of Energy, capacity and all other products, services and attributes which are or can be produced by or associated with the Project and the delivery of the Product, including without limitation, renewable attributes, Renewable Energy Credits, Green Attributes and Capacity Attributes.

1.119 “Production Tax Credit” means the tax credit for electricity produced from certain renewable generation resources described in Section 45 of the Internal Revenue Code of 1986, as amended, or any successor provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind resources.

1.120 “Project” shall mean all of the Units, the site at which the Project is located and the other assets, tangible and intangible, that compose the generation facility at which the Project is located, as more particularly described in Exhibit D.

1.121 “Project Cure Period” has the meaning set forth in Section 3.9(b)(iii)(A).

1.122 “Project Development Security” is the security required of Seller, as specified in Section 8.2(d).

1.123 “Project Generation Schedule” means the expected Delivered Energy to be delivered by Seller to Buyer from the Project as of the Execution Date, set forth in Appendix IV.

1.124 “Project Meters” has the meaning set forth in Section 3.6.

1.125 “Project Substation” means the substation through which the Project is interconnected with the Transmission System, as more particularly described in Exhibit D.

1.126 “Prolonged Outage” is any period of more than thirty (30) consecutive days during which the Project is or will be unable, for whatever reason, to provide at least sixty percent (60%) of the Contract Capacity.

1.127 “Public Goods Charge Funding” or “PGC Funds” means any supplemental energy payments, pursuant to Public Utilities Code Section 399.15, as may be modified or amended from time to time.

1.128 “Qualified Bank” shall mean a U.S. commercial bank or a foreign bank with a U.S. branch with total assets of at least \$10 billion and a Credit Rating of a least A from S&P or A2 from Moody’s.

1.129 “Qualified Replacement Guarantor” means (A) an entity which at the time it is to provide a replacement Guaranty (1) is another direct or indirect subsidiary of Scottish Power plc (or its successor parent company), or in the case of Buyer, a direct or indirect Affiliate of Buyer; (2) has a Credit Rating of at least BBB from S&P or Baa2 from Moody’s if rated by only one Ratings Agency or at least BBB from S&P and Baa2 from Moody’s if rated by both Ratings Agencies, and (3) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction or (B) another entity approved in advance by Buyer, or Seller, as applicable, in its reasonable discretion.

1.130 “RA Capacity” shall mean the maximum megawatt amount that the CAISO recognizes from a Project that qualifies for Buyer’s Resource Adequacy Requirements and is associated with the Project’s Capacity Attributes.

1.131 “Ratings Agency” means either of S&P or Moody’s.

1.132 “Recording” has the meaning set forth in Section 2.4.

1.133 “Referral Date” has the meaning set forth in Section 12.1(a).

1.134 “Renewable Energy Credit” has the meaning set forth in California Public Utilities Code Section 399.12(g), as may be amended from time to time or further defined or supplemented by Law.

1.135 “Replacement Amount” has the meaning set forth in Section 3.1(d)(vi).

1.136 “Repower” has the meaning set forth in Section 3.1(a).

1.137 “Resource Adequacy” means the procurement obligation of load serving entities, including Buyer, as such obligations are described in CPUC D.04-10-035 and D. 05-10-042 and subsequent CPUC decisions addressing Resource Adequacy issues, as those obligations may be altered from time to time in the CPUC Resource Adequacy Rulemakings (R.) 04-04-003 and (R.) 05-12-013 or by any successor proceeding, and all other Resource Adequacy obligations established by any other entity, including the CAISO.

1.138 “Resource Adequacy Requirements” has the meaning set forth in Section 3.1(h).

1.139 “Revocation Notice” has the meaning set forth in Section 10.1(b)(i).

1.140 “RPS” has the meaning set forth in Section 3.1(d)(vii).

1.141 “RPS-Eligible Green Attributes” means Green Attributes associated with Energy from an “Eligible Renewable Energy Resource” as defined in RPS.

1.142 “RPS-Eligible Energy Cover Costs” has the meaning set forth in Section 3.1(d)(viii).

1.143 “RFP” means the solicitation from which this Agreement is the result.

1.144 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.145 “Schedule” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered in any given hour on any given day or days during the Delivery Term at a specified Delivery Point.

1.146 “Seller” has the meaning set forth in the Cover Sheet.

1.147 “Seller Cure” has the meaning set forth in Section 8.2(e)(i).

1.148 “Seller Issuer” has the meaning set forth in Section 8.2(f).

1.149 “Serial Defect” means (a) a defect in any Unit or component thereof causing impaired performance or failure, or requiring the removal from service of any Unit or component thereof (for replacement or otherwise) in accordance with Good Utility Practice, which results in a material reduction in the output of one or more Units comprising the Project to the extent attributable to a defect in any Unit or component thereof causing impaired performance or failure, or requiring the removal from service of any Unit or component thereof (for replacement or otherwise); and (b) twenty-five percent (25%) or more of the same component or Units included in the Project is affected by the same defect in any twenty-four (24) month period. In this context, a component shall contain a “defect” if such component (i) breaks or ceases to perform the function for which it was designed or installed (exclusive of normal wear and tear) and is not free of material defects in material and workmanship, or (ii) fails to conform to applicable technical or design specifications.

1.150 “Settlement Amount” means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such Party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.151 “Shaping and Firming Agreement” means that certain Shaping and Firming Agreement, dated as of even date herewith, by and between the Shaping Services Provider and Buyer.

1.152 “Shaping Services Provider” means PPM Energy, Inc., an Oregon corporation.

1.153 “Site” means the location of the Project as described in Exhibit D.

1.154 “Term” has the meaning set forth in Section 10.2(a).

1.155 “Terminated Transaction” has the meaning set forth in Section 5.2(a).

1.156 “Termination Payment” has the meaning set forth in Section 5.3.

1.157 “TOD Factors” shall have the meaning set forth in Section 4.3.

1.158 “TOD Periods” has the meaning set forth in Section 4.2.

1.159 “Transaction” means a particular transaction agreed to by the Parties relating to the sale by Seller and the purchase by Buyer of Products pursuant to this Agreement.

1.160 “Transmission Provider” means BPA or any other entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

1.161 “Transmission System” means the transmission facilities, now or hereafter in existence, operated by BPA or any other significant transmission provider providing transmission service for transmission of energy from the Delivery Point.

1.162 “Unit” means each of the wind turbine-generators and appurtenant equipment, which are identified in Exhibit D, used to produce the Products.

1.163 “U.S.” shall mean the United States of America.

1.164 “WECC” means Western Electricity Coordinating Council or any successor agency thereof.

1.165 “Work” means work or operations performed by Seller with respect to the Project, and materials, parts and equipment furnished in connection with such work.

1.166 “WREGIS” means the Western Renewable Energy Generating Information System or any successor renewable energy tracking program.

ARTICLE 2 TRANSACTION TERMS AND CONDITIONS

2.1 Transaction. The only Transaction contemplated in this Agreement is the sale and delivery to Buyer from Seller of all As-Available Product up to and not exceeding the Contract Capacity, including all Energy and capacity (including Capacity Attributes), as applicable, and Green Attributes associated with such As-Available Product, from the Project during the Delivery Term.

2.2 Governing Terms. Unless otherwise specifically agreed, the Transaction between the Parties shall be governed by this Agreement. These General Terms and Conditions, along with the Cover Sheet, exhibits, appendices, schedules, and any written supplements and signed amendments and modifications hereto between the Parties shall be referred to collectively as the “Agreement.”

2.3 Authorized Representatives. Each Party shall provide notice to the other Party of the persons authorized to nominate and/or agree to a schedule or dispatch order for the delivery or acceptance of the Product or make other notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing notice.

2.4 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording (“Recording”) of all telephone conversations between the Parties to this Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees.

2.5 Binding Nature. Prior to the Effective Date, this Agreement shall be effective and binding only to the extent required to give full effect to, and enforce, the rights and obligations of the Parties under Sections 3.9(a)(v), 5.1, 8.2(d)(i), 10.3, 10.12, 10.13, 10.15, 10.25, and Article Eleven. As of the Effective Date, this Agreement shall be in full force and effect, enforceable and binding in all respects.

2.6 Interpretation. The following rules of interpretation shall apply:

(a) The term “month” shall mean a calendar month unless otherwise indicated, and a “day” shall be a 24-hour period beginning at 12:00:01 a.m. Pacific Prevailing Time and ending at 12:00:00 midnight Pacific Prevailing Time; provided that a “day” may be 23 or 25 hours on those days on which daylight savings time begins and ends.

(b) Unless otherwise specified herein, all references herein to any agreement or other document of any description shall be construed to give effect to amendments, supplements, modifications or any superseding agreement or document as then exist at the applicable time to which such construction applies.

(c) Capitalized terms used in this Agreement, including the exhibits and appendices hereto, shall have the meaning set forth in Article One, unless otherwise specified.

(d) Unless otherwise specified herein, references in the singular shall include references in the plural and vice versa, pronouns having masculine or feminine gender will be deemed to include the other, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal personality). Other grammatical forms of defined words or phrases have corresponding meanings.

(e) References to a particular article, section, subsection, paragraph, subparagraph, appendix or attachment shall, unless specified otherwise, be a reference to that article, section, subsection, paragraph, subparagraph, appendix or attachment in or to this Agreement.

(f) Any reference in this Agreement to any natural person, Governmental Authority, corporation, partnership or other legal entity includes its permitted successors and assigns or to any natural person, Governmental Authority, corporation, partnership or other legal entity succeeding to its functions.

(g) References herein the Public Utilities Code and Public Resources Code shall be references to the Public Utilities Code and Public Resources Code of the State of California.

(h) All references to dollars are to U.S. dollars.

ARTICLE 3
OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations.

(a) Transaction. Except as provided in Section 3.1(i), during the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the As-Available Product of the Project at the Delivery Point, and Buyer shall pay Seller the Contract Price, all per the terms of this Agreement. In no event shall Seller have the right to procure capacity, Green Attributes or Energy from sources other than the Project for sale or delivery to Buyer under this Agreement except as permitted with respect to Energy and RPS-Eligible Green Attributes pursuant to Section 3.1(d)(vi), or in connection with imbalances incurred in connection with deliveries of Hourly Firm Energy pursuant to Section 3.4. Except as otherwise provided hereunder, Buyer shall have no obligation to receive or purchase Energy, capacity, or other Products from Seller before or after the Delivery Term, nor from any source other than the Project. During the Delivery Term, Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to and at the Delivery Point. During the Delivery Term, Buyer shall be responsible for any costs or charges imposed on or associated with the Product after its receipt from the Delivery Point. The Parties intend that Seller will arrange and pay independently, at no cost to Buyer, for any and all necessary costs pursuant to any interconnection agreement and arrangements with BPA or any other owner of a Transmission System. Except as otherwise permitted under this Agreement, including the following sentence, Seller shall not make any alteration or modification to the Project that results in a change to the Installed Capacity of the Project without Buyer's prior written consent. Notwithstanding the foregoing sentence, Seller may, without Buyer's consent, replace all or a portion of the Units (or components thereof) comprising the Project with substitute Units (or components thereof) in order to increase the Project's Installed Capacity (a "Repower") if Seller (i) notifies Buyer of such Repower (including a detailed description of the Repower) one hundred eighty (180) days prior to the commencement of construction in connection with such Repower, and (ii) first offers to sell to Buyer 38.01% of the incremental additional output of the Project resulting from the Repower on commercially reasonable terms offered in good faith for a period equal to or exceeding the total length of the term hereunder. If (i) Buyer fails to notify Seller of its acceptance of the basic terms of the offer to purchase such output within sixty (60) days of Seller's offer, or (ii) Buyer and Seller fail to execute an agreement under which Buyer would purchase the incremental additional output of the Project within ninety (90) days of Buyer's Notice to Seller of its acceptance of the offer to purchase, Seller shall be free thereafter to sell such output to third parties, provided that for a period of one hundred eighty (180) days after the occurrence of an event described in (i) or (ii) above, any sales undertaken by Seller shall be on terms determined by Seller to be no less favorable to Seller than those offered to Buyer, as certified by Seller to Buyer prior to the consummation of such transaction. In determining whether terms with another purchaser are "no less favorable" than those offered to Buyer, Seller shall be entitled to consider energy price and other material factors, including term, credit support, performance guarantees, and delivery point. Notwithstanding the foregoing, (a) Seller shall remain responsible for all of its obligations hereunder in the event Seller undertakes a Repower pursuant to the terms of this Section 3.1(a), (b) the timing described above for any action related to incremental additional output from the Repower may be extended upon mutual agreement of the Parties and (c) if an executed agreement between Seller and Buyer for the incremental output from the Repower fails to obtain CPUC Approval within one hundred eighty (180) days from the date the agreement is executed, Buyer and Seller shall be excused from their respective obligations under such agreement and Seller shall be free thereafter to sell such output to third parties.

(b) Delivery Term. The Parties shall specify and agree to the period of Product delivery for the “Delivery Term,” as defined herein, by checking one of the following boxes:

- Delivery shall be for a period of ten (10) Contract Years.
- Delivery shall be for a period of fifteen (15) Contract Years.
- Delivery shall be for a period of twenty (20) Contract Years.
- Non-standard Delivery shall be for a period of ____ Contract Years.

As used herein, “Delivery Term” shall mean the period of Contract Years specified above beginning on the date specified by the Seller on ten (10) Business Days prior written Notice (the “Delivery Term Start Date”), which date shall be no earlier than the Initial Energy Delivery Date, as defined in the following sentence, and no later than four (4) months after the Initial Energy Delivery Date. The date of the initial delivery of Energy under the terms of the Agreement (the “Initial Energy Delivery Date”), shall occur on five (5) Business Days prior written Notice to Buyer and no earlier than the day by which all of the following events have occurred: (i) the Commercial Operation Date; (ii) Buyer shall have received the Delivery Term Security in accordance with the relevant provisions of Article Eight of the Agreement, as applicable, (iii) Seller has been granted Exempt Wholesale Generator Status by FERC, and (iv) all of the applicable Conditions Precedent in Article Eleven of the Agreement have been satisfied. As evidence of the Initial Energy Delivery Date, the Parties shall exchange the “Initial Energy Delivery Date Confirmation Letter” attached hereto as Exhibit B.

(c) Delivery Point. The delivery point (the “Delivery Point”) shall be the interconnection point with BPA’s transmission system at the high side of the step-up transformer located at the Project Substation, as shown in Exhibit D.

(d) Contract Quantity/ Guaranteed Annual Energy Production. The quantity of Delivered Energy to be delivered by Seller during each Contract Year is expected to be at least 265,000 MWh (the “Contract Quantity”). Throughout the Delivery Term, Seller shall be required to satisfy the Performance Requirement. The “Performance Requirement” is Seller’s obligation, subject to the provisions set forth below in this Section 3.1(d), to deliver to Buyer no less than 55% of the Contract Quantity (“Guaranteed Annual Energy Production”) in at least one of the years in each Performance Measurement Period unless such failure is excused by the reasons set forth in Section 3.1(i)(i) and 3.1(i)(ii)(A) and (E). The initial “Performance Measurement Period” shall commence on the first day of the first Contract Year and end on the day prior to the second anniversary thereof, and each subsequent “Performance Measurement Period” shall commence on the first day following the last day in the prior Performance Measurement Period and end on the day prior to the second anniversary thereof.

(i) Subject to Section 3.1(d)(ii), if the Seller delivers less than the Guaranteed Annual Energy Production in both years of any Performance Measurement Period, Buyer shall notify Seller of such failure within sixty (60) days after the end of such Performance Measurement Period. Seller shall, subject to Section 3.1(d)(iv), cure such failure for purposes of this Section 3.1(d) by making a Cure Delivery within thirty (30) days following delivery of Buyer’s Notice. If Seller does not make a Cure Delivery within such thirty (30) day period, Buyer may at its option within ten (10) Business

Days thereafter, and subject to Section 3.1(d)(iv) and (v), declare an Event of Default.

(ii) If, during any hour during any Contract Year in a Performance Measurement Period, Seller's obligation to meet the Performance Requirement is fully or partially excused by the occurrence of an event described in Section 3.1(i)(i) or 3.1(i)(ii)(A) or (E), then for purposes of determining whether Seller has met the Performance Requirement as described in Section 3.1(d), the Guaranteed Annual Energy Production shall be reduced by the Assumed Output (as defined in Section 3.1(d)(iii)) for each corresponding hour in which Seller's obligation was so excused and the Project's output was not otherwise reduced due to a Planned Outage or other scheduled maintenance. In addition, if, during any Performance Measurement Period, Seller's ability to deliver energy under the terms of the Agreement is fully or partially impaired by an event described in Section 3.1(i)(i) or 3.1(i)(ii)(A) or (E) for more than one hundred eighty (180) days, for purposes of determining whether Seller has met the Performance Requirement as described in Section 3.1(d), Seller will be deemed to have met the Performance Requirement if the aggregate Delivered Energy during the entire Performance Measurement Period exceeds the aggregate Guaranteed Annual Energy Production for the entire Performance Measurement Period, as adjusted pursuant to the first sentence of this Section 3.1(d)(ii).

(iii) For purposes of this Section 3.1(d), "Assumed Output" for any hour means the "Expected Project Generation" for the applicable month, as set forth in the last row of the Project Generation Schedule.

(iv) Notwithstanding anything to the contrary in this Section 3.1(d), in the event that at any time during the Delivery Term Seller fails to meet the Performance Requirement and (1) prior Cure Deliveries, in aggregate (including, for this purpose, any RPS-Eligible Energy Cover Costs, as described in Section 3.1(d)(viii), and any Deemed Cover Costs received by Buyer, as described in 3.1(d)(ix)), equal or exceed the Delivery Term Security set forth on the Cover Sheet of the Agreement, or (2) payment of the full amount of the Cure Delivery pursuant to Section 3.1(d)(i) hereunder (or the RPS-Eligible Energy Cover Costs of any replacement Energy and Green Attributes, as described in Section 3.1(d)(viii) and any Deemed Cover Costs received by Buyer, as described in 3.1(d)(ix)) exceeds the Delivery Term Security set forth on the Cover Sheet of the Agreement, Seller shall, within thirty (30) days following delivery of Buyer's Notice as provided in subpart 3.1(d)(i) above, advise Buyer whether it intends to pay the Cure Delivery (or, in the case of subpart (2) above, the incremental Cure Delivery above the Delivery Term Security set forth on the Cover Sheet of the Agreement). If Seller notifies Buyer that Seller does not intend to pay the Cure Delivery, Buyer shall have the right, but not the obligation, to terminate the Agreement within thirty (30) days of Seller's delivery of such Notice ("Performance Termination Option"). If Buyer elects not to terminate the Agreement within such period, Buyer shall waive such termination right unless and until Seller fails to meet the Performance Requirement with respect a subsequent Performance Measurement

Period and notifies the Buyer that it does not intend to pay the associated Cure Delivery as provided above.

(v) Upon Buyer's exercise of the Performance Termination Option, this Agreement shall immediately terminate and neither Party shall have any further obligation to the other hereunder, except as set forth in Section 10.2(a).

(vi) For purposes of this Section 3.1(d), a "Cure Delivery" means, with respect to a Performance Measurement Period, either (A) liquidated damages in an amount equal to the product of (1) the difference between (a) the Guaranteed Annual Energy Production and (b) the lesser of the aggregate Delivered Energy for either of the two Contract Years included in the Performance Measurement Period (the "Replacement Amount"), and (2) the sum of RPS-Eligible Energy Cover Costs plus \$4.00 per MWh for the amount of Energy resulting from the calculation in Section 3.1(d)(vi)(A)(1) above, or (B) acceptance by Buyer in its discretion of a binding plan which requires Seller to make deliveries of replacement Energy and RPS-Eligible Green Attributes during the subsequent Contract Year in the amount of the Replacement Amount, plus \$4.00 per MWh for the Replacement Amount; provided, however, that Buyer shall be required to accept any plan described in Section 3.1(d)(vi)(B) that is proposed by Seller that provides for the delivery of Energy and RPS-Eligible Green Attributes (i) at COB if the Shaping and Firming Agreement is still in effect or if the Shaping and Firming Agreement terminates and Seller is delivering Products to Buyer under Section 10.2(b)(i)(A), (ii) at Mid-C if the Shaping and Firming Agreement has been terminated and Products are being delivered to Buyer under Section 3.4, (iii) at the delivery point agreed upon by the Parties if Products are being delivered to Buyer pursuant to Section 10.2(b)(i)(B), or (iv) any delivery point in the State of California acceptable to Buyer in its sole discretion in a manner that is proportionate to the Project's generation during each TOD Period according to the annual forecast for the then current year, as determined pursuant to Section 3.3.

(vii) For purposes of this Section 3.1(d), "RPS" means the California Renewables Portfolio Standard.

