

POWER PURCHASE AGREEMENT

Between

PACIFIC GAS AND ELECTRIC COMPANY
(as "Buyer")

and

South Feather Water and Power Agency
(as "Seller")

POWER PURCHASE AND SALE AGREEMENT

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APPENDICES

The following Appendices constitute a part of this Agreement and are incorporated into this Agreement by reference:

- Appendix I Contract Pricing Nodes
- Appendix II Hydrological Conditions
- Appendix III Notices List
- Appendix IV Counterparty Notification Requirements for Outages and Generation Schedules
- Appendix V Outage Notification Form

POWER PURCHASE AND SALE AGREEMENT

PREAMBLE

This Power Purchase and Sale Agreement, together with the appendices and any other attachments referenced herein, is made and entered into between Pacific Gas and Electric Company (“Buyer” or “PG&E”), and South Feather Water and Power Agency (“Seller” or “SFWPA”) as of the Execution Date set forth on the signature page hereof. Buyer and Seller hereby agree to the following:

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 “10-Minute Settlement Interval Average Price” means the Imbalance Price as published by the CAISO every ten (10) minutes in order to reflect prices for Imbalance Energy.

1.2 “AAA” means the American Arbitration Association.

1.3 “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.

1.4 “Agreement” means this Power Purchase and Sale Agreement between Buyer and Seller, which is comprised of the Preamble, these General Terms and Conditions, and all appendices, schedules and any written supplements attached hereto and incorporated herein by references, as well as all written and signed amendments and modifications thereto. For purposes of Section 10.11, “agreement” shall mean “Agreement” as defined herein.

1.5 “Arbitration” has the meaning set forth in Section 12.3.

1.6 “Bankrupt” means with respect to any entity, such entity that (a) 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, (b) makes an assignment or any general arrangement for the benefit of creditors, (c) otherwise becomes bankrupt or insolvent (however evidenced), (d) 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 (e) is generally unable to pay its debts as they fall due.

1.7 “Betterments or Improvements” means any improvements, additions, or expansions of any Unit completed after the Effective Date that increase the capacity of the System.

1.8 "Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday and shall be between the hours of 8:00 a.m. and 5:00 p.m. local time for the relevant Party's principal place of business where 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.

1.9 "Buyer" has the meaning set forth in the Preamble.

1.10 "CAISO" means the California Independent System Operator Corporation or any successor entity performing similar functions.

1.11 "CAISO Point of Interconnection" has the meaning set forth in Section 3.1(e)(i).

1.12 "CAISO Grid" means the system of transmission lines and associated facilities of the Participating Transmission Owners that have been placed under the CAISO's operational control.

1.13 CAISO Interconnection Agreement has the meaning set forth in the CAISO Tariff.

1.14 [Reserved].

1.15 "CAISO Tariff" means the CAISO FERC Electric Tariff, First Replacement Volume No. 1, as it may be amended, supplemented or replaced (in whole or in part) from time to time.

1.16 "California Renewables Portfolio Standard" means the renewable energy program and policies established by Senate Bills 1038 and 1078, codified in California Public Utilities Code Sections 399.11 through 399.20 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

1.17 "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 System, intended to value any aspect of the capacity of the System to produce Energy or ancillary services, including, but not limited to, any accounting construct so that the full Contract Capacity may be counted toward a Resource Adequacy Requirement or any other measure by the CPUC, the CAISO, the FERC, or any other entity invested 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.

1.18 "CEC" means the California Energy Commission or its successor agency.

1.19 "CEC Certification and Verification" means that the CEC has certified that the ERR Resources are ERRs for purposes of the California Renewables Portfolio Standard and that all Energy produced by the ERR Resources qualifies as generation from an ERR.

1.20 "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.

1.21 "Condition(s) Precedent" has the meaning set forth in Section 11.1.

1.22 "Contract Capacity" means the generation capacity of the System, net of all auxiliary loads, station electrical use and Electrical Losses, prior to the completion of any Betterments or Improvements to the System, which as of the Effective Date is approximately 118.5 MW (nameplate rating).

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

1.24 "Control Center" means the PG&E facility which provides 24-hour monitoring and operational control of Seller's System.

1.25 "Costs" means, with respect to the Non-Defaulting Party, (a) 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 in entering into new arrangements which replace this Agreement; and (b) all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of this Agreement.

1.26 "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; and

(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.