(viii) "RPS-Eligible Energy Cover Costs" for a Replacement Amount of Energy and Green Attributes means the price at COB, as of the date of determination, of the cost to acquire replacement Energy and the price, as of the date of determination, of the cost to acquire replacement RPS-Eligible Green Attributes minus the sum of the Contract Price and the Shaping Charge as defined in the Shaping and Firming Agreement (as adjusted pursuant to Section 6.4 thereof). If the amount calculated pursuant to the previous sentence (using the methodology set forth below) is a negative number, "RPS-Eligible Energy Cover Costs" in such instance shall be deemed to be zero. The price(s) for replacement Energy and RPS-Eligible Green Attributes shall be the simple average of market quotations, for like amounts to the number of MWh calculated in Section 3.1(d)(vi)(A)(1), provided by at least three or more bona fide dealers in energy at COB (in the case of Energy) and in the California Renewable Energy Credit market (in the case of RPS-Eligible Green

Attributes), and in each case the dealer shall not be affiliated with either Party or any other dealer from whom a quote is obtained, as identified by Seller. If five or more quotes for any subject forward price are obtained, the high and low quotations shall be excluded and a simple average of the remaining quotations shall constitute the forward price. If three or four quotations are available, then the average of those quotes shall be the forward price. Where a quote is in the form of bid and ask prices, the price that is used in the averaging shall be the midpoint between the bid and ask price. It is expressly understood that neither Party shall be required to enter into a replacement transaction in order to determine the market price. Notwithstanding the foregoing, in any period of time in which either Party is unable to obtain at least three (3) quotes as described herein from bona fide dealers not affiliated with either Party with respect to RPS-Eligible Green Attributes, the price for RPS-Eligible Green Attributes shall be deemed to be \$8.00 per MWh; provided, however, that the Parties agree that the designation of such value does not represent agreement by the Parties as to the future value of the Green Attributes subject to this Agreement. In the event the Shaping and Firming Agreement has been terminated, and no replacement shaping and firming services have been secured, the method to compute RPS-Eligible Energy Cover Costs shall be equitably adjusted to reflect the then-current contractual agreements between the Parties (including the then-current delivery point and shaping charges (if any)).

(ix) If Seller delivers replacement Energy and RPS-Eligible Green Attributes pursuant to a delivery plan described in Section 3.1(d)(vi), the “Deemed Cover Costs” of such replacement Energy and RPS-Eligible Green Attributes shall be the RPS-Eligible Energy Cover Costs of such Energy and Green Attributes, as described in Section 3.1(d)(viii), and the Deemed Cover Costs of such replacement Energy and RPS-Eligible Green Attributes shall be credited toward the aggregate Cure Deliveries described in Section 3.1(d)(iv).

(e) Installed Capacity. The aggregate nameplate capacity of the Units included or to be included in the Project shall be 223.6 MW (the “Installed Capacity”), unless otherwise modified under the terms of this Agreement. Throughout the Delivery Term, Seller shall sell and deliver thirty-eight and one one hundredth percent (38.01%) of all energy produced by the Project to Buyer and in no event shall Buyer be obligated to receive or pay for, in any hour, any Delivered Energy that exceeds 85 MW.

(f) Project. Except as otherwise expressly provided in the Agreement, all Products provided by Seller pursuant to this Agreement shall be supplied from the Project described in Exhibit D, attached hereto.

(g) Interconnection. The interconnection point of the Project with BPA’s Transmission System is the Project Substation.

(h) Resource Adequacy. During the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all of the Contract Capacity, including Capacity Attributes, from the Project to enable Buyer to meet its Resource Adequacy or successor program requirements, as the CPUC, CAISO or other regional entity may prescribe (“Resource Adequacy Requirements”). Seller understands that the CPUC is currently in the process of developing requirements for Resource Adequacy and these requirements and the implementation thereof have not been finalized. If Capacity

Attributes may be utilized in whole or part by Buyer towards the satisfaction of Resource Adequacy Requirements, Seller shall take such actions and execute any and all documents as are reasonably requested by Buyer to permit all Capacity Attributes acquired under the Agreement to be so utilized by Buyer; provided, however, that Seller shall not be required by this Section 3.1(h) to incur any unreimbursed capital costs, operating expenses (other than non-material administrative and related costs), penalties and/or damages that Seller would not incur but for taking such actions requested by Buyer. Buyer acknowledges that Seller has not made any representation or warranty, express or implied, regarding the recognition, existence, value, characterization, accounting or other treatment to be afforded by any governmental or self-regulatory authority or market participant of Contract Capacity or any other Capacity Attributes associated with the Project, including whether the Contract Capacity will or can meet Resource Adequacy Requirements.

(i) Performance Requirements/Performance Excuses.

(i) Seller Excuses. Seller shall be excused from the Performance Requirement during those hours in which Seller fails to deliver the Product to Buyer during the Delivery Term for the following reasons:

(A) Force Majeure;

(B) Buyer's failure to perform its obligations under this Agreement (including for this purpose any excused delivery of Product under Section 3.1(i)(ii)(A) or (E)); or

(C) curtailments under Dispatch Down Periods.

Seller shall not curtail delivery of Products under the Agreement for economic purposes, including congestion associated with BPA.

(ii) Buyer Excuses. Buyer shall be excused from its obligation to receive and pay for the Product hereunder for the following reasons:

(A) in response to any reduction in deliveries of "Shaped Energy" by the Shaping Services Provider under Section 3.3 of the Shaping and Firming Agreement; provided, that Buyer's obligation to purchase Product hereunder shall not be fully excused but reduced by the percent of such reduction;

(B) Force Majeure;

(C) Seller's failure to perform its obligations under this Agreement;

(D) curtailments during Dispatch Down Periods; and

(E) the Shaping Services Provider fails or is unable to receive the Product at the Delivery Point.

During any period in which Buyer's obligation to receive and pay for the Product hereunder is excused and Buyer is not receiving the Product hereunder, Seller shall be entitled to resell any such Product to other parties and retain the proceeds therefrom to the extent and during the limited period that Buyer's obligations are excused hereunder.

(iii) Dispatch Down/Curtailment. Notwithstanding Section 3.1(a) and this Section 3.1(i), Seller shall reduce delivery amounts to the extent required to comply with a curtailment during any Dispatch Down Period.

(iv) No Excuse. Except for a failure or curtailment resulting from a Force Majeure or during a Dispatch Down Period, the failure of electric transmission service shall not excuse performance with respect to either Party under the Agreement.

3.2 Green Attributes.

(a) Conveyance. Seller hereby provides and conveys all Green Attributes from the Project to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Project.

(b) Attestation. No later than thirty (30) days after each calendar year during the Delivery Term, with respect to such calendar year, Seller shall deliver to Buyer a Green Attribute Attestation and Bill of Sale in the form attached as Exhibit G with respect to the Green Attributes associated with the Delivered Energy during such calendar year; provided, that Seller shall have the right to utilize instead such other forms of documents or instruments as Seller may propose, subject to Buyer's approval, to document the transfer of the Green Attributes associated with the Delivered Energy in a calendar year.

3.3 Delivery and Scheduling.

(a) Seller Obligations to Deliver.

(i) Delivery to the Delivery Point. Seller shall deliver the Delivered Energy to Buyer at the Delivery Point on an as-generated, instantaneous basis. Seller shall arrange, pay independently for and be responsible for transmission service, including interconnection, scheduling, distribution and/or transmission (and any regulatory approvals for the foregoing), including risk of transmission outage or curtailment sufficient to allow Seller to deliver the Products to and at the Delivery Point for sale pursuant to the terms of this Agreement, and shall bear all risks and costs associated with any transmission outages or curtailment. Seller shall be responsible for all costs and charges, including imbalance charges, regardless of the cause thereof, electric transmission losses and congestion to and at the Delivery Point.

(ii) Annual Forecast of Delivery Schedules. No later than forty-five (45) days before (A) the first day of the first Contract Year of the Delivery Term and (B) the beginning of each calendar year during the Delivery Term, Seller shall provide a non-binding forecast of each month's average-day deliveries of Delivered Energy, by hour, for the following calendar year, which shall be substantially in the form included as part of Appendix IV.

(iii) Monthly Forecast of Delivery Schedules. Ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall

provide a non-binding forecast of expected deliveries of Delivered Energy by hour for each day during the following month, which shall be substantially in the form included as part of Appendix IV.

3.4 Termination of Shaping and Firming Agreement. Subject in all respects to Section 10.2(b), if the Shaping and Firming Agreement terminates without replacement and this Agreement continues in effect, deliveries of Delivered Energy at the Delivery Point will be scheduled to Buyer as firm energy scheduled in advance in accordance with the scheduling parameters set forth in Section 3.4(b) below (“Hourly Firm Energy”). In that case, Seller shall pay imbalance and scheduling charges associated with the delivery of the Hourly Firm Energy to and at the Delivery Point, and Buyer shall pay for all transmission services and operating reserves (as defined in the BPA Tariff) incurred after the Delivery Point. During any portion of a Contract Year in which the Shaping and Firming Agreement is no longer in effect and Seller is delivering Hourly Firm Energy pursuant to this Section 3.4, the following additional provisions will apply (subject in all respects to Section 10.2(b)):

(a) Daily Scheduling. Seller shall conduct all scheduling in full compliance with the applicable BPA and WECC protocols and scheduling practices for day ahead pre-schedules and for any changes to such schedules after they are made. During the Term, Seller shall submit to Buyer a day ahead pre-schedule setting forth the expected hourly deliveries of Hourly Firm Energy for the next day or days by no later than four (4) hours before the pre-scheduling deadline on each applicable WECC pre-scheduling day (which as of the Execution Date is 3:00 p.m. on the day prior to the related delivery); provided, however, that a schedule provided on a day before any non-Business Day shall include deliveries planned for each day to and including the next Business Day. All day-ahead schedules provided by Seller to Buyer shall be non-binding, good-faith estimates only. These notices and schedules shall be sent by Seller to Buyer at:

Day-Ahead Trading Desk
Phone: 415-973-6222
Fax: 415-973-0400
Email: daenergy@pge.com

Each delivery schedule described above in this section 3.4(a) shall clearly identify, for each hour, Seller’s best estimate of all amounts of Energy to be delivered and sold to Buyer pursuant to this Agreement as of the time of such schedule.

(b) Hourly Scheduling. For each day on which Hourly Firm Energy will be delivered to Buyer, Seller shall communicate by telephone the hourly schedule to Buyer in accordance with the time frame of WECC’s scheduling protocol (which as of the Execution Date is thirty (30) minutes prior to the hour of such delivery), plus fifteen (15) minutes. For example, Seller would schedule hourly changes with Buyer for the hour ending at 1:00 pm PPT by 11:15 am PPT. Once an hour-ahead schedule is established pursuant to this Section 3.4(b) for an hour, the schedule shall remain fixed for such hour; provided, however, that (a) to the extent permitted by the WECC scheduling protocol, Seller shall have the right to make real-time schedule changes to the extent required by a Force Majeure event or curtailment during a Dispatch Down Period, and (b) Seller shall notify Buyer of such real-time schedule changes as soon as possible. If Seller fails to schedule for an hour, the presumed schedule for that hour shall be as set forth in the most recent WECC day-ahead schedule for such hour.

Notices will be sent by Seller to Buyer at:

Hour-Ahead Trading Desk
Phone: 415-973-7900
Fax: 415-972-5340
E-mail: realtime@pge.com

(c) Invoicing. Seller will continue to invoice Buyer and Buyer shall pay the Contract Price for all Hourly Firm Energy as required under Section 6.1.

(d) Quarterly Payments. Within thirty (30) days after the end of each quarter during each Contract Year in which Hourly Firm Energy is delivered to Buyer pursuant to this Section 3.4, Seller will compare the total number of MWh of Delivered Energy during the quarter to the total number of MWh of Hourly Firm Energy scheduled, delivered, and sold to Buyer at the Delivery Point during such quarter. If the total number of MWh of Hourly Firm Energy delivered in the applicable quarter (or portion thereof) is greater than total number of MWh of Delivered Energy delivered in the applicable quarter (or portion thereof), as documented by PPM to Buyer's reasonable satisfaction, Buyer will pay Seller for such excess MWh in an amount determined by multiplying the excess number of MWh of Hourly Firm Energy by the difference obtained by subtracting the Contract Price from the average Mid-C Index Price for the applicable quarter. In the event the result of this calculation is negative, Seller shall pay Buyer the absolute value of such amount. If the total number of MWh of Hourly Firm Energy delivered in the applicable quarter (or portion thereof) is less than total number of MWh of Delivered Energy delivered in the applicable quarter (or portion thereof), as documented by PPM to Buyer's reasonable satisfaction, Seller will pay Buyer for such deficit in MWh in an amount determined by multiplying the deficit number of MWh of Hourly Firm Energy by the difference obtained by subtracting the Contract Price from the average Mid-C Index Price for the applicable quarter. In the event the result of the calculation is negative, Buyer shall pay Seller the absolute value of such amount.

3.5 Standard of Care and Reliability Standard. All generation, scheduling and transmission services shall be performed in compliance with all applicable operating policies, criteria, rules and guidelines of the WECC and Good Utility Practices, including with respect to deliveries under Section 3.4. Seller, at its own expense, shall fulfill all contractual, metering and applicable interconnection requirements including those set forth in BPA's applicable tariffs, including but not limited to executing applicable interconnection agreements and related agreements, if applicable, so as to be able to deliver energy to the Delivery Point and bear all costs relating to all metering equipment installed to accommodate the Project. Seller agrees to abide by all applicable North American Reliability Council, NERC, and WECC reliability requirements, and (ii) all applicable requirements regarding interconnection of the Project, including the requirements of BPA. If required by the Transmission Provider, Seller shall enter into and comply with the WECC Reliability Management System (Generator) Agreement, or successor agreement as of the Commercial Operation Date and throughout the Delivery Term.

3.6 Metering. Seller shall, at its expense, own and cause the installation, operation and maintenance by authorized personnel of all metering and data processing equipment needed for the registration, recording, and transmission of information regarding the energy generated from the Project, which shall include two Project output meters dedicated exclusively to the Project (the "Project Meters"). The output from the Project for the Transaction will be delivered through the Project Meters, with each Project Meter measuring output from a designated portion of the Project. All Products purchased under the Agreement must be measured by the Project Meters to be eligible for

payment under this Agreement. Seller shall cause the Project Meters to be installed on the high voltage side of the Project Substation step-up transformer. In addition, Seller hereby agrees to provide to Buyer all commercially reasonably relevant inspection, testing and calibration data and reports received with respect to the Project Meters. Seller shall (to the extent possible) also cause BPA to provide to Buyer all commercially reasonably relevant metering data collected by BPA with respect to the Project Meters and Project output, and shall provide such information to Buyer if BPA provides such information to Seller and not to Buyer. If any Person makes or directs Seller to make any adjustment to any Project output data for a given time period, Seller agrees that it shall submit revised monthly invoices, pursuant to Section 6.1, covering the entire applicable time period in order to conform fully such adjustments to the meter data. Seller shall submit any such revised invoice no later than thirty (30) days from the date on which the adjusting Person provides to Seller such binding adjustment to the meter data. Buyer shall have the right to have an authorized representative present at any testing, recalibration, reading or other inspection of the Project Meters, and Seller shall give Buyer five (5) Business Days prior written notice (or such period of time as is commercially reasonable) prior to such event.

3.7 Outage Notification.

(a) Planned Outages. Seller shall notify Buyer by submitting a completed Outage Notification Form in accordance with the provisions set forth in this Section 3.7 no later than December 1 of each year during the Delivery Term of its proposed Planned Outage schedule for the Project for the following calendar year, subject to Buyer's review. Notwithstanding the submission of the Outage Notification Form described in the previous sentence, Seller shall also submit a completed Outage Notification Form in accordance with the provisions set forth in this Section 3.7 no later than seven (7) days prior to each Planned Outage. Seller shall not schedule Planned Outages during the months of June through September. Seller shall promptly contact Buyer with any changes to the Planned Outage schedule, including if Seller believes any portion of the Project must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Good Utility Practices. Seller shall not substitute power from any other source for the output of the Unit(s) during a Planned Outage. After any Planned Outage has been scheduled, at any time up to the start of work, Buyer may request that Seller change its Planned Outage schedule. Seller shall notify Buyer of any incremental costs associated with the schedule change and an alternative schedule change, if any, that would entail lower incremental costs. If Buyer agrees to pay the incremental costs, Seller shall use commercially reasonable efforts, consistent with its other contractual obligations and Good Utility Practices, to accommodate Buyer's request. Notwithstanding the Planned Outage schedule set forth in the Outage Notification Form, Buyer acknowledges that Seller may modify the Planned Outage schedule if it determines that such modification is required pursuant to Good Utility Practices. Seller shall use commercially reasonable efforts to limit Planned Outages to the shortest period of time, consistent with Good Utility Practices, to perform scheduled maintenance.

(b) Forced Outages. Upon learning of any Forced Outage, Seller shall, in accordance with the provisions set forth in this Section 3.7, (i) use commercially reasonable efforts to notify Buyer of any Forced Outage that reduces the Installed Capacity by more than ten percent (10%) within one (1) hour of the occurrence of such Forced Outage and (ii) provide a written estimate of the expected duration of the Forced Outage within twenty-four (24) hours thereafter. Seller shall provide any required notice to Buyer of a Forced Outage by phone as described in clause (e) below or by email at daenergy@pge.com. Seller shall not substitute power from any other source for the output of the Project during a Forced Outage.

(c) Prolonged Outages. Seller shall promptly notify Buyer of a Prolonged Outage as soon as practicable under the circumstances by submitting a completed Outage Notification Form to Buyer in accordance with the provisions set forth in this Section 3.7. Seller shall provide periodic estimates to Buyer of the remaining duration of the outage. Seller shall not substitute power from any other source for the output of the Project during a Prolonged Outage.

(d) Force Majeure.

(i) Within forty-eight (48) hours after learning of the commencement of an event of Force Majeure the Party that is subject to the Force Majeure (“Claiming Party”) shall provide the other Party (the “Non-Claiming Party”) oral notice of the event of Force Majeure, and within two (2) weeks after learning of the commencement of an event of Force Majeure the Claiming Party shall provide the Non-Claiming Party with written notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure claim. Failure to provide timely notice constitutes a waiver of a Force Majeure claim. Seller shall not substitute or authorize the substitution of power from any other source for the output of the Project during an outage resulting from Force Majeure. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is required by the Force Majeure. Buyer shall not be required to make any payments for capacity or energy not delivered or provided as a result of a Force Majeure event during the term of a Force Majeure event. A Force Majeure event shall not result in a breach or Event of Default hereunder.

(ii) The Non-Claiming Party may terminate this Agreement, without liability to either Party, by giving written Notice of such termination to the Claiming Party if the Claiming Party’s obligations under this Agreement have been partially or fully suspended for eighteen (18) months as a result of a Force Majeure event that has prevented Seller from delivering at least forty percent (40%) of the Contract Quantity during such period; provided, however, that such eighteen (18) month period may be extended by an additional six (6) months if the damage caused by the Force Majeure event can be corrected through repair, restoration or other action or effort by the Claiming Party, and the Claiming Party shall have furnished to the Non-Claiming Party an acceptable proposal or plan for such repair, restoration or other action or effort reasonably acceptable to the Non-Claiming Party, prior to the expiration of such eighteen (18) month period and is diligently pursuing such proposal or plan. If such six (6) month extension is granted, then the termination right described in this Section 3.7(d)(ii) shall not be exercisable until the end of such six (6) month period.

(e) Changes to Operating Procedures. Notwithstanding any language to the contrary contained in Sections 3.3, 3.5, 3.6, 3.7, or Appendix III, Seller understands and acknowledges that the specified transmission and scheduling mechanisms, metering requirements, outage notification procedures and operating procedures described therein are subject to change by Buyer from time to time and, upon receipt of Notice of any such changes, Seller agrees to cooperate with Buyer on a reasonable basis to implement any such changes as reasonably deemed necessary by Buyer, provided

that such changes do not result in an increase in Seller's costs of performance hereunder (other than de minimus amounts) that are not reimbursed by Buyer.

3.8 Operations Records and Access Rights.

(a) Operations Records. Within thirty (30) days of Buyer's request, Seller shall provide to Buyer copies (in electronic format, if available) of all periodic operations and maintenance records relating to the Project. Seller shall maintain a complete and accurate record of all material operations and maintenance information on a daily basis. Such records, which may be in electronic (SCADA or otherwise) or manual form, or a combination thereof, shall include, but not be limited to, information on availability, maintenance performed, outages, results of inspections, manufacturer recommended services, replacements, and electrical characteristics of the generators, control settings and adjustments of equipment and protective devices.

(b) Access Rights. Buyer, its authorized agents, employees and inspectors shall have the right of ingress to and egress from the Project upon reasonable Notice and for any purposes reasonably connected with this Agreement or the exercise of any and all rights secured to Buyer by Law, or BPA's interconnection rules. Seller shall keep Buyer advised of current procedures established by the Seller for contacting Seller's Safety and Security Departments. Buyer and Seller shall cooperate in good faith to schedule site visits so as not to interfere with operations at the Project. Buyer's employees and agents shall observe all safety and other rules generally applicable to personnel on the Project. Buyer's entry upon the Site under this Agreement shall be at Buyer's sole risk and expense, and Buyer shall defend, indemnify and hold Seller harmless from any claims, damages, costs and other liabilities arising from Buyer's entry upon the Site (except for claims, damages, costs and other liabilities caused by Seller's gross negligence or willful misconduct).

3.9 New Generation Facility.

(a) Subject to the terms of this Agreement, the Seller shall bear the responsibility for:

- (i) designing and constructing the Project;
- (ii) performing all studies, paying all fees, obtaining all necessary approvals and executing all necessary agreements with BPA for the Interconnection Facilities to schedule and deliver Seller's Product;
- (iii) acquiring all permits and other approvals necessary for the construction, operation, and maintenance of the Project; and
- (iv) completing all environmental impact studies necessary for the construction, operation, and maintenance of the Project.
- (v) Within fifteen (15) days after the close of each month from the first month following the Execution Date until the Commercial Operation Date, Seller shall provide to Buyer a Monthly Construction Progress Report and participate in regularly scheduled meetings at mutually agreeable times between representatives of Buyer and Seller to review such monthly reports and discuss Seller's construction progress. Seller shall update the information contained in any Monthly Construction Progress Report if reasonably requested by Buyer

within fifteen (15) days after Buyer's delivery of such request. Each Monthly Construction Progress Report shall identify certain milestones for the construction of the Project (the "Milestones") and indicate whether Seller has met or is on target to meet such Milestones. An example of the form of the Monthly Construction Progress Report can be found in Appendix II.

(b) Guaranteed Commercial Operation Date.

(i) The Parties agree that the Guaranteed Commercial Operation Date must be achieved in a timely fashion or Buyer will suffer damages. In addition, at the beginning of each calendar year, until such milestone is achieved, Seller shall provide Buyer with periodic updates of certain development milestones, as initially set forth in Exhibit C. In addition, Seller shall provide Buyer with any reasonably requested documentation to support the achievement of the Guaranteed Commercial Operation Date within ten (10) Business Days of receipt of such request by Seller from Buyer. With respect to completion of the Interconnection Facilities, as described in Section 3.9(b)(ii) below, such reporting and information requirements shall also include Seller providing to Buyer (a) all available supporting documentation provided by BPA relating to the Interconnection Facilities, (b) site access consistent with the requirements of Section 3.8 in order for Buyer to inspect the progress of the completion of the Interconnection Facilities, and (c) access to Seller's asset and project managers for in-person or telephonic meetings to discuss the status of the Interconnection Facilities.

(ii) By December 31, 2007 (as extended pursuant to the terms hereof, the "Guaranteed Commercial Operation Date"), Seller shall have demonstrated Commercial Operation. Notwithstanding the foregoing, if the Interconnection Facilities have not achieved final completion on or before November 15, 2007 and such failure is outside of the control of Seller or its Affiliates or their respective contractors, the Guaranteed Commercial Operation Date shall be extended, on a day-for-day basis after December 31, 2007, until the earlier to occur of (a) forty-five (45) days after the final completion of the Interconnection Facilities, and (b) December 31, 2008. For purposes of this Section 3.9(b)(ii), final completion of the Interconnection Facilities shall mean completion of all necessary portions of the Interconnection Facilities such that the Project is capable of interconnecting and delivering Energy to the BPA system. If final completion of the Interconnection Facilities has not occurred on or before November 15, 2008, Seller shall provide a revised projected completion schedule and estimated completion date for the Interconnection Facilities and a proposed new Guaranteed Commercial Operation Date which shall be based on Seller's good faith estimate of the earliest date on which the Interconnection Facilities will be completed considering the then-current status of construction and interconnection. Buyer shall have the option to accept or reject such new proposed Guaranteed Commercial Operation Date in its sole discretion. If Buyer chooses to accept such new Guaranteed Commercial Operation Date, the Event of Default set forth in Section 5.1(j) shall not be triggered until Seller fails to meet the new Guaranteed Commercial Operation Date, subject to the extensions further permitted pursuant to Section 3.9(b)(iii)

through the payment of Daily Delay Damages. If (i) Buyer chooses to reject Seller's proposed new Guaranteed Commercial Operation Date or (ii) Buyer chooses to accept Seller's proposed new Guaranteed Commercial Operation Date but the Interconnection Facilities are not completed at least forty-five (45) days before such new Guaranteed Commercial Operation Date, and such failure is outside of the control of Seller or its Affiliates or their respective contractors, then the Agreement shall automatically terminate (subject to Section 10.2(a)) without liability on the part of either Party; provided, however, that if final completion of the Interconnection Facilities occurs within ninety (90) days following such termination, this Agreement shall be fully reinstated and in full force and effect, with the Guaranteed Commercial Operation Date established as the forty-fifth (45th) day following the completion of the Interconnection Facilities, and Seller shall not be obligated to pay Daily Delay Damages other than with respect to any extensions further permitted pursuant to Section 3.9(b)(iii).

(iii) Cure Period and Remedies

(A) If the Commercial Operation Date occurs after the Guaranteed Commercial Operation Date (as may be delayed on a day-for-day basis (x) for up to three hundred sixty (360) days in the case of Force Majeure, or (y) for up to ninety (90) days for wind conditions that inhibit or delay operational testing of the Project) for reasons other than a failure to complete the Interconnection Facilities that is outside of the control of Seller or its Affiliates or their respective contractors, Buyer shall be entitled to draw upon the Project Development Security for liquidated damages equal to Daily Delay Damages for each day or portion of a day that the Commercial Operation Date occurs after the Guaranteed Commercial Operation Date for up to a total of two hundred seventy (270) days ("Project Cure Period"). Each Party agrees and acknowledges that (a) the actual damages that Buyer may incur due to delay in achieving the Guaranteed Commercial Operation Date would be difficult or impossible to predict with certainty, and (b) the Daily Delay Damages are an appropriate approximation of such damages. Seller's liability under this Agreement for failure to achieve the Guaranteed Commercial Operation Date shall be limited to the full amount of Project Development Security required to be posted by Seller hereunder, as provided for in Section 5.2(b) of the Agreement.

(B) Notwithstanding the limitations set forth in the prior paragraph Seller may, at its option and by Notice to Buyer not later than (5) five Business Days prior to the expiration of the Project Cure Period, elect to extend the Project Cure Period by up to an additional ninety (90) days, provided that the Seller posts additional Project Development Security in the amount of \$10,000 per day in favor of Buyer to be paid to Buyer for each day in such extension period that Seller has not achieved the Commercial Operation Date; provided, however, if following any such extension the Commercial Operation Date occurs prior to the extended Guaranteed Commercial Operation Date, Buyer shall return to Seller the undrawn posted amounts, together with interest accrued at the Interest Rate (if any).

**ARTICLE 4
COMPENSATION; MONTHLY PAYMENTS**

4.1 Contract Price. The Contract Price shall be \$58.50 for each MWh of Delivered Energy; provided, however, that if at any time during the Term the Shaping and Firming Agreement terminates and Seller continues to deliver Product to Buyer pursuant to Section 3.4 or the final sentence of Section 10.2, the Contract Price shall thereafter be \$60.50 for each MWh of Hourly Firm Energy.

4.2 TOD Periods. The time of delivery periods (“TOD Periods”) specified below shall be referenced by the following designations:

Period	1. Super-Peak	2. Shoulder	3. Night
A. June – September	A1	A2	A3
B. Oct. – Dec., Jan. & Feb.	B1	B2	B3
C. Mar. - May	C1	C2	C3

Period Definitions. The periods are defined as follows:

- A. June – September;
- B. October, November, December, January and February; and
- C. March - May.

TOD Period Definitions. The TOD Periods are defined as follows:

- 1. **Super-Peak** (5x8) = HE (Hours Ending) 13 – 20 (Pacific Prevailing Time (PPT)) Monday – Friday (except NERC Holidays).
- 2. **Shoulder** = HE 7 – 12, 21 and 22 PPT Monday – Friday (except NERC Holidays); and HE 7 – 22 PPT Saturday, Sunday and all NERC Holidays.
- 3. **Night** (7x8) = HE 1 - 6, 23 and 24 PPT all days (including NERC Holidays).

As used herein, “NERC Holidays” include: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Three of these days, Memorial Day, Labor Day, and Thanksgiving Day occur on the same day each year. Memorial Day is the last Monday in May; Labor Day is the first Monday in September; and Thanksgiving Day is the last Thursday in November. New Year’s Day, Independence Day, and Christmas Day occur on the same dates each year, but in the event any of these holidays occur on a Sunday, the “NERC Holiday” is celebrated on the Monday immediately following that Sunday and if any of these holidays occur on a Saturday, the “NERC Holiday” remains on that Saturday.

4.3 TOD Factors. In accordance with all other terms of this Article Four, the Contract Price shall be adjusted by the following Time of Delivery Factors (“TOD Factors”) for each of the specified TOD Periods in which Delivered Energy is delivered:

(a) During Periods when Shaping and Firming Services are Being Provided.

At any time during the Term (i) prior to the termination of the Shaping and Firming Agreement, or (ii) that the Shaping and Firming Agreement terminates and Seller is delivering Products to Buyer under Section 10.2(b)(i)(A), the TOD Factors shall be as follows:

TOD FACTORS FOR EACH TOD PERIOD

Period	1. Super-Peak	2. Shoulder	3. Night
A. June – September	1.000	1.000	1.000
B. Oct. – Dec., Jan. & Feb.	1.000	1.000	1.000
C. Mar. – May	1.000	1.000	1.000

(b) Following Termination of Shaping and Firming Agreement. If, during

the Term, the Shaping and Firming Agreement is terminated and Seller continues to deliver Energy to Buyer pursuant to Section 3.4 or the final sentence of Section 10.2, the TOD Factors shall thereafter be as follows:

TOD FACTORS FOR EACH TOD PERIOD

Period	1. Super-Peak	2. Shoulder	3. Night
A. June – September	1.543	1.024	0.747
B. Oct. – Dec., Jan. & Feb.	1.310	1.065	0.787
C. Mar. – May	1.104	0.920	0.673

(c) Monthly TOD Payment. Subject to Section 4.4, for each month during

the Delivery Term, Buyer shall pay Seller for Delivered Energy delivered to Buyer in each TOD Period (“Monthly TOD Payment”) the amount resulting from multiplying the Contract Price times the TOD Factor for such TOD Period times the quantity of Delivered Energy. The formula for the Monthly TOD Payment is as follows:

Monthly TOD Payment =

Contract Price x TOD Factor (Super Peak) x quantity of Delivered Energy (Super Peak)

+

Contract Price x TOD Factor (Shoulder) x quantity of Delivered Energy (Shoulder)

+

Contract Price x TOD Factor (Night) x quantity Delivered Energy (Night)

4.4 Excess Delivered Energy. In any Contract Year, if Seller delivers a quantity of Delivered Energy in excess of one hundred twenty percent (120%) of the annual Contract Quantity amount, the Contract Price for such energy in excess of such one hundred twenty percent (120%) shall be seventy-five percent (75%) of the applicable Contract Price, the formula for which is as follows:

Excess Delivered Energy Payment =

(0.75 x Contract Price) x TOD Factor (Super Peak) x quantity of excess Delivered Energy (Super Peak)

+

(0.75 x Contract Price) x TOD Factor (Shoulder) x quantity of excess Delivered Energy (Shoulder)

+

(0.75 x Contract Price) x TOD Factor (Night) x quantity of excess Delivered Energy (Night)

**ARTICLE 5
EVENTS OF DEFAULT; PERFORMANCE REQUIREMENT; REMEDIES**

5.1 Events of Default. An “Event of Default” shall mean, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) Business Days after written Notice is received by the Party failing to make such payment;
- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default), if such failure is not remedied within thirty (30) days after written Notice from the Non-Defaulting Party; provided, that in the case of any such failure to perform that is not reasonably capable of being cured within such thirty (30) day cure period through the exercise of commercially reasonable efforts, the Defaulting Party shall have additional time to cure the Event of Default if it commences to cure the Event of Default within such thirty (30) day cure period, it advises the Non-Defaulting Party of its plan for such cure, and diligently pursues such cure, and such default is capable of being cured by the Defaulting Party and is in fact cured within one hundred eighty (180) days after receiving Notice of the Event of Default;
- (d) such Party becomes Bankrupt;
- (e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;

(f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party;

(g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments (after expiration of any grace or cure periods applicable thereto), individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet); provided, that any of the foregoing shall not constitute an Event of Default if the payment of such amounts is the subject of an ongoing dispute between the related counterparty and the Party;

(h) with respect to such Party's Guarantor, if any of the following shall have occurred and such Party has not replaced the guaranty of such Guarantor with substitute Performance Assurance as provided in Article Eight within three (3) Business Days thereafter:

(i) if any representation or warranty made by a Guarantor in connection with this Agreement or its Guaranty is false or misleading in any material respect when made or when deemed made or repeated;

(ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after Notice;

(iii) a Guarantor becomes Bankrupt;

(iv) the failure of a Guarantor's Guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such Guaranty shall relate without the written consent of the other Party; or

(v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty;

(i) if at any time during the Term of Agreement, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement Energy that was not generated by the Project, other than Cure Deliveries pursuant to Section 3.1(d)(vi) and imbalance energy, if any, resulting from imbalances in delivery of Firm Hourly Energy pursuant to Section 3.4;

(j) failure by Seller to meet the Guaranteed Commercial Operation Date as set forth in Section 3.9(b), as may be extended by the Project Cure Period (if applicable); provided, however, that damages for such an Event of Default shall be limited as described in Section 5.2(b); or

(k) with respect to Seller only, the representation and warranty made by Seller in Section 10.16 is false or misleading in any material respect when made or becomes false or misleading in any material respect during the Delivery Term; provided, however, that if such representation and warranty becomes false or misleading in any material respect during the Delivery Term solely because (i) the Project does not qualify and is not certified by the CEC as an Eligible Renewable Energy Resource pursuant to Section 399.12 of the California Public Utilities Code and California Public Resources Code Section 25741 because of an amendment or modification thereto subsequent to the Execution Date, or an adverse interpretation thereof by any applicable government authority that is issued subsequent to the Execution Date; (ii) the Project's output delivered to Buyer does not qualify under the requirements of the California Renewables Portfolio Standard because of an amendment or modifications to one or more of such requirements subsequent to the Execution Date, or an adverse interpretation thereof by any applicable government authority that is issued subsequent to the Execution Date; or (iii) all or a portion of the Project's output delivered to Buyer does not qualify under the requirements of the California Renewables Portfolio Standard because Buyer is unable or unwilling to deliver such output (or is unable to demonstrate delivery of such output) into California after Buyer's receipt of such output as "Shaped Energy" pursuant to the Shaping and Firming Agreement, then this Section 5.1(k) shall not apply.

5.2 Declaration of Early Termination Date and Calculation of Settlement Amounts.

(a) Subject to Section 5.2(b), if an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("Non-Defaulting Party") shall have the right to (i) designate a day, no earlier than the day such Notice is effective and no later than twenty (20) days after such Notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate the Transaction ("Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance under the Agreement. If the Non-Defaulting Party opts to liquidate and terminate the Transaction, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses for the Settlement Amount may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. If the Non-Defaulting Party uses the market price for a comparable transaction to determine the Gains or Losses, such price should be determined by using the average of market quotations provided by five or more bona fide unaffiliated market participants. If five or more quotes are obtained, the high and low quotations shall be excluded and a simple average of the remaining quotations shall constitute the forward price. If at least three but less than five quotations are available, then the average of those quotes shall be the forward price. Where a quote is in the form of bid and ask prices, the price that is used in the averaging is the midpoint between the bid and ask price. The quotes obtained shall be for: (a) a like amount, (b) of the same Product, (c) at the same delivery point, and (d) for the remaining Delivery Term, or in any other commercially reasonable manner. The Gains and Losses shall be calculated as the difference, plus or minus, between the projected economic value of (i) the Terminated Transaction over the remaining Delivery Term and (ii) the equivalent projected quantities of Products and relevant market prices for the same term that either are quoted by a bona fide market participant, as provided above, or which are reasonably expected to be available in

the market for a replacement contract for the Transaction. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. The Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount.

(b) Notwithstanding anything to the contrary in this Section 5.2, upon the occurrence of an Event of Default described in 5.1(j), Seller, as a Defaulting Party, shall pay to Buyer, as Non-Defaulting Party, a “Default Payment” equal to the amount of Project Development Security obligated to be posted as of the date of such Event of Default, as such amount may have been reduced by amounts drawn from the Project Development Security as Daily Delay Damages. Buyer shall be entitled to draw on the cash or Letter of Credit posted pursuant to Article Eight of this Agreement for the Default Payment. Upon payment of the Default Payment pursuant to this Section 5.2(b), this Agreement shall terminate effective as of the date of Buyer’s receipt and acceptance of such payment, and neither Party shall be under any further obligation hereunder, subject to Section 10.2(a) hereof.

5.3 Net Out of Settlement Amounts. If the Non-Defaulting Party opts to liquidate the Agreement pursuant to Section 5.2, the Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party (if any), plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the “Termination Payment”). If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the Termination Payment shall be zero.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation of the Agreement pursuant to Section 5.2, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment or Default Payment, as applicable, is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within two (2) Business Days after such Notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Termination Payment or Default Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of Non-Defaulting Party’s calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment (as calculated by the Non-Defaulting Party).

5.6 Remedies Not Exclusive. Except as expressly limited by other provisions of this Agreement (including Article Seven hereof), each and every power and remedy given to the Non-Defaulting Party shall be in addition to every other power and remedy now or hereafter available to the Non-Defaulting Party at law or in equity (including the right to specific performance). Except as otherwise set forth in the Agreement, no delay or omission in the exercise of any power or remedy and no renewal or extension of any performance due under this Agreement shall impair any such power or remedy or waive any default.

ARTICLE 6 PAYMENT AND NETTING

6.1 Billing and Payment; Remedies. On or before the tenth (10th) Business Day of each month, Seller shall provide to Buyer (i) data and records reasonably acceptable to Buyer, for all Product delivered pursuant to the Agreement for the preceding month and data, including Transmission Providers' metering and transaction data sufficient to document and verify the generation of Product by the Project for all hours during the preceding month, or preceding months, and (ii) an invoice, in a format reasonably acceptable to Buyer, covering the services provided in the preceding month or preceding months. Such invoice will also reflect adjustments for prior months resulting from the receipt of revised data from the Transmission Providers with respect to Delivered Energy. Buyer shall pay the undisputed amount of such invoices on or before the later of the twenty-fifth (25th) day of each month and fifteen (15) days after receipt of the invoice. If either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. Invoices may be sent by facsimile or e-mail.

6.2 Disputes and Adjustments of Invoices. In the event an invoice or portion thereof or any other claim or adjustments arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with Notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Subject to Section 3.6, in the event adjustments to payments are required as a result of (a) inaccurate meter(s), or (b) adjustments to data based upon more detailed information received from Transmission Provider(s), Buyer shall use such corrected measurements or data to recompute the amount due from Buyer to Seller for the Product delivered under the Transaction during the period of inaccuracy. The Parties agree to use good faith efforts to resolve the dispute or identify the adjustment as soon as possible. Upon resolution of the dispute or calculation of the adjustment, any required payment shall be made within fifteen (15) days of such resolution along with interest accrued at the Interest Rate from and including the original due date but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment, but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.2 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance under the Transaction occurred, the right to payment for such performance is waived.

ARTICLE 7 LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY

THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 10.5 (INDEMNITIES), IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE 8 CREDIT AND COLLATERAL REQUIREMENTS

8.1 Seller's Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet and shall only apply if marked as "Applicable" on the Cover Sheet.

(a) Buyer's Financial Information. Option A: If requested by Seller, Buyer shall deliver (i) within one hundred twenty (120) days following the end of each fiscal year, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Buyer's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Seller, Buyer shall deliver (i) within one hundred twenty (120) days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent

accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Promptly following demand by Seller, but in no event later than (i) one hundred twenty (120) days after the end of each fiscal year with respect to PG&E Corporation, a copy of PG&E Corporation's annual report containing audited consolidated financial statements for such fiscal year and (ii) sixty (60) days after the end of each of PG&E Corporation's first three fiscal quarters of each fiscal year, a copy of PG&E Corporation's quarterly report containing unaudited consolidated financial statements for each accounting period and prepared in accordance with generally accepted accounting principles; provided however, that Buyer shall be deemed to have satisfied such delivery requirement if the applicable report is publicly available or on the U.S. Securities and Exchange Commission ("SEC") EDGAR information retrieval system; further provided, that should such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default, so long as such statements are provided to Seller upon their completion and filing with the SEC.