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

1.27 "Day Ahead Schedule" has the meaning set forth in the CAISO Tariff.

1.28 "Defaulting Party" means the Party that is subject to an Event of Default.

1.29 "Delivered Energy" means all Energy produced from the System as measured in MWh at the CAISO revenue meter for each Unit based on a power factor of precisely one (1) and net of all Electrical Losses.

1.30 "Delivery Point" means the point at which Buyer receives Seller's Product, as set forth in Section 3.1(c).

1.31 "Delivery Term" has the meaning set forth in Section 3.1(b).

1.32 "Early Termination Date" has the meaning set forth in Section 5.2.

1.33 "Effective Date" shall mean the date on which all of the Conditions Precedent set forth in Section 11.1 have been either satisfied or waived in writing by both Parties.

1.34 "Electrical Losses" means all applicable losses, including, but not limited to, the applicable GMM or any successor method to account for losses or congestion established by the CAISO (or successor organization) and assigned to the Delivery Points.

1.35 "Eligible Renewable Energy Resource" or "ERR" has the meaning set forth in California 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.

1.36 "Energy" means electric energy measured in MWh.

1.37 "ERR Resources" means the Sly Creek Power House and the Kelly Ridge Power House.

1.38 "Event of Default" has the meaning set forth in Section 5.1.

1.39 "Execution Date" means the latest signature date found on the signature page of this Agreement.

1.40 "Fed Funds Rate" means the rate per annum equal to the "Monthly" Federal Funds Rate (as reset on a monthly basis based on the latest month for which such rate is available) as reported in Federal Reserve Bank Publication H.15-519, or its successor publication.

1.41 "FERC" means the Federal Energy Regulatory Commission or any successor government agency.

1.42 "Force Majeure" means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, to the extent such event is not within the reasonable control of the Party affected thereby. The affected Party shall have an affirmative obligation hereunder to take all commercially reasonable actions to remedy the effects of a Force Majeure event and to recommence performance at the earliest practicable time. For purposes of this Agreement, a Force Majeure event is treated as an Unscheduled Outage in accordance with Section 3.6(c).

1.43 “Forward Certificate Transfer” is described in the WREGIS Operating Rules (www.wregis.com or http://www.wregis.org/index.php?option=com_docman&task=doc_download&gid=304) and is a means for directly transferring WREGIS certificates.

1.44 “Forced Outage” means any unplanned reduction or suspension of the electrical output from the System or unavailability of the System in whole or in part in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction and any other unavailability of the System or any portion thereof for operation that is not a Scheduled Outage. A Forced Outage is treated as an Unscheduled Outage in accordance with Section 3.6(c).

1.45 “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 this Agreement, determined in a commercially reasonable manner, subject to Section 5.3 hereof.

1.46 “Gen-Ties” mean (A) the Sly Creek Gen-Tie portion, from Sly Creek PH on the 115 kV Sly Creek Tap (FERC 4851) of PG&E’s Woodleaf – Palermo 115 kV transmission line; (B) the Woodleaf Gen-Tie portion, from Woodleaf PH on PG&E’s Woodleaf – Palermo 115 kV transmission line (FERC 2281); (C) the Forbestown Gen-Tie portion, from Forbestown PH on the 115 kV Forbestown Tap (FERC 2281) of PG&E’s Woodleaf – Palermo 115 kV transmission line; and (D) the Kelly Ridge Gen-Tie portion, from Kelly Ridge PH to PG&E’s Palermo – Oroville #2 transmission line.

1.47 “Gen-Tie Agreements” means Direct Assignment Transmission Facilities (“Gen-Ties”) for the System (collectively, the “Gen-Tie Agreements”), under which Seller pays fees associated with all special facilities and interconnection facilities related to those Gen-Ties.

1.48 “GMM” means the Generation Meter Multiplier as defined in the CAISO Tariff.

1.49 “Good Utility Practice” has the meaning set forth in the CAISO Tariff.

1.50 “Governmental Approval” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any governmental entity and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental law, that are required for the use and operation of the System.

1.51 “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.

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

1.53 “Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and

its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission 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;¹ (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 biogas 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.

1.54 "Hour Ahead" has the meaning set forth in the CAISO Tariff.

1.55 "Imbalance Energy" has the meaning set forth in the CAISO Tariff.

1.56 "Interest Rate" means the Fed Funds Rate, except for the purposes of Section 6.1, where Interest Rate is equal to the Prime Rate + 2%.