(b) Downgrade Event. If at any time after the Commercial Operation Date there shall occur a Downgrade Event in respect of Buyer then Seller may require Buyer, in accordance with this Article Eight, to deliver Performance Assurance to Seller in an amount equal to \$2,600,000. In the event Buyer shall fail to provide such Performance Assurance to Seller within ten (10) Business Days of receipt of Seller's request for such Performance Assurance, then Seller shall have the right to declare an Event of Default and Seller will be entitled to the remedies set forth in Article Five of this Agreement. Any such Performance Assurance shall not be deemed a limitation of damages, notwithstanding the limitations included in this Section 8.1, except to the extent set forth elsewhere in this Agreement.

(c) Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent Buyer delivers Performance Assurance in the form of cash hereunder, Buyer hereby grants to Seller a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all such Performance Assurance and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, Seller, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Seller's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, and Seller is the Non-Defaulting Party, Seller may do any one or more of the following: (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, as applicable, including any such rights and remedies under Law then in effect; (ii) draw on any outstanding Letter of Credit issued for its benefit; and (iii) liquidate all Performance Assurance then held by or for the benefit of Seller free from any claim or right of any nature whatsoever of Buyer except the right to receive surplus proceeds described below in this subsection. Seller shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Buyer's obligations under the Agreement (Buyer remaining liable for any amounts owing to Seller after such application). Seller shall return any surplus proceeds from the realization of collateral described in this subsection remaining after such obligations are satisfied in full and shall promptly provide Buyer with a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation.

(d) Return of Performance Assurance to Buyer. Seller shall return the undrawn portion of any Performance Assurance provided hereunder, including the payment of any interest earned thereon under this Section 8.1, to Buyer promptly after the earlier to occur of the following: (A) the Buyer's Credit Rating has increased to BBB- or above by S&P or Baa3 or above by Moody's if rated by only one Ratings Agency, or the Buyer's Credit Rating has increased to BBB- or above by S&P and Baa3 or above by Moody's if rated by both Ratings Agencies, or (B)(i) the term of the Agreement has ended or an Early Termination Date has occurred, as applicable; and (ii) all payment obligations of the Buyer arising under this Agreement, including compensation for Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting).

(e) Letter of Credit.

(i) If Buyer has provided a Letter of Credit pursuant to any of the applicable provisions in this Section 8.1, then Buyer shall renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and in accordance with this Agreement. In the event the issuer of such Letter of Credit (x) fails to maintain any requirement of a Qualified Bank; (y) indicates its intent not to renew such Letter of Credit, or (z) fails to honor Seller's properly documented request to draw on an outstanding Letter of Credit by such issuer, Buyer shall (A) provide a substitute Letter of Credit that is issued by a Qualified Bank acceptable to Seller other than the bank failing to honor the outstanding Letter of Credit, (B) provide a replacement Guaranty from a Qualified Replacement Guarantor, or (C) post cash in accordance with Section 8.1(f), in each case in an amount equal to the outstanding Letter of Credit within five (5) Business Days after Buyer receives Notice from Seller of such event specified in (x), (y) or (z) ("Buyer Cure"), as applicable. If Buyer fails to effect a Buyer Cure or if such Letter of Credit expires or terminates without a full draw thereon by Seller, or fails or ceases to be in full force and effect at any time that such Letter of Credit is required pursuant to the terms of this Agreement, then Buyer shall have failed to meet the creditworthiness/collateral requirements of Section 8.1.

(ii) In all cases, the reasonable costs and expenses of establishing, renewing, substituting, canceling, increasing, reducing, or otherwise administering the Letter of Credit shall be borne by Buyer.

(f) Cash Escrow. Security provided as cash pursuant to this Section 8.1 shall be United States currency, deposited with a financial institution or company acceptable to Seller ("Buyer Issuer"), either: (i) in an account under which Seller is designated as beneficiary with sole authority to draft from the account or otherwise access the security; or (ii) held by Buyer Issuer as agent pursuant to a control agreement in a form reasonably acceptable to Seller. Security provided in this form shall include a requirement for immediate Notice to Seller from Buyer Issuer and Buyer in the event that the sums held as security in the account or trust are less than the then-current amount of Performance Assurance. Funds held in the account may be deposited in a money-market fund, short-term treasury obligations, investment-grade commercial paper and other liquid investment-grade investments with maturities of three months or less, with all investment income thereon to be taxable to, and to accrue for the benefit of, Buyer. Quarterly account sweeps by Buyer for recovery of interest earned by the cash escrow shall be allowed; it being understood that Seller shall draw and remit to

Buyer, on demand by Buyer (which demand may be made at least quarterly), any excess in the account above the then-current amount of Performance Assurance.

(g) Replacement of Performance Assurance. Buyer shall be permitted at any time to substitute for previously provided Performance Assurance delivered pursuant to this Section replacement Performance Assurance in the form of a Guaranty of a Qualified Replacement Guarantor, cash or a Letter of Credit, provided, that such substitute security is in an amount equal to the then-current amount of Performance Assurance and otherwise meets the applicable provisions of this Section 8.1. Seller shall return such replaced Performance Assurance in its possession within ten (10) Business Days of Seller's receipt and acceptance of such replacement Performance Assurance.

8.2 Buyer's Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet and shall only apply if marked as "Applicable" on the Cover Sheet.

(a) Seller's Financial Information. Option A: If requested by Buyer, Seller shall deliver (i) within one hundred twenty (120) days following the end of each fiscal year, a copy of Seller's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Buyer, Seller shall deliver (i) within one hundred twenty (120) days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Buyer may request from Seller the information specified in the Cover Sheet.

(b) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Seller's Guarantor, and Seller has provided a Guarantee from such Guarantor as Delivery Term Security under this Agreement, then Buyer may, unless Seller meets the requirements of a Qualified Replacement Guarantor, require Seller, in accordance with this Article Eight, to deliver a Letter of Credit issued by a Qualified Bank or cash (or, at Seller's option, a replacement Guaranty in the form attached hereto as Exhibit E by a Qualified Replacement Guarantor in lieu thereof) to Buyer in an amount equal to the amount of Delivery Term Security set forth on the Cover Sheet. In the event Seller shall fail to provide such Letter of Credit or cash to Buyer or replacement Guaranty within ten (10) Business Days of receipt of Buyer's request for such security, then Buyer shall have the right to declare an Event of Default and Buyer will be entitled to the remedies set forth in Article Five of this Agreement.

(c) Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent Seller delivers Project Development Security or Delivery Term Security, as applicable, hereunder in the form of cash, Seller hereby grants to Buyer a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all such Project Development Security or Delivery Term Security and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, Buyer, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Buyer's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, and Buyer is the Non-Defaulting Party, Buyer may do any one or more of the following: (i) exercise any of the rights and remedies of a secured party with respect to all Project Development Security or Delivery Term Security, as applicable, including any such rights and remedies under Law then in effect; (ii) draw on any outstanding Letter of Credit issued for its benefit; and (iii) liquidate all Project Development Security or Delivery Term Security, as applicable then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller except the right to receive surplus proceeds described below in this subsection. Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under the Agreement (Seller remaining liable for any amounts owing to the Buyer after such application). Buyer shall return any surplus proceeds from the realization of collateral described in this subsection remaining after such obligations are satisfied in full and shall promptly provide Seller with a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation.

(d) Project Development Security Provided by Seller; Performance Assurance.

(i) Project Development Security; Performance Assurance. To secure its obligations under this Agreement, satisfying any credit terms pursuant to the terms of Section 8.2, to the extent marked applicable, Seller agrees to deliver to Buyer, and Seller shall maintain in full force and effect (i) from the Execution Date to the date Seller posts Project Development Security specified on the Cover Sheet for Section 8.2(d)(i)(ii), the sum of its cash Bid Deposits, (ii) within thirty (30) days of the Execution Date until Seller posts Delivery Term Security pursuant to subpart (iii), Project Development Security in the amount and in the form set forth on the Cover Sheet, and (iii) from the Commercial Operation Date until the end of the Term, the Delivery Term Security in the amount and in the form set forth on the Cover Sheet. Any such Performance Assurance shall not be deemed a limitation of damages, notwithstanding the limitations included in this Section 8.2, except to the extent set forth elsewhere in this Agreement.

(ii) Use of Project Development Security. Buyer shall be entitled to draw upon the Project Development Security for Daily Delay Damages until such time as the Project Development Security is exhausted. Buyer shall also be entitled to draw upon the Project Development Security for any damages arising upon Buyer's declaration of an Early Termination Date prior to the Commercial Operation Date, with such damages limited to the posted Project Development Security.

(iii) Termination of Project Development Security. If after the Commercial Operation Date no damages are owed to Buyer under this Agreement, then Seller shall no longer be required to maintain the Project Development Security; and the Project Development Security shall be returned to Seller within five (5) Business Days of Seller's provision of the Delivery Term Security; provided however, that with Buyer's consent, Seller may elect to apply the Project Development Security toward the Delivery Term Security, if any, provided pursuant to this Section 8.2.

(iv) Calculation of Delivery Term Security. The amount of the Delivery Term Security required of Seller by this Section 8.2 shall be the amount set forth on the Cover Sheet.

(v) Return of Delivery Term Security. Buyer shall return the undrawn portion of Delivery Term Security, including the payment of any interest earned thereon pursuant to Section 8.2(f), to Seller promptly after the following has occurred: (i)(A) the Term of the Agreement has ended or an Early Termination Date has occurred, as applicable; and (B) all payment obligations of the Seller arising under this Agreement, including compensation for Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting) or (ii) Seller meets the requirements of a Qualified Replacement Guarantor.

(e) Letter of Credit.

(i) If Seller has provided a Letter of Credit pursuant to any of the applicable provisions in this Article Eight, then Seller shall renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and in accordance with this Agreement. In the event the issuer of such Letter of Credit (x) fails to maintain any requirement of a Qualified Bank; (y) indicates its intent not to renew such Letter of Credit; or (z) fails to honor Buyer's properly documented request to draw on an outstanding Letter of Credit by such issuer, Seller shall (A) provide a substitute Letter of Credit that is issued by a Qualified Bank, other than the bank failing to honor the outstanding Letter of Credit, (B) provide a replacement Guaranty from a Qualified Replacement Guarantor, or (C) post cash in accordance with Section 8.2(f), in each case in an amount equal to the outstanding Letter of Credit within five (5) Business Days after Seller receives Notice from Buyer of such event specified in (x), (y) or (z) (a "Seller Cure"), as applicable. If Seller fails to effect a Seller Cure or if such Letter of Credit expires or terminates without a full draw thereon by Buyer, or fails or ceases to be in full force and effect at any time that such Letter of Credit is required pursuant to the terms of this Agreement, then Seller shall have failed to meet the creditworthiness/collateral requirements of Article Eight.

(ii) In all cases, the reasonable costs and expenses of establishing, renewing, substituting, canceling, increasing, reducing, or otherwise administering the Letter of Credit shall be borne by Seller.

(f) Cash Escrow. Security provided as cash pursuant to this Section 8.2 shall be United States currency, deposited with a financial institution or company acceptable to Buyer (“Seller Issuer”), either: (i) in an account under which Buyer is designated as beneficiary with sole authority to draft from the account or otherwise access the security; or (ii) held by Seller Issuer as agent pursuant to an Escrow Agreement for Seller in the form attached hereto as Exhibit F for Project Development Security and pursuant to a control agreement in a form reasonably acceptable to Buyer for Delivery Term Security. Security provided in this form shall include a requirement for immediate Notice to Buyer from Seller Issuer and Seller in the event that the sums held as security in the account or trust are less than the then-current amount of Performance Assurance. Funds held in the account may be deposited in a money-market fund, short-term treasury obligations, investment-grade commercial paper and other liquid investment-grade investments with maturities of three months or less, with all investment income thereon to be taxable to, and to accrue for the benefit of, Seller. Quarterly account sweeps by Seller for recovery of interest earned by the cash escrow shall be allowed; it being understood that Buyer shall draw and remit to Seller, on demand by Seller (which demand may be made at least quarterly), any excess in the account above the then-current amount of Performance Assurance.

(g) Replacement of Performance Assurance. Seller shall be permitted at any time to substitute for previously provided Performance Assurance delivered pursuant to this Section replacement Performance Assurance in the form of a Guaranty of a Qualified Replacement Guarantor in the form set forth in Exhibit E, cash or a Letter of Credit, provided, that such substitute security is in an amount equal to the then-current amount of Delivery Term Security and otherwise meets the applicable provisions of this Section 8.2 and the Cover Sheet. Buyer shall return such replaced Performance Assurance in its possession within ten (10) Business Days of Buyer’s receipt and acceptance of such replacement Performance Assurance.

ARTICLE 9 GOVERNMENTAL CHARGES

9.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority (“Governmental Charges”) on or with respect to the Product or the Transaction arising prior to and at the Delivery Point, including but not limited to, ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the Transaction from the Delivery Point. In the event Seller is required by Law or regulation to remit or pay Governmental Charges which are Buyer’s responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by Law or regulation to remit or pay Governmental Charges which are Seller’s responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller’s payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the Law.

**ARTICLE 10
MISCELLANEOUS**

10.1 No Fault Termination.

(a) Seller Termination Right. If “Seller Termination Right” is specified as being “Applicable” on the Cover Sheet, then the following provisions in this Section 10.1(a) shall apply.

(i) If Seller’s Bid Price exceeds the Market Price Referent, Seller may seek a PGC Funding Award from the CEC for an amount (in \$ per MWh) equal to the positive difference derived by subtracting (a) the Market Price Referent (in \$ per MWh) from (b) the Bid Price (in \$ per MWh) (“PGC Fund Amount”). To the extent that Seller seeks such PGC Funding Award, Seller shall use best efforts to comply with all funding criteria and obtain the PGC Fund Amount and Buyer shall reasonably support Seller’s efforts. If Seller does not obtain a PGC Funding Confirmation or PGC Funding Award by 11:59 p.m. Pacific Standard Time on the one hundred twentieth (120th) day from the date on which Buyer files this Agreement for CPUC Approval (“Funding Termination Deadline”), then Seller may unilaterally terminate this Transaction prior to the Funding Termination Deadline effective as of the date on which Buyer receives Seller’s written notice of termination. If Seller exercises this termination right, neither Buyer nor Seller shall be subject to liability of any kind.

(ii) At any time prior to the Funding Termination Deadline, if applicable, Seller shall send to Buyer within ten (10) days of (a) obtaining a PGC Funding Confirmation or PGC Funding Award, written notice of such confirmation or award and a copy of the final funding award agreement entered into by the CEC and Seller, if the funding award agreement has been granted at that time, or (b) receiving written notice from the CEC denying Seller’s application for the requested PGC Fund Amount, a copy of such notice and a written statement from Seller, in which Seller shall (I) waive its termination rights under this Section 10.1(a) or (II) notify Buyer that the Transaction is terminated, pursuant to the terms of this Agreement. If Seller has the right to terminate this Transaction, but fails to send written Notice of termination by the Funding Termination Deadline, then Seller’s termination right per this subsection 10.1(a) shall be deemed waived in its entirety.

(b) PGC Funding Termination Event. If “PGC Funding Termination” is specified as being “Applicable” on the Cover Sheet, then the following provisions in this Section 10.1(b) shall apply:

(i) PGC Funding Revocation. If at any time after Seller obtains a PGC Funding Confirmation or PGC Funding Award, (A) the PGC Funding Confirmation or PGC Funding Award is revoked in whole or in part by the CEC for reasons not caused by Seller’s action or inaction, (B) such revocation occurs prior to the issuance of a PGC Funding Award or during the term of the PGC Funding Award, and (C) Seller has not received a financial benefit in the form of tax credits or any other source of public funding or credit directly related to

the Product sold under this Agreement, which benefit would offset the loss incurred from the revocation of the PGC Funding Confirmation or PGC Funding Award, then Seller shall have the right to terminate this Transaction, subject to Buyer's Right of First Refusal Option. If Seller exercises this termination right neither Buyer nor Seller shall be subject to liability arising from such termination.

Not more than ten (10) days from Seller's receipt of written notification regarding revocation of the PGC Funding Confirmation or PGC Funding Award in whole or part, Seller shall notify Buyer in writing of the revocation of the PGC Funding Confirmation or PGC Funding Award, certify it has not received an offsetting financial benefit per clause (C) above, and certify that such revocation is not due to Seller's action or inaction. Seller shall also provide Buyer with a copy of such CEC notification ("Revocation Notice"). Seller shall specify in its Revocation Notice what percentage of lost PGC funding it is willing to accept to continue to perform under this Transaction (not exceeding 100%).

(ii) Right of First Refusal Option.

(A) Option. Buyer, in its sole discretion, shall have the right, but not the obligation, to pay to Seller the percentage of lost PGC funding specified in its Revocation Notice ("Lost PGC Funds") and Seller shall continue performing under the Transaction for the remaining term of the Transaction (the "Option"). Buyer shall have thirty (30) days from its receipt of the Revocation Notice to exercise the Option ("Exercise Period"), subject to Option Approval, as defined below.

(B) Exercise of Option. If Buyer chooses to exercise the Option, Buyer shall send written notice to Seller stating that Buyer is exercising the Option, conditioned upon Buyer's receipt of Option Approval, as defined below, within one hundred eighty days of the date on which Buyer received the Revocation Notice. The effectiveness of the Option exercise shall be subject to Buyer's receipt of a final, non-appealable order issued by the CPUC, satisfactory to Buyer, approving Buyer's exercise of the Option and recovery of costs associated with the payment of the percentage of Lost PGC Funding ("Option Approval"). The date on which Buyer provides written Notice of its Option exercise to Seller shall be the "Exercise Date." Buyer shall file an advice filing or application seeking the Option Approval within thirty (30) days of the Exercise Date.

(C) Payment. Prior to Buyer's receipt of Option Approval, Buyer shall pay Seller the Lost PGC Funds, which would have been due to Seller on a monthly basis for the period between the Exercise Date and the next invoice following the date on which the Option Approval is issued. Upon receipt of Option Approval, Buyer shall continue paying Seller's Lost PGC Funds on a monthly basis until the expiration of the term of Seller's PGC Funding Award, or reinstatement of Seller's PGC funding, whichever comes first.

(D) Seller's Termination Right. Seller may terminate the Transaction in accordance with subsection (b)(i) above upon the occurrence of any of the following events: (I) Buyer provides written notice to Seller rejecting the exercise of the Option, (II) the Option expires without being

exercised, (III) Buyer fails to seek Option Approval within thirty (30) days of the Exercise Date, or (IV) Buyer fails to obtain Option Approval within one hundred eighty (180) days of Buyer's receipt of the Revocation Notice. If Seller then terminates the Transaction, such termination shall be effective thirty (30) days from the date on which Seller notifies Buyer of such termination. Both Parties shall continue to perform under this Transaction until the effectiveness of any such termination by Seller.

(iii) Reinstatement of PGC Funding. If the PGC Funding Award is reinstated in its entirety, including retroactive payments for Lost PGC Funds, at anytime before (A) Seller's termination of this Transaction or (B) Buyer's exercise of the Option, then Seller shall no longer be permitted to terminate this Transaction, pursuant to Section 10.1(b)(i), and both Parties shall continue to perform under this Transaction. If PGC Funding Award is reinstated in whole or in part at anytime after Buyer has exercised the Option, then Buyer shall be relieved of all further obligations to pay any of Seller's Lost PGC Funds, which will be covered by the reinstated PGC Funding Award. If the PGC Funding Award is reinstated in whole or in part on a retroactive basis after Buyer has exercised the Option, then Buyer shall have the right to offset against payments due to Seller that portion of such award amount equivalent to the Lost PGC Funds paid by Buyer to Seller between the period in which the PGC Funds were revoked and reinstated. Seller shall notify Buyer in writing of any such reinstatement of PGC Funds within ten (10) days of receiving notice of such reinstatement from the CEC, CPUC, or other regulatory agency responsible for the PGC Funds program, which notice shall include a copy of such notice.

(c) Production Tax Credits. In the event that (i)(A) the Commercial Operation Date does not occur on or before December 31, 2008 and the Guaranteed Commercial Operation Date has been extended to such date as provided in Section 3.9(b)(ii) or (B) Buyer accepts an extension of the Guaranteed Commercial Operation Date, as described in Section 3.9(b)(ii), which causes the Guaranteed Commercial Operation Date to be later than December 31, 2008, and (B) legislation providing for an extension of tax credits for wind energy at a rate of least twenty US dollars (\$20.00) per MWh with an adjustment in each year for inflation from 2007 for a wind energy facility placed in service before January 1, 2010, extending for a period of at least ten (10) years from when a qualifying facility is placed in service and containing other provisions comparable to the Production Tax Credit as in existence on December 31, 2007, is not enacted by January 1, 2009, then Seller may terminate this Agreement by written Notice to Buyer without further liability to either Party. If Seller has the right to terminate this Agreement and the Transaction pursuant to this subsection 10.1(c), but fails to send written Notice of termination by December 31, 2009, then Seller's termination right per this subsection 10.1(c) shall be deemed waived in its entirety.

(d) Termination of Shaping and Firming Agreement Due to Integration Charges. In the event the Shaping and Firming Agreement is terminated pursuant to Section 6.4.3 thereof, this Agreement shall also terminate at Buyer's option in its sole discretion upon thirty (30) days prior written Notice to Seller and without further liability to either Party.

10.2 Term of Agreement.

(a) Term. The term of this Agreement shall commence upon the satisfaction of the Conditions Precedent set forth in Article Eleven of this Agreement and shall remain in effect until the conclusion of the Delivery Term or unless terminated sooner pursuant to Section 3.1(d)(iv), 3.7(d)(ii), 3.9(b)(ii), 5.2, Sections 10.1(a), (b), (c), or (d), 10.2(b) or Section 11.2 of this Agreement (the “Term”); provided however, that this Agreement shall remain in effect until (i) the Parties have fulfilled all obligations with respect to the Transaction, including payment in full of amounts due for the Products delivered prior to the end of the Term, the Settlement Amount, indemnification payments or other damages (whether directly or indirectly such as through set-off or netting) and (ii) the undrawn portion of the Project Development Security or Performance Assurance, as applicable is released and/or returned as applicable (if any is due). All confidentiality obligations shall survive the termination or expiration of this Agreement, and all indemnity rights shall survive the termination or expiration of this Agreement for twelve (12) months.

(b) Buyer’s Right to Terminate. Upon Notice of termination of the Shaping and Firming Agreement for a default thereunder where the Shaping Services Provider is the defaulting Party, Buyer shall have the right to terminate this Agreement if within ninety (90) days following such default, Seller shall not have (i)(A) made arrangements for another entity to provide the services described in the Shaping and Firming Agreement to Buyer on substantially similar terms, or (B) agreed with Buyer to amend this Agreement to provide for the delivery of Energy and other Products to Buyer in a manner and on terms acceptable to Buyer in its sole discretion and Buyer shall have agreed in writing to such amendment; and (ii) compensated Buyer for its documented unrecovered costs and losses. If Buyer has the right to terminate this Agreement pursuant to this subsection 10.2(b), but fails to send Notice of termination by the date that is ninety (90) days after such termination right arises, then Buyer’s termination right per this subsection 10.2(b) shall be deemed waived in its entirety. During the ninety (90) day period described above in this Section 10.2(b), (i) Buyer shall have the right but not the obligation to continue to receive the Products hereunder pursuant to Section 3.4 hereof, as indicated to Seller on five (5) Business Days prior Notice, and (ii) Seller shall have the right to sell to third parties any Products Buyer has indicated it will not purchase pursuant to clause (i) of this sentence.

10.3 General Representations and Warranties. (a) As of the Execution Date, each Party represents and warrants to the other Party that:

(i) it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;

(ii) except for (A) CPUC Approval, in the case of Buyer, and (B) all permits necessary to install, operate and maintain the Project in the case of Seller, it has all regulatory authorizations necessary for it to perform its obligations under this Agreement;

(iii) the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Law, rule, regulation, order or the like applicable to it;

(iv) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding

obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses;

(v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could reasonably be expected to materially adversely affect its ability to perform its obligations under this Agreement;

(vii) no event constituting an Event of Default with respect to it has occurred and is continuing as of the Execution Date or will occur as a result of its entering into or performing its obligations under this Agreement;

(viii) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and

(ix) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or the ability to make or take delivery of all Products referred to in the Transaction to which it is a Party.

10.4 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Products delivered hereunder free and clear of all liens, security interests, Claims and encumbrances or any interest therein or thereto by any person arising prior to or at the Delivery Point.

10.5 Indemnities.

(a) Indemnity by Seller. Seller shall release, indemnify and hold harmless Buyer, its directors, officers, agents, and representatives against and from any and all loss, Claims, actions or suits, including costs and attorney's fees resulting from, or arising out of or in any way connected with (i) the Product delivered under the Agreement to and at the Delivery Point, (ii) Seller's operation and/or maintenance of the Project, or (iii) Seller's actions or inactions with respect to this Agreement, including without limitation any loss, Claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such loss, Claim, action or suit as to the extent caused solely by the gross negligence or willful misconduct of Buyer, its agents, employees, directors, or officers.

(b) Indemnity by Buyer. Buyer shall release, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all loss, Claims, actions or suits, including costs and attorney's fees resulting from, or arising out of or in any way connected with the Product delivered by Seller under the Agreement after the Delivery Point, including without limitation any loss, Claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to or destruction of property belonging to Buyer,

Seller, or others, excepting only such loss, Claim, action or suit to the extent caused solely by the gross negligence or willful misconduct of Seller, its agents, employees, directors or officers.

(c) No Dedication. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or the public, nor affect the status of Buyer as an independent public utility corporation or Seller as an independent individual or entity.

10.6 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof to its financing providers and the financing provider(s) shall assume the payment and performance obligations provided under this Agreement with respect to the transferring Party provided, however, that in each case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.7 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.8 Notices. Whenever this Agreement requires or permits delivery of a "Notice" (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified herein; provided, however, that notices of Outages or other Scheduling or dispatch information or requests, as provided in Appendix III, shall be provided in accordance with the terms set forth in the relevant section of this Agreement. Notice may be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail). Invoices may be sent by facsimile or e-mail. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a Notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Either Party may periodically change any address, phone number, e-mail, or contact to which Notice is to be given it by providing Notice of such change to the other Party. Addresses for Notices are set forth in the Cover Sheet

10.9 General. Except for the Shaping and Firming Agreement between Buyer and the Shaping Services Provider (which, as of the Execution Date, is an Affiliate of Seller), this Agreement constitutes the entire agreement between the Parties relating to its subject matter. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent provided for, no amendment or modification to this Agreement shall be enforceable unless reduced to writing and executed by both

Parties. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. This Agreement shall be binding on each Party’s successors and permitted assigns.

10.10 Audit. Each Party has the right, at its sole expense during normal working hours upon reasonable prior Notice, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement including amounts of Energy delivered by Seller to Buyer and produced by the Project. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until settled; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.11 Confidentiality. Neither Party shall disclose the non-public terms or conditions of this Agreement hereunder to a third party, other than (i) the Party’s employees, lenders, investors and prospective investors (including Institutional Investors and prospective Institutional Investors), financing parties, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential, (ii) for disclosure to Buyer’s Procurement Review Group, as defined in CPUC Decision D.02-08-071 subject to a confidentiality agreement, (iii) to the CPUC under seal for purposes of review, (iv) disclosure of terms specified in and pursuant to Section 10.12 of this Agreement; (v) in order to comply with any applicable law, regulation, or any exchange, control area, WECC, BPA or CAISO rule, or order issued by a court or entity with competent jurisdiction over the disclosing Party (“Disclosing Party”), other than to those entities set forth in subsection (vi); or (vi) in order to comply with any applicable regulation, rule, or order of the CPUC, CEC, or the FERC. In connection with requests made pursuant to clause (v) of this Section 10.11 (“Disclosure Order”) each Party shall, to the extent practicable, use reasonable efforts: (i) to notify the other Party prior to disclosing the confidential information and (ii) prevent or limit such disclosure. After using such reasonable efforts, the Disclosing Party shall not be: (i) prohibited from complying with a Disclosure Order or (ii) liable to the other Party for monetary or other damages incurred in connection with the disclosure of the confidential information. Except as provided in the preceding sentence, the Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

10.12 RPS Confidentiality. Notwithstanding Section 10.11 of this Agreement, at any time on or after the date on which the Buyer makes its advice filing letter seeking CPUC Approval of this Agreement, either Party shall be permitted to disclose the following terms with respect to such Transaction: Party names, resource type, Delivery Term, Project location, Contract Capacity, anticipated Commercial Operation Date, Contract Quantity and Delivery Point.

10.13 Insurance. Throughout the Term, Seller shall obtain and maintain in force as hereinafter provided commercial general liability insurance, including contractual liability coverage, with respect to the Project specified below. Seller shall maintain insurance coverage that is generally consistent with Good Utility Practice. Seller is also responsible for its agents and contractors maintaining sufficient limits of the appropriate insurance coverage.

(a) Workers' Compensation and Employers' Liability.

(i) Workers' Compensation insurance or self-insurance indicating compliance with any applicable labor codes, acts, Laws or statutes, state or federal, where Seller or its licensees perform work.

(ii) Employers' Liability insurance shall not be less than \$1,000,000 for injury or death occurring as a result of each accident.

(b) Business Auto.

(i) Coverage shall be at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering owned, if any, non-owned and hired automobiles.

(ii) The limit shall not be less than \$5,000,000 each accident for bodily injury and property damage.

(iii) If scope of Work involves hauling hazardous materials, coverage shall be endorsed in accordance with Section 30 of the Motor Carrier Act of 1980 (Category 2) and the CA 99 48 endorsement.

(c) All Property Risk Insurance.

(i) An All Risk Property insurance policy including earthquake and flood with appropriate sub-limits shall be maintained during the course of Work being performed and include start-up and testing for installed equipment. Policy shall include coverage for materials and equipment while under the care, custody and control of the Seller during the course of Work, at the Site, offsite or while in transit to the Site.

(ii) Limits and deductibles shall be consistent with industry practice.

(d) Commercial General Liability.

(i) Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no additional coverage deletions.

(ii) The limit shall not be less than \$10,000,000 each occurrence for bodily injury, property damage and personal injury.

(e) Additional Insurance Provisions.

(i) As soon as possible following the Execution Date, and in no event later than the Effective Date, Seller shall (i) furnish to Buyer certificates of insurance and endorsements of all required insurance for Seller, which documentation shall provide that such insurance shall not be terminated nor expire without Buyer receiving thirty (30) days' (or ten (10) days' in the case of non-payment of premium) prior Notice to Buyer, (ii) maintain such insurance in effect for the Term, (iii) furnish a certificate specifying that Seller's

insurance is primary and that any insurance or self-insurance maintained by Buyer shall not contribute with it, and (iv) furnish to Buyer a certificate confirming that Buyer and its directors, officers, agents and employees as additional insured on Seller's Commercial General Liability insurance with respect to the indemnities specified in this Agreement.

(ii) The documentation described in (e)(i) above must be signed by a person authorized by that insurer to bind coverage on its behalf and shall be submitted to:

Pacific Gas and Electric Company
Insurance Department – Suite 2400
One Market, Spear Tower
San Francisco, CA 94105

(iii) Reviews of such insurance and documentation described in this Section 10.13 may be conducted by Buyer on an annual basis, and in addition, Buyer may inspect the original policies or require completed certified copies at any time.

(iv) Upon request, Seller shall furnish Buyer evidence of insurance for its subcontractors.

(v) The insurance carrier or carriers and form of policy or policies shall be subject to review and approval by Buyer, such approval not to be unreasonably withheld.

(vi) In the event the Commercial General Liability policy includes a "blanket additional insured by contract," the following language added to the certificate of insurance will satisfy the requirement in Section 10.13(e)(iv): "Additional insured status for Pacific Gas and Electric Company, its directors, officers, agents and employees with respect to liability arising out of the work, services or products performed or supplied by or for the Seller, has been endorsed by blanket endorsement."

10.14 Prevailing Wage. To the extent applicable, Seller shall comply with the prevailing wage requirements of California Public Utilities Code Section 399.14, subdivision (h).

10.15 Covenants. Each Party covenants that commencing on the Execution Date and continuing throughout the Delivery Term:

(a) it shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;

(b) it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement and the Transaction;

(c) it shall perform its obligations under this Agreement and the Transaction in (i) compliance with all terms and conditions in its governing documents and any contracts to which

it is a party, and (ii) in material compliance with any Law, rule, regulation, order or the like applicable to it.

(d) it shall maintain its status as a “forward contract merchant” within the meaning of the United States Bankruptcy Code (for so long as such term has the same definition as in effect as of the date of this Agreement).

10.16 Seller’s Representation and Warranty as an Eligible Renewable Energy Resource.

Seller, and, if applicable, its successors, represents and warrants throughout the term of the Delivery Term of each Transaction entered into under this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 and Public Resources Code Section 25741; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard.

10.17 Obtaining and Maintaining CEC Certification and Verification. Seller shall take all reasonably necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification throughout the Term; provided, however, that (a) Seller shall not be required to incur any unreimbursed capital costs and/or operating expenses in order to comply with any modifications to CEC requirements or procedures after the Execution Date (other than non-material administrative costs), but shall be required to make such commercially reasonable modifications and take such other commercially reasonable steps to obtain, comply with or maintain CEC Certification and Verification that are reimbursed by Buyer, and (b) Seller shall not be in breach of this Section 10.17 if the sole reason for such breach is Seller’s inability to maintain CEC Certification and Verification because of an amendment or modification to the statutory provisions related to Eligible Renewable Energy Resources or the RPS, including an adverse interpretation thereof by any applicable Governmental Authority, which amendment, modification, or adverse interpretation is issued subsequent to the Execution Date.

10.18 Climate Action Registry. Seller shall register the Project with the California Climate Action Registry (CCAR) as may be required by the California Public Utilities Commission pursuant to Decision 06-02-032 and any subsequent order, but in any event, no later than the Commercial Operation Date.

10.19 WREGIS. Prior to the Commercial Operation Date, Seller shall register the Project in WREGIS, and take all other actions necessary to ensure that the Energy or Green Attributes produced from the Project are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred to Buyer. In the event that WREGIS is not in operation as of the Commercial Operation Date, Seller shall perform its obligations, as required per this subsection, as soon as WREGIS is in operation. Until the Project fully participates and complies with all aspects of WREGIS, Seller shall take all commercially reasonable actions to ensure that the Project fully participates in and complies with all applicable aspects of the CEC’s interim generating tracking system.

10.20 Standard of Review for Modifications to Agreement. Notwithstanding any provision in this Agreement to the contrary, neither Party shall seek, nor shall either Party support any third party in seeking, to prospectively or retroactively revise the rates, terms and/or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent the prior written agreement of the Parties. Further, absent the prior agreement in writing by both Parties, the

standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party or FERC acting sua sponte shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 348 (1956).

10.21 Severability. If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use their best efforts to modify this Agreement to give effect to the original intention of the Parties.

10.22 Counterparts. This 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. Delivery of an executed counterpart of this Agreement by facsimile or in PDF will be deemed as effective as delivery of an originally executed counterpart. Any Party delivering an executed counterpart of this Agreement by facsimile or in PDF will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

10.23 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” within the meaning of the United States Bankruptcy Code.

10.24 Financing Cooperation. Buyer agrees that it shall, in connection with any debt financing or transaction involving an Institutional Investor that relates to or involves the Project, provide such consents, estoppels and other documents and instruments that are reasonably requested by Seller in connection with such financing or transaction, including Buyer’s written consent of Seller to transfer, sell, pledge, encumber or assign its rights and obligations under this Agreement or the accounts, revenues or proceeds of Seller hereof to Institutional Investors, provided, that in connection therewith such assignee assumes the obligations of Seller and agrees to be bound under this Agreement in the manner provided in Section 10.6; and provided, further, that such documents or instruments do not adversely affect Buyer’s rights or obligations hereunder in Buyer’s discretion. Buyer shall accept any cure of a Seller credit or payment default tendered by an Institutional Investor provided that such cure is tendered in accordance with any applicable provisions of this Agreement.

10.25 Project Site Description. Within sixty (60) days after construction of the Project has been completed and an “as-built” survey has been prepared for the Project, Seller shall provide to Buyer a legal description of the Project corresponding to Attachment 1 to Exhibit D hereto.

**ARTICLE 11
CONDITIONS PRECEDENT**

11.1 Conditions Precedent. Subject to Section 2.5, the Term shall not commence (the date of such commencement, the “Effective Date”) until the occurrence of all of the following events (the “Conditions Precedent”):

- (a) This Agreement has been duly executed by the authorized representatives of each of Buyer and Seller;
- (b) CPUC Approval has been obtained;

(c) Buyer receives a final and non-appealable order of the CPUC that finds that Buyer's entry into this Agreement is reasonable and that payments to be made by Buyer hereunder are recoverable in rates; and

(d) Execution of the Shaping and Firming Agreement.

11.2 Failure to Meet All Conditions Precedent. If each Condition Precedent is not satisfied or waived in writing by both Parties on or before two hundred and ten (210) days from the Execution Date, then either Party may terminate this Agreement and the Transaction(s) effective upon receipt of Notice by the other Party.

ARTICLE 12 DISPUTE RESOLUTION

12. Dispute Resolution.

Mindful of the high costs of litigation, not only in dollars but time and effort as well, the Parties intend to and do hereby establish a final and binding out-of-court dispute resolution procedure to be followed in the event any controversy should arise out of or concerning the performance of the Agreement. Accordingly, it is agreed as follows:

12.1 Negotiation.

(a) The Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement by prompt negotiations between each Party's Contract Manager, as identified on the Cover Sheet hereof or such other person designated in writing as a representative of the Party ("Manager"). Either Manager may request a meeting (in person or telephonically) to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt of such request, at a mutually agreed time and place. If the matter is not resolved within fifteen (15) Business Days of their first meeting ("Initial Negotiation End Date"), the Managers shall refer the matter to the designated senior officers of their respective companies, who shall have authority to settle the dispute ("Executive(s)"). Within five (5) Business Days of the Initial Negotiation End Date ("Referral Date"), each Party shall provide one another Notice confirming the referral and identifying the name and title of the Executive who will represent the Party.

(b) Within five (5) Business Days of the Referral Date the Executives shall establish a mutually acceptable location and date, which date shall not be greater than thirty (30) days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.

(c) All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process between the Parties.

(d) If the matter is not resolved within forty-five (45) days of the Referral Date, or if the Party receiving the written request to meet, pursuant to subpart (a) above, refuses or will not meet within ten (10) Business Days, either Party may initiate mediation of the controversy or claim according to the terms of the following Section 12.2.

(e) If a dispute exists with respect to the Termination Payment, and such dispute cannot be resolved by good faith negotiation of the Parties within ten (10) Business Days of the Non-Defaulting Party's receipt of the detailed explanation of the basis for the dispute, pursuant to Section 5.5 of this Agreement, then either Party may refer the matter to Arbitration, pursuant to Section 12.3 of this Agreement.

12.2 Mediation. If the dispute (other than a dispute regarding the Termination Payment) cannot be so resolved by negotiation as set forth in Section 12.1 above, it shall be resolved at the request of any Party through a two-step dispute resolution process administered by AAA. As the first step the Parties agree to mediate any controversy before a mediator from the AAA panel, pursuant to AAA's commercial mediation rules, in San Francisco, California. Either Party may begin mediation by serving a written demand for mediation. If within sixty (60) days after service of a written demand for mediation, the mediation does not result in resolution of the dispute, then the controversy shall be settled by Arbitration conducted by a retired judge or justice from the AAA panel conducted in San Francisco, California, administered by and in accordance with AAA's Commercial Arbitration Rules ("Arbitration"). Any mediator(s) and arbitrator(s) shall have no affiliation with, financial or other interest in, or prior employment with either Party and shall be knowledgeable in the field. Either Party may initiate Arbitration by filing with AAA a notice of intent to arbitrate within sixty (60) days of service of the written demand for mediation.

12.3 Arbitration. At the request of a Party, the arbitrator shall have the discretion to order depositions of witnesses to the extent the arbitrator deems such additional discovery relevant and appropriate. Depositions shall be limited to a maximum of three per Party and shall be held within thirty (30) days of the making of a request. Additional depositions may be scheduled only with the permission of the arbitrator, and for good cause shown. Each deposition shall be limited to a maximum of six hours duration. All objections are reserved for the Arbitration hearing except for objections based on privilege and proprietary and confidential information. The arbitrator shall also have discretion to order the Parties to exchange relevant documents. The arbitrator shall also have discretion to order the Parties to answer interrogatories, upon good cause shown. The admission of evidence in the arbitration proceedings shall be in accordance with the Federal Rules of Evidence or as agreed by the Parties.

(a) To the extent that the dispute concerns the calculation of the Termination Payment (but not whether there has been an Event of Default giving rise to the right to require the payment of such Termination Payment), each of the Parties shall submit to the arbitrator, in accordance with a schedule set by the arbitrator, offers in the form of the award it considers the arbitrator should make. If the arbitrator requires the Parties to submit more than one such offer, the arbitrator shall designate a deadline by which time the Parties shall submit their last and best offer. In such proceedings the arbitrator shall be limited to awarding only one of the two "last and best" offers submitted, and shall not determine an alternative or compromise remedy.