1.57 "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 after the Execution Date; or any binding interpretation of the foregoing. For purposes of Sections 10.1(b) and 10.11, "law" shall mean "Law" as defined herein.

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

1.58 "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 this Agreement, determined in a commercially reasonable manner, subject to Section 5.3 hereof.

1.59 Metering Services Agreement has the meaning set forth in the CAISO Tariff.

1.60 "MRTU" or "Market Redesign and Technology Upgrade" means the locational marginal pricing market system to be governed by the CAISO MRTU Tariff approved by FERC.

1.61 "MWh" means megawatt-hour.

1.62 "NERC" means the North American Electric Reliability Council or a successor organization that is responsible for establishing reliability criteria and protocols.

1.63 "NERC Holiday" shall mean: 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 fourth Thursday in November. New Year's Day, Independence Day, and Christmas Day, by definition, are predetermined dates each year. However, in the event they occur on a Sunday, the "NERC Holiday" is celebrated on the Monday immediately following that Sunday. However, if any of these days occur on a Saturday, the "NERC Holiday" remains on that Saturday.

1.64 "Non-Defaulting Party" has the meaning set forth in Section 5.2.

1.65 "Notice" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail). Appendix III contains the names and addresses to be used for Notices.

1.66 "Outage Notification Form" means the notice form attached hereto as Appendix IV.

1.67 "On-Peak Hours" shall mean Monday through Saturday, hours ending 0700 – 2200 PPT (6:00 am to 10:00 pm), excluding NERC Holidays.

1.68 Participating Generator Agreement has the meaning set forth in the CAISO Tariff

1.69 "Participating Transmission Owner" or "Participating TO" means an entity that (a) owns, operates and maintains transmission lines and associated facilities and/or has entitlements to use certain transmission lines and associated facilities and (b) has transferred to the CAISO operational control of such facilities and/or entitlements to be made part of the CAISO Grid. For purposes of this Agreement, the Participating Transmission Owner is Pacific Gas and Electric Company.

1.70 "Party" or "Parties" means the Buyer or Seller individually, or both collectively. For purposes of Section 10.11, the word "party" or "parties" shall have the meaning set forth in this definition.

1.71 "PG&E Special Facilities Agreement" has the meaning set forth in the CAISO Tariff or PG&E tariffs.

1.72 "Prime Rate" means the Prime Rate as reported in the Money Rates column of the Wall Street Journal on the last day of the preceding month.

1.73 "Project" or "project" for the purposes of Sections 1.53, 3.1(g), and 10.1(b) has the meaning ERR Resources.

1.74 "Products" mean all of the Energy, Renewable Energy Credits, Capacity Attributes, including ancillary services or products, and Green Attributes which are or can be produced by or associated with the System.

1.75 "Prolonged Outage" means either a single Unscheduled Outage or a series of Unscheduled Outages that has or have the effect of reducing the availability of any powerhouse under this Agreement by over 25% in any twelve-month period.

1.76 "RA Capacity" means the maximum megawatt amount that the CAISO recognizes from the System that qualifies for Buyer's Resource Adequacy Requirements.

1.77 "Recording" has the meaning set forth in Section 2.4.

1.78 "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 as further defined or supplemented by Law.

1.79 "Resource Adequacy" means the procurement obligation of load serving entities, including Buyer, as such obligations are described in CPUC Decisions 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.

1.80 "Resource Adequacy Requirements" means Buyer's Resource Adequacy or successor program requirements, as the CPUC, CAISO or other regional entity may prescribe.

1.81 "Restructuring Event" means the implementation of the regulatory restructuring of the California energy market from a zonal market to a nodal market as evidenced by the commencement of operations under MRTU by the CAISO.

1.82 "Scheduling Coordinator" or "SC" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff, for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator", of the

CAISO Tariff, as amended from time to time. For purposes of this Agreement, the Scheduling Coordinator is Pacific Gas and Electric Company.

1.83 "Scheduled Energy" shall mean the quantity of Energy scheduled to be delivered to the Delivery Point by PG&E in accordance with Section 3.3.

1.84 "Scheduled Outage" has the meaning set forth in Section 3.6(b).

1.85 "SEC" means the U.S. Securities and Exchange Commission.

1.86 "Seller" shall have the meaning set forth in the Preamble.