(b) The arbitrator shall have no authority to award punitive or exemplary damages or any other damages other than direct and actual damages pursuant to Section 5.2 of this Agreement.

(c) The arbitrator's award shall be made within nine months of the filing of the notice of intention to arbitrate (demand) and the arbitrator shall agree to comply with this schedule before accepting appointment. However, this time limit may be extended by agreement of the Parties or by the arbitrator, if necessary. The California Superior Court of the City and County of San Francisco may enter judgment upon any award rendered by the arbitrator. The Parties are aware of the

decision in *Advanced Micro Devices, Inc. v. Intel Corp.*, 9 Cal. 4th 362 (1994), and, except as modified by this Agreement, intend to limit the power of the arbitrator to that of a Superior Court judge enforcing California Law. The prevailing Party in this dispute resolution process is entitled to recover its costs and reasonable attorneys' fees.

(d) Except as may be required by Law, neither a Party nor an arbitrator may disclose the existence, content, or results of any Arbitration hereunder without the prior written consent of both Parties.

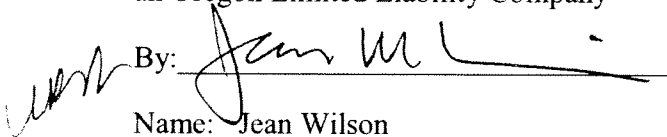
[remainder of page intentionally left blank]

EXECUTION COPY

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the Execution Date:

KLONDIKE III WIND POWER LLC,
an Oregon Limited Liability Company

PACIFIC GAS AND ELECTRIC COMPANY,
a California corporation

By:  _____

By: _____

Name: Jean Wilson

Name: Roy M. Kuga

Title: Senior Vice President, Renewable
Energy

Title: Vice President, Energy Supply

Date: June 26, 2007

Date: June 26, 2007

EXECUTION COPY

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the Execution Date:


KLONDIKE III WIND POWER LLC,
an Oregon Limited Liability Company

PACIFIC GAS AND ELECTRIC COMPANY,
a California corporation

By: _____

By:  _____

Name: Jean Wilson

Name: Roy M. Kuga 

Title: Senior Vice President, Renewable
Energy

Title: Vice President, Energy Supply

Date: June 26, 2007

Date: June 26, 2007

EXECUTION COPY

IN WITNESS WHEREOF, the Parties have caused this Shaping and Firming Agreement to be executed as of the date first written above.

**PACIFIC GAS AND ELECTRIC
COMPANY**, a California corporation

PPM ENERGY, INC., an Oregon
corporation

By: 
Name: Roy M. Kuga
Title: Vice President, Energy Supply

By: _____
Name: Jean Wilson
Title: Senior Vice President, Renewable
Energy

EXHIBIT A

FORM OF LETTER OF CREDIT

ISSUING BANK LETTERHEAD ADDRESS

Date: _____

Irrevocable Standby Letter of Credit Number: _____

Beneficiary: [Beneficiary Name]
[Beneficiary Address]

Attn:

Applicant: _____
[insert Applicant's address]

Account Party: _____
[insert Account Party's address]

[Advising Bank, if applicable]
[Confirming Bank, if applicable]

Amount: USD [Amount]
US Dollars [Spell out amount in words]

We hereby issue our Irrevocable Standby Letter of Credit ("Letter of Credit") at this office in your favor at the request of the Applicant and for the account of the Account Party. Payments under this Letter of Credit are payable at sight against the following documents:

1. Your sight draft drawn on us in the form of Annex A;

AND

2. Beneficiary's signed statement certifying:

"Pursuant to the terms of that certain Power Purchase and Sale Agreement dated June 26, 2007 (the "Agreement") by and between Account Party and Beneficiary, Beneficiary is entitled to draw on this Letter of Credit for amounts owed by Account Party under the Agreement."

OR

“This Letter of Credit will expire in thirty (30) calendar days or less and Account Party has not provided alternate security acceptable to [Beneficiary].”

This Letter of Credit expires at our counters located at [INSERT ADDRESS] on [INSERT DATE] (“Expiration Date”), but the Expiration Date shall be automatically extended without amendment for a period of one year and on each successive Expiration Date, unless at least sixty (60) days before the then current Expiration Date, we notify you by registered mail or courier that we elect not to renew this Letter of Credit for such additional period.

Special Conditions:

1. Partial drawing(s) are permitted.
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. This Letter of Credit shall terminate upon the earlier of:
 - a. the making by you of the final drawing available to be made hereunder;
 - b. the surrender of this original Letter of Credit accompanied by your letter acknowledging termination of this Letter of Credit; and
 - c. the Expiration Date.

We hereby engage with you that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored if drawn and presented for payment at any time before the close of business [INSERT TIME] at our counters located at [INSERT ADDRESS] on or before the Expiration Date or in the event of Force Majeure, as defined under Article 17 of the Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500 (“UCP”), that interrupts our business, within fifteen (15) days after resumption of our business, whichever is later.

Except as otherwise stated herein, this credit is subject to the UCP and, with respect to matters not so covered, this Letter of Credit is subject to and governed by the laws of the State of New York.

If you have any questions regarding this Letter of Credit, please call [Telephone No.].

By: _____
Authorized Signature

Name: _____

Title: _____

Annex A

SIGHT DRAFT

DATE: _____

TO: [insert Issuing Bank's name]
[Insert Address]

AT SIGHT

PAY TO THE ORDER OF [Insert Beneficiary's name]

US\$ _____

(US DOLLARS _____)

“DRAWN UNDER [insert the Issuing Bank's name], IRREVOCABLE STANDBY LETTER OF CREDIT

NUMBER NO. _____ DATED _____, 20__”

[insert Beneficiary's name]

AUTHORIZED SIGNATURE

GUIDELINES TO PREPARE THE SIGHT DRAFT:

1. **DATE:** ISSUANCE DATE OF THIS SIGHT DRAFT.
2. **PAY TO THE ORDER OF:** BENEFICIARY'S NAME
3. **US\$:** AMOUNT OF DRAWING IN FIGURES.
4. **US DOLLARS:** AMOUNT OF DRAWING IN WORDS.
5. **LETTER OF CREDIT NO.:** THE NUMBER OF THE STANDBY LETTER OF CREDIT THAT IS THE SUBJECT OF THIS DRAWING.
6. **DATED:** ISSUANCE DATE OF THE STANDBY LETTER OF CREDIT THAT IS THE SUBJECT OF THIS DRAWING.

NOTE: BENEFICIARY'S NAME SHOULD BE PRINTED AT THE BACK OF THE SIGHT DRAFT WITH ENDORSEMENT.

Exhibit A-3

EXHIBIT B

INITIAL ENERGY DELIVERY DATE CONFIRMATION LETTER

In accordance with the terms of that certain Power Purchase and Sale Agreement dated June 26, 2007 ("Agreement") by and between Pacific Gas and Electric Company ("Buyer") and Klondike III Wind Power LLC ("Seller"), this letter serves to document the further agreement of Buyer and Seller that (i) the Conditions Precedent to the occurrence of the Initial Energy Delivery Date have been satisfied, (ii) Seller has been granted Exempt Wholesale Generator status by FERC, as evidenced by FERC tariff [INSERT TARIFF NUMBER AND DATE OF ISSUANCE] and (iii) Seller has scheduled and Buyer has received the Product, as specified in the Agreement, as of this ____ day of _____, _____. This letter shall confirm the Initial Energy Delivery Date as the date referenced in the preceding sentence. All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

IN WITNESS WHEREOF, each Party has caused the Initial Energy Delivery Date Confirmation Letter to be duly executed by its authorized representative as of the date of last signature provided below:

KLONDIKE III WIND POWER LLC

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT C
MILESTONES

No.	Date	Milestones
1	complete	Submission of interconnection application.
2	complete	Filing of all land applications.
3	complete	Filing of permit applications.
4	7/1/07	Filing of CEC Certification application.
5	complete	Receipt of completed System Impact Study.
6	complete	Control obtained of all lands and rights-of-way comprising the Site.
7	complete	Receipt of completed Interconnection Facility Study.
8	complete	Execution of Large Generator Interconnection Agreement.
9	complete	Receipt of all permits.
10	10/1/07	Receipt of CEC Pre-Certification.
11	complete	Execution of Engineering, Procurement and Construction (“EPC”) Contract.
12	complete	Begin construction of Project.
13	10/15/07	Completion of Interconnection Facilities.
14	12/31/07	Demonstrate the Nameplate Contract Capacity of Project.

Exhibit C-1

EXHIBIT D

PROJECT DESCRIPTION (INCLUDING DESCRIPTION OF SITE)

Description of Project: The Project, which is referred to as Klondike III, is a wind power project, located in Sherman County, Oregon, approximately four miles east of Wasco, Oregon. It is owned by Klondike III Wind Power LLC, an Oregon limited liability company. The Project's total installed capacity is expected to be 223.6 MW.

The term "Site" as defined in the Agreement means the following: The Project in Sherman County, Oregon, as outlined on the map attached hereto as Attachment 1 (Location Map).

The Unit(s) utilized as generation assets as part of the Project are described below: (collectively, the "Units"):

Name:

- Eighty (80) GE Wind Energy 1.5 MW SLE turbines
- Forty-four (44) Siemens 2.3 MW MKII turbines
- One (1) MHI 2.4 MW MWT92 turbine

Location: The layout and location of the Units and other turbines is reflected in the map below.

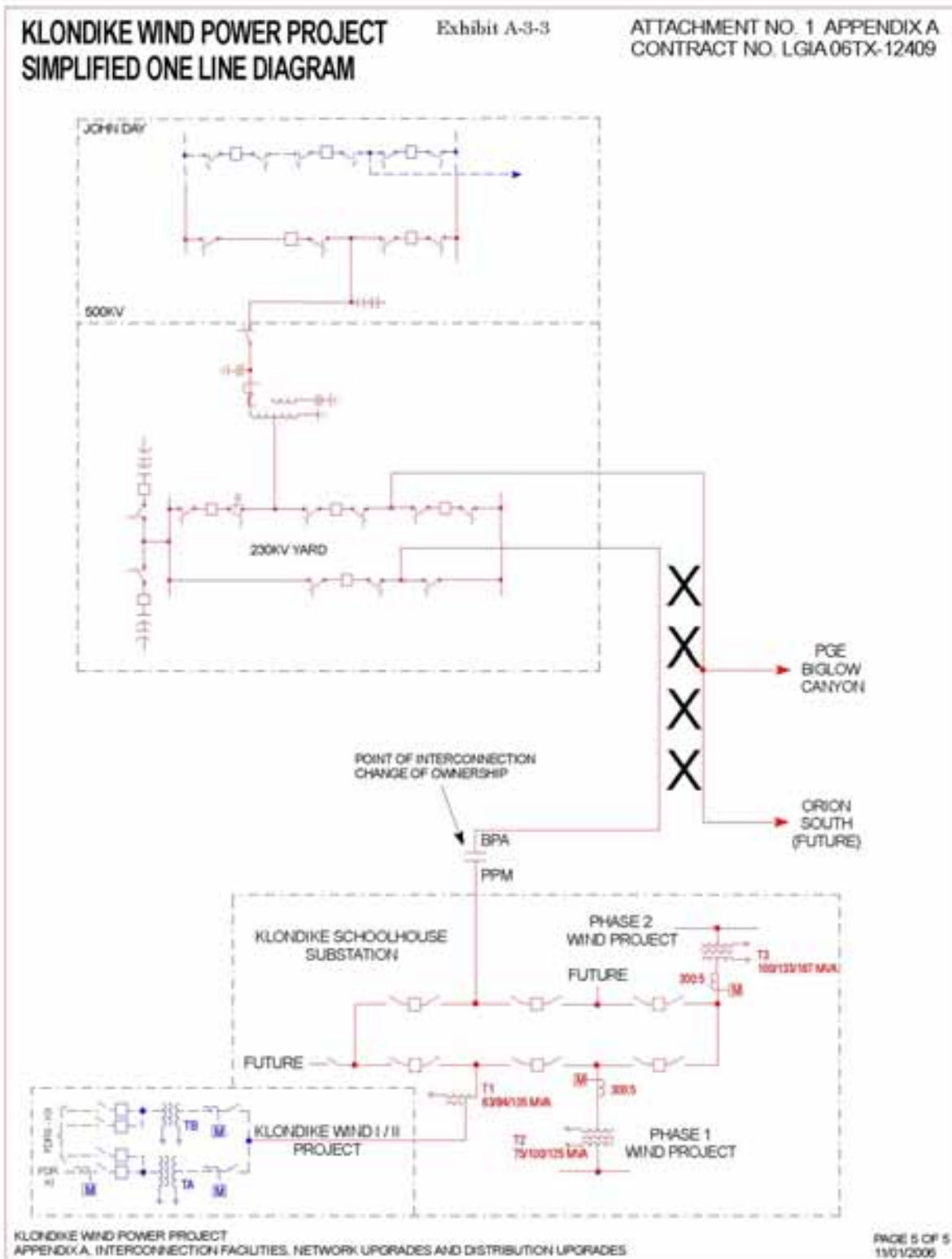
Substation Name: Schoolhouse Substation

Turbines and Configuration: Wind turbine generators (described above); power collection system (network of underground 34.5 kV power lines that collect power generated at individual wind turbines and route the power to the collector substation); Schoolhouse substation (expansion of existing 115 kV Schoolhouse substation with an autotransformer to step up to 230 kV) are shown on the map attached hereto as Attachment 2 (Project Facilities Map).

General Project Description

Interconnection: Point of interconnection with BPA is at the point where the Klondike 230 kV Schoolhouse Substation connects to BPA's last dead-end structure for the Schoolhouse—John Day 230 kV circuit outside the Schoolhouse Substation, as shown in the following one-line diagram.

The Project will be connected as follows: Via the Klondike 230 kV Schoolhouse Substation, as shown in the following one-line diagram.



Project Assets: Include, but are not limited to, the following: (i) Wind turbine generators described above, (ii) eight (8) on-site meteorological stations to monitor the wind resource,

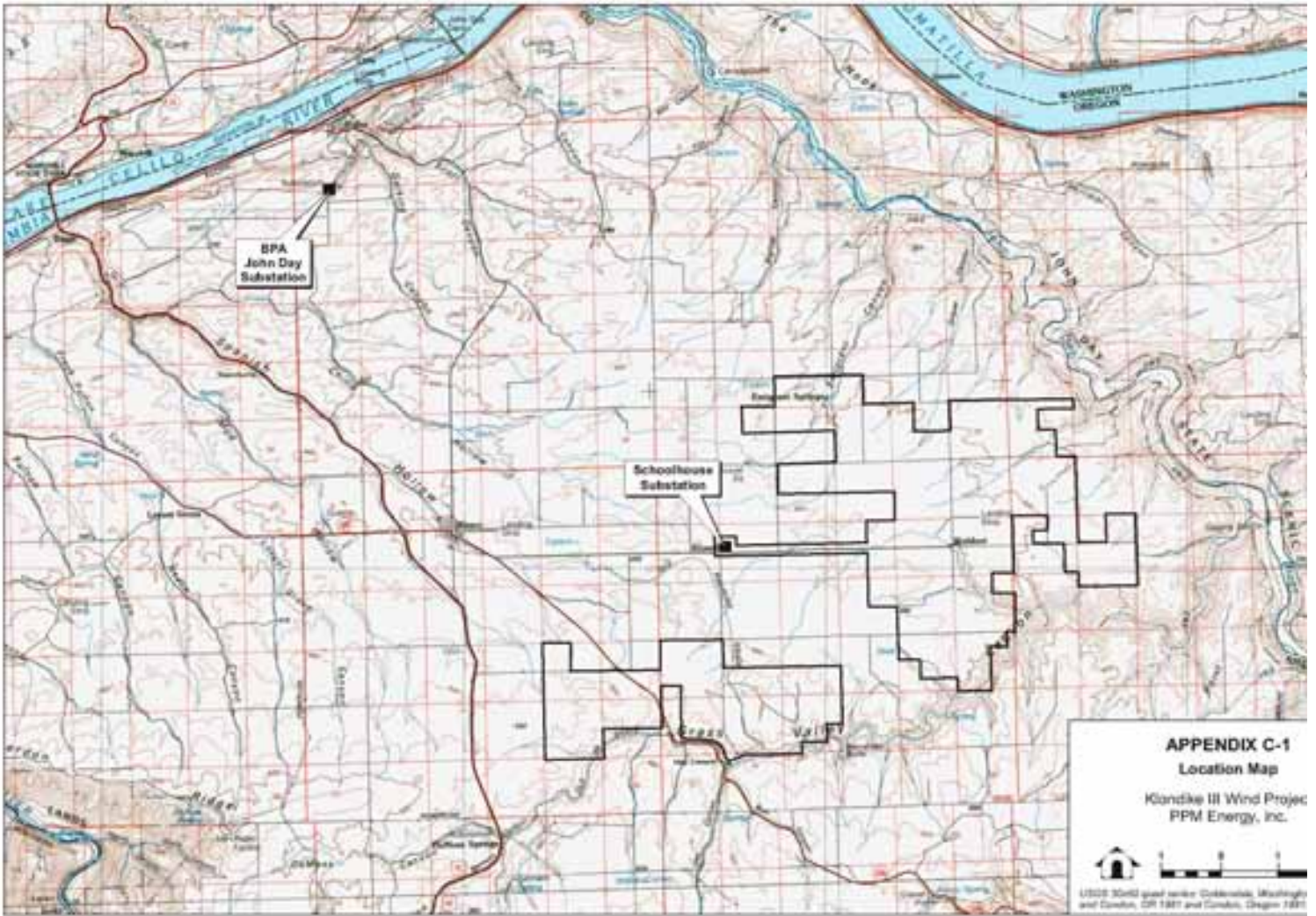
(iii) fourteen (14) land leases allowing the development, construction, and operation of the Project during the Term, (iv) all permits necessary to develop, construct, and operate the Project (including an Oregon Energy Facility Siting Council Site Certificate, NPDES construction stormwater permit, and FAA determination letters), (v) an O&M building, (vi) project roads, (vii) an on-site 34-kV collection system, and (viii) interconnection facilities as briefly described above.

Related Assets include the following:

The **Klondike I Wind Power Plant**, a 24 MW Wind Power Project located in Sherman County, Oregon, that was completed in 2001. Klondike I consists of 16 GE 1.5 MW turbines and is interconnected at the Schoolhouse Substation.

The **Klondike II Wind Power Plant**, a 75 MW Wind Power Project located in Sherman County, Oregon, that was completed in 2005. Klondike II consists of 50 GE 1.5 MW turbines and is interconnected at the Schoolhouse Substation.

ATTACHMENT 1 TO EXHIBIT D
LOCATION MAP



ATTACHMENT 2
PROJECT FACILITIES MAP

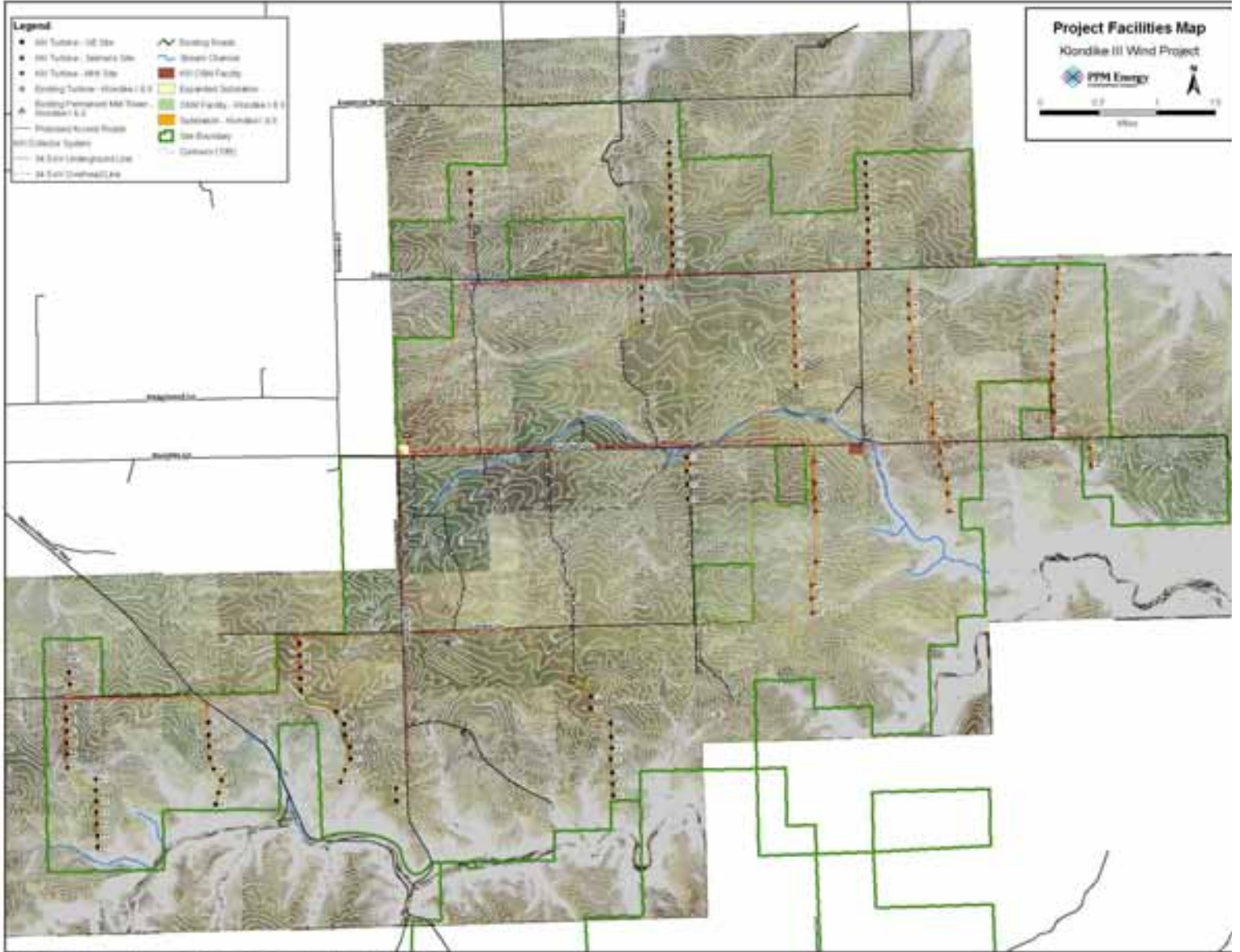


EXHIBIT E

FORM OF SELLER GUARANTY

This Guaranty, dated as of _____, _____, is issued by [Scottish Power Finance (US), Inc., a Delaware corporation][Name of Qualified Replacement Guarantor] ("Guarantor"), in favor of Pacific Gas and Electric Company ("PG&E").