1.87 "System" means Federal Energy Commission ("FERC") Project 2088. The System includes four Power Houses ("PH"): Sly Creek PH, Woodleaf PH, Forbestown PH, and Kelly Ridge PH and the other tangible assets that compose each generating facility, including but not limited to the assets used to connect the Power Houses to their respective CAISO Point of Interconnection.

1.88 "Term" shall have the meaning provided in Section 2.5.

1.89 "Termination Payment" has the meaning set forth in Section 5.2.

1.90 "Transmission Provider" means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point. For purposes at this Agreement the Transmission Provider is the CAISO.

1.91 "Unit" means a Power House, each of which is identified in the definition of "System".

1.92 "Unscheduled Outage" has the meaning set forth in Section 3.6(c).

1.93 "WECC" means the Western Electricity Coordinating Council or successor agency.

1.94 "WREGIS" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

1.95 "WREGIS Certificates" shall have the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

1.96 "WREGIS Operating Rules" shall mean those operating rules and requirements adopted by WREGIS as of June 4, 2007, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

ARTICLE TWO: GOVERNING TERMS AND TERM

2.1 **Entire Agreement.** This Agreement, together with the Preamble and each and every appendix, attachment, amendment, schedule and any written supplements hereto, if any, between the Parties constitutes the entire integrated agreement between the Parties.

2.2 **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 existing at the applicable time to which such construction applies.

(c) Capitalized terms used in this Agreement, including the 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) All references to dollars are to U.S. dollars.

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 Term. The Term shall commence upon the satisfaction of the Conditions Precedent set forth in Section 11.1 of this Agreement and shall remain in effect until the conclusion of the Delivery Term unless terminated sooner pursuant to Section 5.2 or Section 11.2 of this Agreement (the “Term”); provided however, that this Agreement shall remain in effect until the Parties have fulfilled all obligations with respect to the Agreement, including payment in full of amounts due for the Products delivered prior to the end of the Term, the Termination Payment, indemnification payments or other damages (whether directly or indirectly such as through set-off or netting). All indemnity rights shall survive the termination or expiration of this Agreement for twelve (12) months.

2.6 Binding Nature.

(a) Upon Execution Date. This Agreement shall be effective and binding as of the Execution Date only to the extent required to give full effect to, and enforce, the rights and obligations of the Parties under:

- (i) Sections 5.1 (d)-(e);
- (ii) Section 5.1(c), but only with respect to the Sections identified in this Section 2.6;
- (iii) Sections 5.2 through 5.6;
- (iv) Sections 10.2, 10.6, 10.7 and Section 10.11 through Section 10.14;
- (v) Articles One, Two, Seven, Eleven, Twelve and Thirteen.

(b) Upon Effective Date. This Agreement shall be in full force and effect, enforceable and binding in all respects, upon occurrence of the Effective Date.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Purchase and Sale of the Products.

(a) Seller’s and Buyer’s Obligations. Unless specifically excused by the terms of this Agreement during the Delivery Term, Seller shall sell and deliver, or cause to be delivered or otherwise conveyed, and Buyer shall purchase and receive, or cause to be received, the Products at the Delivery Point, and Buyer shall pay Seller the Contract Price in accordance with the terms hereof. In no event shall Seller procure any element of the Products from sources other than the System for sale or delivery to Buyer under this Agreement. Each Party agrees to act in good faith in the performance of its obligations under this Agreement.

(b) Delivery Term. July 1, 2010 through June 30, 2020.

(c) Delivery Point. The Delivery Point for each PH shall be that PH's CAISO Point of Interconnection, as set forth in Section 3.1(e)(i). Seller shall be responsible for any costs or charges imposed on or associated with the Products or delivery of the Products up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product at and from the Delivery Point.

(d) Losses. Prior to the occurrence of a Restructuring Event, all deliveries at the Delivery Point shall be net of any and all transformation and transmission losses between each PH and the Delivery Point, as determined by the applicable Generation Meter Multipliers (GMMs) or any successor method adopted by the CAISO to account for such transmission losses.

(e) Interconnection.