1. Guaranty. For valuable consideration, and subject to paragraph 2 and the other provisions hereof, Guarantor hereby irrevocably and unconditionally guarantees payment to PG&E and its successors and assigns all amounts owed to PG&E and its successors and assigns, by Klondike III Wind Power LLC, an Oregon limited liability company, and its successors and assigns ("Principal") under the Power Purchase and Sale Agreement (the "Agreement"), dated as of June 26, 2007, between Principal and PG&E, as may be amended from time to time (the "Obligations"). This guaranty is one of payment and not of collection, and shall apply regardless of whether recovery of all such Obligations may be or become barred by any statute of limitations, discharged, or uncollectible in any bankruptcy, insolvency or other proceeding, or otherwise may be unenforceable.

2. Guaranty Limit. Notwithstanding anything to the contrary herein, the aggregate liability of Guarantor hereunder is limited to \$_____ (it being understood for purposes of calculating the maximum aggregate liability of Guarantor hereunder that any payment by Guarantor to PG&E pursuant to a demand made upon Guarantor by PG&E or otherwise made by Guarantor pursuant to its obligations under this Guaranty shall reduce Guarantor's maximum aggregate liability hereunder on a dollar-for-dollar basis), plus reasonable attorneys' fees, costs and expenses incurred by PG&E in enforcing this Guaranty or any of the Obligations against Principal under the Agreement. The liability under this Guaranty shall be and is specifically limited to payments expressly required to be made in accordance with the Agreement (even if such payments are deemed damages), including payments, if applicable, required pursuant to indemnification obligations, and IN NO EVENT SHALL GUARANTOR BE SUBJECT TO ANY CONSEQUENTIAL, EXEMPLARY, EQUITABLE, LOSS OF PROFITS, PUNITIVE, TORT OR OTHER SIMILAR DAMAGES, EXCEPT TO THE EXTENT IT MAY BE SPECIFICALLY AND EXPRESSLY PROVIDED FOR IN AN AGREEMENT TO BE DUE TO PG&E FROM PRINCIPAL.

3. Independent Liability. The obligations of Guarantor hereunder are independent of the Obligations of Principal. The Obligations of the Principal shall not be impaired by the limitations on Guarantor's liabilities hereunder. The liability of Guarantor hereunder is independent of any security for or other guaranty of payment received by PG&E in connection with the Agreement and is not affected or impaired by (a) any other guaranty as to amounts owed to PG&E by Principal, or (b) any partial payment by another party (other than Principal) acting under a separate guaranty, or (c) any dissolution, reorganization, or insolvency of Principal, or (d) any payment to PG&E by Principal that PG&E subsequently returns to Principal pursuant to court order in any bankruptcy or other debtor relief proceeding, or (e) any indemnity agreement Principal may have from any party, or (f) any insurance that may be available to cover any loss. Guarantor waives any right to the deferral or modification of Guarantor's obligations hereunder by virtue of any such debtor relief proceeding involving Principal.

4. Setoff. All sums payable by Guarantor hereunder shall be made in freely transferable and immediately available funds without any setoff, deduction or withholding unless such setoff, deduction or withholding is required by applicable law. If Guarantor is so required to setoff, deduct or

withhold, then Guarantor shall pay, in addition to the payment to which PG&E is otherwise entitled, such additional amount as is necessary to ensure that the net amount actually received by PG&E (free and clear of any setoff, deduction or withholding) will equal the full amount which PG&E would have received had no such setoff, deduction or withholding been required.

5. Termination. The term of this Guaranty shall continue in full force and effect until the earlier of (a) the termination or expiry of the Agreement, or (b) thirty (30) calendar days from the date PG&E receives written notice of termination from the Guarantor. It is understood and agreed, however, that notwithstanding any such termination, this Guaranty shall continue in full force and effect with respect to all Obligations arising prior to such termination. 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 is rescinded or must otherwise be restored or returned due to bankruptcy or insolvency laws or otherwise.

6. Waivers of Guarantor Defenses. Guarantor waives (a) to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability under this agreement or the enforcement of this agreement; and (b) any right to require PG&E to (i) proceed against Principal, (ii) proceed against or exhaust any security held from Principal or any other party acting under a separate agreement, or (iii) pursue any other remedy available to PG&E. PG&E may, at its election, foreclose on any security held by PG&E, or exercise any other right or remedy available to PG&E without affecting or impairing in any way the liability of Guarantor under this agreement, except to the extent the amount(s) owed to PG&E by Principal have been paid. Guarantor waives all rights and defenses arising out of an election of remedies by PG&E, even though that election of remedies may impair or destroy Guarantor's rights of subrogation and reimbursement against Principal by operation of Section 580d of the California Code of Civil Procedure or otherwise. Until the Obligations are paid in full, even though such amounts may in total exceed Guarantor's liability hereunder, Guarantor shall have no right of subrogation, waives any right to enforce any remedy that PG&E has or may have against Principal, and waives any benefit of and any right to participation in any security from Principal now or later held by Guarantor. Guarantor assumes all responsibility for keeping itself informed of Principal's financial condition and all other factors affecting the risks and liability assumed by Guarantor hereunder, and PG&E shall have no duty to advise Guarantor of information known to it regarding such risks.

7. Nonwaiver of Principal Defenses. Notwithstanding anything to the contrary herein, in the event of any claim under this Guaranty, Guarantor shall be entitled to assert any defense, set-off or counterclaim that Principal could assert had such claim been made directly against any person under the Obligations except defenses based upon (i) lack of authority of Principal to enter into and/or perform the Obligations or (ii) any insolvency, bankruptcy, reorganization, arrangement, composition, liquidation, dissolution or similar proceeding with respect to Principal; provided, however, that in the event that the Principal asserts a defense and it is finally determined (whether through settlement, arbitration or adjudication, including the exhaustion of permitted appeals), that such defense is invalid, inapplicable or otherwise not a bar to recovery by PG&E, then the Guarantor shall be estopped from asserting such defense as a defense to payment of all or a portion of the Obligations.

8. No Waiver of Rights by PG&E. No right or power of PG&E under this agreement shall be deemed to have been waived by any act or conduct on the part of PG&E, or by any neglect to exercise a right or power, or by any delay in doing so, and every right or power of PG&E hereunder shall continue in full force and effect until specifically waived or released in a written document executed

by PG&E. The terms and provisions hereof may not be waived, altered, modified, or amended except in a writing executed by duly authorized officers of Guarantor and PG&E.

9. Governing Law. This agreement is made under and shall be governed in all respects by the laws of the State of California, and its provisions may not be waived, altered, modified or amended except in writing executed by an authorized representative of each of Guarantor and PG&E.

10. Construction. All parties to this agreement are represented by legal counsel. The terms of this agreement and the language used in this agreement shall be deemed to be the terms and language chosen by the parties hereto to express their mutual intent. This agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under this agreement. No rule of strict construction will be applied against any person.

11. Notice. Any notice given hereunder by either Guarantor or PG&E shall be made by facsimile to the person and at the address specified by each party for this purpose. Such notice shall be effective upon actual receipt if received during the recipient’s normal business hours, or at the beginning of the recipient’s next business day after receipt if receipt is outside of the recipient’s normal business hours. Either party may periodically change any address to which notice is to be given it by providing notice of such change as provided herein.

12. Entire Agreement. This Guaranty is the entire and only agreement between Guarantor and PG&E with respect to the guaranty of the Obligations of Principal by Guarantor. All representations, warranties, agreements, or undertakings heretofore or contemporaneously made, which are not set forth herein, are superseded hereby.

[SCOTTISH POWER FINANCE (US), INC.]

By: _____
Name:
Title:

Acknowledged and Agreed:

PACIFIC GAS AND ELECTRIC COMPANY

By: _____
Name:
Title:

EXHIBIT F

FORM OF ESCROW AGREEMENT (SELLER)

Pursuant to this Escrow Agreement (the "Agreement"), dated _____, between [_____] (the "Agent"), Klondike III Wind Power LLC (the "Posting Party"), and Pacific Gas and Electric Company (the "Secured Party"), the Posting Party and the Secured Party hereby establish an Escrow Account (the "Account") with the Agent, to be maintained and administered for the purposes described in Schedule I attached hereto in accordance with the following terms and conditions:

The funds described in Schedule I attached hereto and incorporated herein (the "Assets") will be deposited in the Account upon delivery thereof to the Agent in the manner and at the time(s) specified in the said Schedule I. The Agent is hereby authorized and directed by each of the Posting Party and the Secured Party, as their escrow agent, to hold, deal with and dispose of the Assets as provided in the Instructions set forth in Schedule II attached hereto and incorporated herein; subject, however, to the terms and conditions set forth below, which in all events, shall govern and control over any contrary or inconsistent provisions contained in Schedules I or II attached hereto. The Posting Party and the Secured Party intend that (a) the Secured Party have a security interest in and control over the Account and all money, including interest, therein during the term of this Agreement, and (b) during the term of this Agreement, no amount may be withdrawn from the Account by the Posting Party without the prior written consent of the Secured Party.

1. **Agent's Duties.** Agent's duties and responsibilities shall be limited to those expressly set forth in this Agreement, and Agent shall not be subject to, or obliged to recognize, any other agreement between any or all of the parties hereto or any other persons even though reference thereto may be made herein; provided, however, this Agreement may be amended at any time or times by an instrument in writing signed by all the parties hereto. Agent shall not be subject to or obligated to recognize any notice, direction or instruction of any or all of the parties hereto or of any other person, except as expressly provided for and authorized in Schedule II and in performing any duties under the Agreement, the Agent shall not be liable to any party hereto for consequential damages, (including, without limitation lost profits) losses, or expenses, except for gross negligence or willful misconduct on the part of the Agent. Agent shall comply with the Secured Party's instructions regarding the Account delivered pursuant to Schedule II within forty-eight (48) hours of receipt of the same.

2. **Court Orders or Process.** If any controversy arises between the parties to this Agreement, or with any other party, concerning the subject matter of this Agreement, its terms or conditions, Agent will not be required to determine the controversy or to take any action regarding it. Agent may hold all documents and funds and may wait for settlement of any such controversy by final appropriate legal proceedings or other means as, in Agent's discretion, Agent may require, despite what may be set forth elsewhere in this Agreement. In such event, Agent will not be liable for interest or damage. Agent is authorized, in its sole discretion, to comply with orders issued or process entered by any court with respect to the Account, the Assets or this Agreement,

without determination by the Agent of such court's jurisdiction in matter. If any Assets are at any time attached, garnished, or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then in any such events Agent is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel of its own choosing is binding upon it; and if Agent complies with any such order writ, judgment or decree, it shall not be liable to the Posting Party or the Secured Party or to any other person, firm or corporation by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

3. **Agent's Actions and Reliance.** Agent shall not be personally liable for any act taken or omitted by it hereunder if taken or omitted by it in good faith and in the exercise of its own best judgment. Agent shall also be fully protected in relying upon any written notice, instruction, direction, certificate or document which in good faith it believes to be genuine, including written instructions from the Secured Party in the form attached in Schedule II hereto, if any.

4. **Collections.** Unless otherwise specifically indicated in Schedule II, Agent shall proceed as soon as practicable to collect any interest due or other collection amounts with respect to Assets at any time deposited in the Account. All such collections shall be subject to the usual collection procedures regarding items received by Agent for deposit or collection. Agent shall not be responsible for any collections with respect to Account Assets if Agent is not registered as record owner thereof or otherwise is not entitled to request or receive payment thereof as a matter of legal or contractual right. All collection payments or receipts shall be deposited to the Account, except as otherwise provided in Schedule II. The Account is a safekeeping escrow account, and no interest shall be paid by Agent on any money deposited or held therein, except as provided in Section 6 hereof.

5. **Agent Responsibility.** Agent shall not be responsible or liable for the sufficiency or accuracy of the form, execution, validity or genuineness of documents, instruments or securities now or hereafter deposited in the Account, or of any endorsement thereon, or for any lack of endorsement thereon, or for any description therein. Registered ownership of or other legal title to Assets deposited in the Account shall be maintained in the name of Agent, or its nominee, only if expressly provided in Schedule II. Agent may maintain qualifying Assets in a Federal Reserve Bank or in any registered clearing agency as Agent may select, and may register such deposited Assets in the name of Agent or its agent or nominee on the records of such Federal Reserve Bank or such registered clearing agency or a nominee thereof. Agent shall not be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver this Agreement or documents provided for hereunder.

6. **Investments.** All monies held in the Account shall be invested by Agent in a triple "A" rated money market fund, short-term treasury obligations, investment grade commercial paper and other liquid investment-grade investments with maturities of three months or less, with all investment income thereon to be deposited in the Account with such interest income to be

taxable to, and accrue for the benefit of the Posting Party. The shares of the funds are not deposits or obligations of, or guaranteed by any bank, nor are they insured by the Federal Deposit Insurance Corporation, the Federal Reserve Board or any other agency. The investment of funds hereunder involves investment risk, including possible loss of principal. All accrued interest shall become part of the Assets. All entities entitled to receive interest from the Account will provide Agent with a W-9 or W-8 IRS tax form prior to the disbursement of interest. A statement of citizenship will be provided if requested by Agent. The Agent shall not be liable for losses, penalties or charges incurred upon any sale or purchase of any such investment. All accrued interest on the funds deposited in the Account shall be deposited in the Account.

7. **Notices/Directions to Agent.** Notices and directions to Agent from the Posting Party or the Secured Party, or from other persons authorized to give such notices or directions as expressly set forth in Schedule II, shall be in writing and signed by an authorized representative as identified pursuant to Schedule II, and shall not be deemed to be given until actually received by Agent's employee or officer who administers the Account. Agent shall not be responsible or liable for the authenticity or accuracy of notices or directions properly given hereunder if the written form and execution thereof on its face purports to satisfy the requirements applicable thereto as set forth in Schedule II, as determined by Agent in good faith without additional confirmation or investigation.

8. **Books and Records.** Agent shall maintain books and records regarding its administration of the Account, and the deposit, investment, collections and disbursement or transfer of Assets, shall retain copies of all written notices and directions sent or received by it in the performance of its duties hereunder, and shall afford the Posting Party and the Secured Party reasonable access, during regular business hours, to review and make photocopies (at the requesting party's cost) of the same.

9. **Disputes Among Posting Party and Secured Party and/or Third Parties.** In the event Agent is notified of any dispute, disagreement or legal action between or among the Posting Party and the Secured Party, and/or any third parties, relating to or arising in connection with the Account, the Assets or the performance of the Agent's duties under this Agreement, the Agent shall be authorized and entitled, subject to Section 2 hereof, to suspend further performance hereunder, to retain and hold the Assets then in the Account and take no further action with respect thereto until the matter has been fully resolved, as evidenced by written notification signed by the Posting Party and the Secured Party and any other parties to such dispute, disagreement or legal action.

10. **Notice by Agent.** Any notices which Agent is required or desires to give hereunder to any of the Posting Party and the Secured Party shall be in writing and may be given by mailing the same to the address indicated below opposite the signature of such party (or to such other address as said party may have theretofore substituted therefor by written notification to Agent), by United States certified or registered mail, postage prepaid. For all purposes hereof any notice so mailed shall be as effectual as though served upon the person of the party to whom it was mailed at the time it is deposited in the United States mail by Agent whether or not such undersigned thereafter actually receives such notice. Whenever, under the terms hereof the time for Agent's giving a notice or performing an act falls upon a Saturday, Sunday, or holiday, such time shall be

extended to the next business day. The Agent shall notify the Posting Party and the Secured Party as soon as possible and within two business days if the amount of funds on deposit in the Account is less than \$[_____].

11. **Legal Counsel.** If Agent believes it to be reasonably necessary to consult with counsel concerning any of its duties in connection with the account or this Agreement, or in case Agent becomes involved in litigation on account of being escrow agent hereunder or on account of having received property subject hereto, then in either case, its costs, expenses, and reasonable attorney's fees shall be paid by the Posting Party.

12. **Agent Compensation.** The Posting Party shall pay Agent's fees for its services hereunder, which shall be subject to increase upon notice sent to the Posting Party, and Posting Party shall reimburse Agent for its reasonable costs and expenses incurred. If Agent's fees, or reasonable costs or expenses, provided for herein, are not promptly paid, Agent shall have the right to sell such portion of the Assets held in the Account as necessary and reimburse itself therefor from the proceeds of such sale or from the cash held in the Account. In the event that the conditions of this Agreement are not promptly fulfilled, or if Agent renders any service not provided for in this Agreement, or if the Posting Party and the Secured Party request a substantial modification of its terms, or if any controversy arises, or if Agent is made a party to, or intervenes in, any litigation pertaining to this escrow or its subject matter, Agent shall be reasonably compensated by the Posting Party for such extraordinary services and reimbursed by the Posting Party for all costs, attorney's fees, including allocated costs of in-house counsel, and expenses occasioned by such default, delay, controversy or litigation and Agent shall have the right to retain all documents and/or other things of value at any time held by Agent in this escrow until such compensation, fees, costs, and expenses are paid. The Posting Party promises to pay these sums upon demand. Unless otherwise provided, the Posting Party will pay all Agent's usual charges hereunder. The Posting Party and its respective successors and assigns agree jointly and severally to indemnify and hold Agent harmless against any and all losses, claims, damages, liabilities, and expenses, including reasonable costs of investigation, counsel fees, including allocated costs of in-house counsel and disbursements that may be imposed on Agent or incurred by Agent in connection with the performance of its duties under this Agreement, including but not limited to any litigation arising from this Agreement or involving its subject matter.

13. **Agent Resignation.** It is understood that Agent reserves the right to resign at any time by giving written notice of its resignation, specifying the effective date thereof, to the Secured Party and the Posting Party. Within 30 days after receiving the aforesaid notice, the Secured Party and the Posting Party agree to appoint a successor escrow agent to which Agent may transfer the Assets then held in the Account, less its unpaid fees, costs and expenses. If a successor escrow agent has not been appointed and has not accepted such appointment by the end of the 30-day period, Agent may apply to a court of competent jurisdiction for the appointment of a successor escrow agent, and the costs, expenses and reasonable attorney's fees which Agent incurs in connection with such a proceeding shall be paid by the Posting Party.

14. **Escrow Termination.** If, as provided in Schedule II, this Agreement shall not have previously terminated, then it shall terminate on _____, at which time the Assets then held in the Account shall be distributed in the following manner:

15. **Governing Law.** This Agreement shall be construed, enforced, and administered in accordance with the laws of the State of New York. The undersigned Agent hereby agrees to hold, deal with and dispose of the Assets at any time deposited to the Account in accordance with the foregoing Agreement.

16. **Automatic Succession.** Any company into which the Agent may be merged or with which it may be consolidated, or any company to whom Agent may transfer a substantial amount of its Escrow business, shall be the successor to the Agent without the execution or filing of any paper or any further act on the part of any of the Parties, anything herein to the contrary notwithstanding.

17. **Disclosure.** The parties hereto hereby agree not to use the name of _____ to imply an association with the transaction other than that of a legal escrow agent.

18. **Brokerage Confirmations.** The parties acknowledge that to the extent regulations of the Comptroller of Currency or other applicable regulatory agencies grant a right to receive brokerage confirmations of security transactions related to the Account, the parties waive receipt of such confirmations, to the extent permitted by law. The Escrow Agent shall furnish a statement of security transactions to a party hereto requesting the same pursuant to Section 8 above.

19. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

EXECUTION COPY

IN WITNESS WHEREOF, the undersigned have affixed their signatures and hereby adopt as part of this instrument Schedules I and II which are incorporated by reference.

KLONDIKE III WIND POWER LLC,
as Posting Party

PACIFIC GAS AND ELECTRIC COMPANY,
as Secured Party

By: _____

By: _____

Its: _____

Its: _____

(Address)

(Address)

(City, State and Zip Code)

(City, State and Zip Code)

(Telephone)

(Telephone)

(Telecopy Number)

(Telecopy Number)

Tax I.D. _____

Tax I.D. _____

as Agent

By: _____

Its: _____

Notices to Agent shall be sent to:

With Fax Copy to:

SCHEDULE I

DEPOSITS:

Funds deposited with Agent: \$[_____] to be deposited by Posting Party with Agent in Account #[_____] on [date] for the benefit of Secured Party pursuant to that certain Power Purchase and Sale Agreement, dated as of June 26, 2007, between Pacific Gas and Electric Company and Klondike III Wind Power LLC (the "Power Purchase Agreement"), as Performance Assurance (as defined in the Power Purchase Agreement) pursuant to Section 8.2 of the Power Purchase Agreement to be drawn upon by Secured Party pursuant to the Power Purchase Agreement.

SCHEDULE II

INSTRUCTIONS OF POSTING PARTY AND SECURED PARTY

Registered Ownership of Account Assets: Klondike III Wind Power LLC (the Posting Party)

Termination of Escrow Agreement: [insert date]

Agent authorized to accept instructions, notices and directions of Pacific Gas and Electric Company, as the Secured Party, exclusively, including with respect to disposition of funds on deposit in Account. Such instructions, notices and directions shall be signed by the following authorized representatives of the Secured Party or such other authorized representatives of the Secured Party whom Agent is notified of from time to time in writing by the Secured Party.

Authorized Representatives: _____

Form of Account Instructions:

[Dear Sir or Madam:

Pursuant to Section 1 and Schedule II of that certain Escrow Agreement (the "Agreement"), dated _____, by and between Klondike III Wind Power LLC, as Posting Party, Pacific Gas and Electric Company, as Secured Party, and [Agent], [Agent] is hereby instructed to deliver funds from the Account (as defined in the Agreement) in the amount of \$[_____] to Pacific Gas and Electric Company, as Secured Party, to the account set forth below in accordance with the wire instructions set forth below:

[Insert account information and wire instructions]

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

Name:

Title:

EXHIBIT G

FORM OF GREEN ATTRIBUTE ATTESTATION AND BILL OF SALE

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Klondike III Wind Power LLC (“Seller”) hereby sells, transfers, assigns and delivers to Pacific Gas and Electric Company (“Buyer”) all its right, title and interest in and to the Green Attributes associated with the Delivered Energy, arising from the generation of the energy by the Project described below and sold by Seller to Buyer pursuant to the Power Purchase and Sale Agreement (the “Agreement”), dated June 26, 2007, between Seller and Buyer. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Agreement.

Facility name and location: [_____] (the “Project”)
Fuel Type: Wind
Capacity (MW): [_____]
First Date of Operation: [_____], 200[_____]

[US DOE/EIA ID No.: _____]

Delivered Energy:

<u>Dates</u>	<u>MWhrs generated</u>
--------------	------------------------

Seller represents and warrants as follows:

- i) The information provided herein is true and correct;
- ii) Seller’s sale to Buyer memorialized herein is its one and only sale of the Green Attributes referenced herein;
- iii) the Project generated and delivered to the transmission grid the energy in the amount indicated above as undifferentiated energy; and
- iv) after due inquiry, each of the Green Attributes associated with this Green Attribute Attestation and Bill of Sale have been generated and sold by Seller once and only once in the above-referenced sale and transfer to Buyer.

This Green Attribute Attestation and Bill of Sale and all of the provisions hereof shall be binding upon Seller and its successors and assigns and shall inure to the benefit of Buyer and its successors and assigns.

Seller agrees that it will, from time to time, execute and deliver such further instruments of conveyance and transfer as may be reasonably required to implement and effectuate the sales of Green Attributes set forth in the Agreement.

This Green Attribute Attestation and Bill of Sale shall be governed by and construed in accordance with the laws of the State of California (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

This Green Attribute Attestation and Bill of Sale is delivered pursuant to and is subject to the terms of the Agreement, and the terms of the Agreement, including the representations and warranties, agreements and obligations of Seller contained therein, are incorporated herein by reference. In the event of any conflict or ambiguity between the terms of the Agreement and the terms of this Green Attribute Attestation and Bill of Sale, the terms of the Agreement shall control.

This Green Attribute Attestation and Bill of Sale serves as a bill of sale, transferring from Seller to Buyer all of Seller’s right, title and interest in and to the Green Attributes associated with the generation of the Delivered Energy by the Project and the delivery thereof to the transmission grid.

Contact Person: []
Telephone: (503) 796-7000
Fax: (503) 796-6905

KLONDIKE III WIND POWER LLC,
an Oregon limited liability company

By _____
Its _____
Date _____

This Green Attribute Attestation and Bill of Sale may be disclosed by Seller and Buyer to others to substantiate and verify the accuracy of Seller’s and Buyer’s advertising and public communications.

APPENDIX I

COMMERCIAL OPERATION CERTIFICATION PROCEDURE

In accordance with its obligation under that certain Power Purchase and Sale Agreement, dated June 26, 2007 (the "Agreement"), by and between Pacific Gas and Electric Company ("Buyer") and Klondike III Wind Power LLC ("Seller") to declare and recognize the Commercial Operation Date, Seller shall notify Buyer that the Project is operating and able to produce and deliver Energy to Buyer in accordance with the terms of the Agreement ("Commercial Operation") by delivering the attached Certificate of Commercial Operation, in the form attached hereto and as described below, from a Licensed Professional Engineer with respect to the Project's ability to deliver an As-Available Product as described in the Power Purchase Agreement. Buyer shall accept such certification satisfying the requirements indicated below within five (5) Business Days following delivery thereof. Buyer's failure to respond within such period shall be deemed to be acceptance of the certification. All terms not defined herein shall have the meaning set forth in the Agreement.

The Certificate of Commercial Operation, in the form attached hereto as Exhibit I-A, shall be submitted by Seller, and supported by the following:

- 1) Statement that the Units representing at least ninety-five percent (95%) of the Installed Capacity have been erected in accordance with the manufacturer's specifications ("Unit Mechanical Completion").
- 2) Statement that the electrical collection system related to the Units referenced in (1) above is complete, functional, and energized for the Project.
- 3) Statement that Seller's collector substation is complete and capable of delivering As-Available Product as described in the Agreement.
- 4) Statement signed by the manufacturer of the Units that turbine commissioning is complete for those Units that have achieved Unit Mechanical Completion. Unit commissioning is complete when the electrical and control systems have been energized and tested in accordance with the manufacturer's specifications and the Units are released by the turbine manufacturer for electrical generation of power ("Unit Commissioning Completion").
- 5) Statement that the Project is operational and interconnected with the BPA's Transmission System and capable of delivering Energy through either (a) the permanent Interconnection Facilities or (b) a temporary interconnection or other alternative interconnection arrangement that permits all or rotating segments of the Project to transmit Energy.

EXHIBIT I-A

CERTIFICATE OF COMMERCIAL OPERATION

KLONDIKE III WIND POWER LLC

The undersigned, Klondike III Wind Power LLC (the "Seller"), does hereby deliver this Certificate of Commercial Operation (complete except for counter signature) to Pacific Gas and Electric Company (the "Buyer"). All capitalized terms not defined herein shall have the meaning set forth in the Power Purchase and Sale Agreement, dated June 26, 2007 (the "Agreement") between Seller and Buyer. All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

In accordance with its obligation to declare and have Buyer recognize that the Project is operating and able to produce and deliver Energy to Buyer in accordance with the terms of the Agreement ("Commercial Operation"), Seller, through the Licensed Professional Engineer, hereby certifies and represents to Buyer that Commercial Operation has been achieved and that the following statements are true as of the date set forth herein:

1. A certified statement of the Licensed Professional Engineer, attached hereto has been provided as evidence of Commercial Operation of the Project to provide an As-Available Product and meet, at a minimum, the requirements indicated herein.
2. Units representing at least ninety-five percent (95%) of the Installed Capacity have been erected in accordance with the manufacturer's specifications ("Unit Mechanical Completion"). A statement signed by the manufacturer of the Units has been provided that turbine commissioning is complete for those Units that have achieved Unit Mechanical Completion. Unit commissioning is complete when the electrical and control systems have been energized and tested in accordance with the manufacturer's specifications and the Units are released by the turbine manufacturer for electrical generation of power ("Unit Commissioning Completion").
3. The electrical collection system related to the Units referenced in (2) above is complete, functional, and energized for the Project.
4. Seller's collector substation is complete and capable of delivering As-Available Product as described in the Agreement.
5. The Project is operational and interconnected with BPA's Transmission System and is capable of delivering Energy through either (a) the permanent Interconnection Facilities or (b) a temporary interconnection or other alternative interconnection arrangement that permits all or rotating segments of the Project to transmit Energy.

EXECUTION COPY

EXECUTED by SELLER this _____ day of _____, 200__.

KLONDIKE III WIND POWER LLC

By: _____

Name: _____

Title: _____

[LICENSED PROFESSIONAL ENGINEER],
as the Licensed Professional Engineer

By: _____

Name: _____

Title: _____

BUYER concurs with this certification as set forth herein by SELLER and accepts this Certificate of Commercial Operation.

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

Name: _____

Title: _____

APPENDIX II

FORM OF MONTHLY CONSTRUCTION PROGRESS REPORT

Klondike III Wind Project

Monthly Status Report

[Date]

Brief Description of Project:	
Safety Events:	
•	
Environmental Events:	
•	
Work Completed This Month:	
<p><u>Civil Work</u></p> <ul style="list-style-type: none"> • Finish access road grading: 0% • Finish tower pad grading: 0% • Finish site restoration: 0% 	<p><u>Electrical Work</u></p> <ul style="list-style-type: none"> • Collection system cable trenching: 0% • Terminate fiber optic cables: 0% • Terminate Controller CB1: 0% • Base / Mid pre-wired: 0% • Top / Nacelle pre-wired: 0%
<p><u>Component Deliveries</u></p> <ul style="list-style-type: none"> • Blade set deliveries: 0% • Hub deliveries: 0% • Nacelle deliveries: 0% • Tower deliveries: 0% 	<p><u>Installation & Commissioning</u></p> <ul style="list-style-type: none"> • Tower base & mid section installation: 0% • Tower top & nacelle installation: 0% • Rotor installation: 0% • Turbine Mechanical Completions: 0% • Turbine Commercial Availability: 0%
Pictures From This Month's Activities:	



APPENDIX III

OUTAGE NOTIFICATION FORM

(If Internet and Email are not available, fax to two groups at PG&E)

SEND VIA FAX DATE: _____

To Pacific Gas and Electric Company

Attention: Manager Bilateral Settlements

FAX NUMBER: (415) 973-2151

Attention: Outage Coordinator

FAX NUMBER: (415) 973-5333

PG&E LOG NUMBER: _____

This Outage Notification Form is being submitted pursuant to the terms of that certain Power Purchase Agreement, dated June 26, 2007 ("Agreement") entered into by Klondike III Wind Power LLC and Pacific Gas and Electric Company. All capitalized terms not defined herein shall have the meaning provided in the Agreement.

Project/Unit Name: _____

NOTIFICATION OF PLANNED OUTAGE +FORCED OUTAGE +PROLONGED OUTAGE+CURTAILMENT

The Project will shut down for PLANNED OUTAGE from:

_____ to _____
(Date and Time) (Date and Time)

The Project experienced a FORCED OUTAGE/CURTAILMENT /PROLONGED OUTAGE (circle applicable outage) from:

_____ to _____
(Date and Time) (Date and Time)

The FORCED OUTAGE/CURTAILMENT/CHANGE IN AVAILABILITY was confirmed via telephone on _____ with _____

(Date and Time) (Name of PG&E Individual)

COMMENTS: Description and Cause of Forced Outage/Curtailment/Planned Outage (circle applicable outage)

Outage Notification Form submitted by:

(Print Name)

Phone #

**APPENDIX IV
PROJECT GENERATION SCHEDULE**

Hour-Ending	Expected Hourly Generation (MWh)												Average
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
100	20	19	27	33	40	49	53	47	35	26	17	18	32
200	20	20	27	33	38	46	50	43	32	25	17	19	31
300	21	20	28	32	37	44	47	42	30	23	17	20	30
400	21	20	30	31	35	43	44	39	29	23	20	21	29
500	19	19	28	29	33	39	39	35	27	21	20	19	27
600	20	20	26	26	32	34	34	29	25	21	20	21	26
700	21	21	26	24	29	31	32	25	23	22	20	22	25
800	21	19	25	25	27	33	34	24	22	20	20	21	24
900	19	18	25	25	27	31	35	24	22	20	17	20	24
1000	18	18	29	24	25	30	33	24	22	21	17	21	24
1100	17	20	32	24	25	30	31	24	23	22	18	20	24
1200	19	22	33	24	26	31	30	24	24	24	19	21	25
1300	20	24	34	25	30	33	31	25	26	26	20	19	26
1400	19	24	35	26	33	36	34	28	28	27	20	19	28
1500	20	26	37	28	37	39	38	33	31	29	21	21	30
1600	20	26	39	30	40	42	44	38	35	30	20	21	32
1700	20	25	40	32	43	47	50	43	38	32	20	22	34
1800	21	26	40	35	47	50	56	48	40	34	21	23	37
1900	20	25	40	38	51	53	60	52	43	34	21	21	38
2000	19	23	38	38	51	54	61	54	45	33	20	19	38
2100	19	20	38	38	52	55	59	55	44	31	19	18	37
2200	20	20	37	36	49	54	58	54	43	30	17	18	36
2300	19	20	35	35	48	52	56	52	41	28	17	17	35
2400	21	19	32	33	44	49	56	49	37	27	17	18	33
Average	20	21	32	30	38	42	44	38	32	26	19	20	0

Note 1 Time of day is shown in Pacific Standard Time

Expected Project Generation (MWh/h)	20	21	32	30	38	42	44	38	32	26	19	20	30
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Amendment

Dated as of November 28, 2007

VIA FAX AND OVERNIGHT DELIVERY

Pacific Gas & Electric Company
777 Beale Street, Mail Code N13
San Francisco, CA 94105-1702
Attn: Roy Kuga
Vice President, Energy Supply
Fax: (415) 973-7651

Re: Conditional Waiver of Conditions Precedent

Dear Mr. Kuga,

Reference is made to that certain Power Purchase Agreement, dated June 26, 2007 (the "PPA"), by and between Klondike III Wind Power LLC, an Oregon limited liability company, ("Klondike") and Pacific Gas and Electric Company, a California corporation ("PG&E"). Seller and Buyer are referred to, collectively, as the "Parties" and, individually, as a "Party." All capitalized terms used but not defined herein shall have the meanings given to them in the PPA.

Each of Klondike and PG&E seeks to effectuate the Effective Date and commence the Term of the PPA by conditionally waiving certain Conditions Precedent in the PPA, and hereby agrees as follows.

1. By executing this letter agreement the Parties waive the Conditions Precedent under Sections 11.1(b) and (c) of the PPA as of the last to occur of (i) execution by a signatory of each Party to this letter agreement, and (ii) the date on which all parties have executed and delivered a corresponding waiver of certain portions of that certain Shaping and Firming Agreement dated June 26, 2007, between PPM Energy, Inc. and PG&E ("Waiver Effective Date"). If an appeal by a third party opposing the approval of the PPA or PG&E's obligations with respect to the PPA has not been filed with the with the California Public Utilities Commission (the "CPUC") by December 17, 2007, then the Parties agree that the Conditions Precedent in Sections 11.1(b) and (c) shall have been satisfied in full by CPUC Resolution E-4128, dated November 16, 2007, which approves the PPA and PG&E's obligations with respect to the PPA, and such resolution shall be final and non-appealable. The Parties further agree that this waiver shall cause the PPA to be in full force and effect, enforceable and binding in all respects per Section 2.5 of the PPA as of the Waiver Effective Date, that Klondike shall sell and PG&E shall receive and pay for As-Available Product of the Project as set out in Section 3.1 of the PPA from December 1, 2007, unless and until suspended pursuant to the provisions of paragraphs 2 and 3 below, and that the Initial Energy Delivery Date shall be December 1, 2007.

2. In the event that prior to or on December 16, 2007, an appeal is filed with the CPUC opposing the approval of the PPA or PG&E's obligations with respect to the PPA, (i) upon becoming aware of such an appeal, the Party that has become aware of the appeal shall promptly Notify the other Party of the appeal, and (ii) the obligations of Klondike to sell and deliver, and of PG&E to receive and pay for, As-Available Product of the Project as set out in Section 3.1 of the PPA and otherwise under the PPA shall be suspended at 12:00AM on January 1, 2008, unless either (A) the CPUC order approving the PPA is issued, or (B) the Parties agree to unconditionally waive the Conditions Precedent under Sections 11.1(b) and (c) of the PPA.

3. If an appeal contemplated in paragraph 2 above results in a stay of the approval of the PPA extending beyond January 22, 2008, such that Resolution E-4128 or a subsequent CPUC order satisfying Sections 11.1(b) and (c) of the PPA is not final and non-appealable on or before January 22, 2008, and if Klondike and PG&E have not waived the Conditions Precedent under Sections 11.1(b) and (c) of the PPA, then either Party may terminate this Agreement and this Transaction effective upon receipt of Notice by the other Party, subject to the survival rights set forth in Section 10.2(a) of the PPA.

4. Commencement of deliveries under the PPA pursuant to this letter agreement shall be deemed to have satisfied Klondike's obligation to demonstrate Commercial Operation for all purposes under the PPA, including without limitation the provisions of Section 3.9(b)(ii). Furthermore, if deliveries under the PPA are suspended, due to the timely filing of an appeal as contemplated in paragraph 2 above, but are later reinstated, the Parties shall in good faith account for lost generation during such suspended time for purposes of calculating Guaranteed Annual Generation for the year(s) affected by such suspension, based on reasonable estimates of what production would have been absent such suspension, such that Klondike shall not be penalized for the suspension.

5. The Parties acknowledge and agree that for purposes of Section 10.17 of the PPA the Project is "Pre-Certified," but that final CEC Certification and Verification of the Project is subject to the issuance of the final CEC RPS rules expected to be issued soon. Accordingly, Klondike is in compliance with the requirements of Section 10.17 of the PPA.

6. The Parties further acknowledge and agree that at this time Klondike is unable to register the Project with WREGIS due to circumstances beyond its control. Accordingly, the second sentence of Section 10.19 of the PPA is hereby amended to read as follows (added language in italics):

"In the event that WREGIS is not in operation as of the Commercial Operation Date, or registration with WREGIS is prevented by a party other than Seller, Seller shall perform its obligations, as required per this subsection, as soon as WREGIS is in operation, or as soon after the party impeding Seller's performance removes such impediment as is commercially practicable."

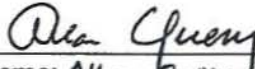
No provision of the PPA other than the terms addressed in this letter agreement shall be deemed modified, amended, waived, or otherwise affected by this letter agreement. If there is a conflict between the terms of the PPA and this letter agreement, this letter agreement shall control.

Please confirm your acceptance of the terms of this letter agreement as they modify the PPA by signing below.

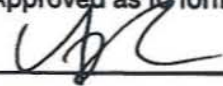
Sincerely,

KLONDIKE III WIND POWER LLC, as Seller

By: PPM Wind Energy LLC, the Manager of Aeolus Wind Power IV LLC, the Sole Member and Manager of Klondike Wind Power III LLC.

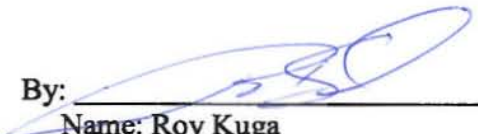
By: 
Name: Alan Query
Title: Vice President
Date: 11/29/07

Approved as to form



ACCEPTED AND AGREED:

PACIFIC GAS AND ELECTRIC COMPANY, as Buyer

By: 
Name: Roy Kuga
Title: Vice President, Energy Supply
Date: 11/30/07