(i) Interconnection Point. The CAISO Points of Interconnection are: (A) for Sly Creek PH, Switch SW133 on the 115 kV Sly Creek Tap located on the Gen-Tie portion of PG&E's Woodleaf – Palermo 115 kV line; (B) for the Woodleaf PH, Switch SW113 on the 115 kV Forbestown Tap located on the Gen-Tie portion of PG&E's Woodleaf – Palermo 115 kV line; (C) for Forbestown PH, Switch SW123 on the Forbestown Tap located on the Gen-Tie portion of PG&E's Woodleaf – Palermo 115 kV line; and (D) for Kelly Ridge PH, Switch SW13, located on the Gen-Tie portion of PG&E's Palermo – Oroville #2 60 kV line. Seller shall maintain the Points of Interconnection at its own expense.

(ii) Seller Obligations. Seller shall, at its own expense, be responsible for complying with the contractual, metering, and interconnection standards and requirements set forth in PG&E's tariffs, as applicable, and the CAISO Tariff and other applicable documents. Seller shall execute a CAISO Interconnection Agreement, a Participating Generator Agreement, and a Metering Service Agreement and, with respect to the Power House Gen-Ties, PG&E Special Facilities Agreements and Gen-Tie Agreements, if applicable, to enable Seller to deliver power from the System to the CAISO-controlled grid.

(f) Climate Action Registry and WREGIS. Seller shall as soon as practicable, register: a) the ERR Resources with WREGIS and the California Climate Action Registry as may be required by WREGIS; b) the non-ERR Resources with the California Climate Action Registry. Seller shall comply with all WREGIS requirements. During the Delivery Term, Seller shall establish and maintain an account with WREGIS and shall create WREGIS Certificates for all energy delivered to Buyer from the facility, and shall transfer the WREGIS Certificates using "Forward Certificate Transfers" (as described in the WREGIS Operating Rules) each month all such WREGIS Certificates from Seller's WREGIS Account to the WREGIS account(s) of

Buyer. Buyer shall fully support Seller in meeting this obligation, including the preparation of documents for execution by Seller.

(g) Green Attributes. Seller hereby provides and conveys all Green Attributes associated with all electricity generation 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.

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

(i) Obtaining and Maintaining CEC Certification and Verification. Seller shall file an application for and obtain certification of the System's ERR Resources with the CEC, and will take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to maintain CEC Certification and Verification throughout the Term. Buyer agrees to support Seller in meeting these obligations by assisting with the preparation of all necessary paperwork, documentation, and reporting for execution by Seller.

(j) Resource Adequacy. Seller agrees to assist Buyer in meeting Buyer's RA Requirement by: (i) complying with all applicable RA requirements set forth in the CAISO Tariff; (ii) maintaining the System in accordance with Good Utility Practice so that it is available for dispatch as needed for reliability purposes; and (iii) taking all commercially reasonable actions to maintain the RA credit for the system. Buyer agrees to support Seller in meeting these obligations by assisting with the preparation of all necessary paperwork, documentation, and reporting for execution by Seller.

3.2 Coordinated Planning and Operations.

(a) Buyer and Seller shall cooperate to develop coordinated operations schedules and forecasts. Seller shall operate and maintain the System in accordance with Good Utility Practice and all FERC, environmental and other regulatory permit and license terms and conditions.

(b) Buyer and Seller shall share watershed hydrologic information applicable to the System, including precipitation, temperature and runoff data and forecasts. Seller shall provide Buyer with Seller's plans for water withdrawals for non-generation uses, such as irrigation and domestic uses, and any other operating constraints. The Parties shall regularly confer on forecasts as snowfall, precipitation and runoff information become available. Buyer shall provide Seller with output from its proprietary operations model(s) (SOCRATES and/or successor models) applicable to the System, to aid in decision making about allocations of water for generation and non-generation uses. If either Party receives information through CAISO or directly from the Participating Transmission Owner regarding maintenance that will directly affect the ability to deliver Energy from the System, it will provide this information promptly to the other Party.

(c) Notwithstanding any other provision of this Agreement, Seller and Buyer agree that their operations of the Project for hydroelectric generation in accordance with this

Agreement shall be subordinate to Seller's right to withdraw water from the Project for beneficial consumptive uses, including irrigation, domestic, and municipal uses, as Seller in its sole discretion determines is required to meet the reasonable and beneficial needs of its customers and North Yuba Water District. Subject to the foregoing described consumptive withdrawals by Seller, the Parties agree to operate the System consistent with each Party's uses of the System and the FERC license requirements, and to maintain the head in each forebay, with the exception of the Sly Creek Reservoir, at a level sufficient to provide the RA Capacity amount each month. It is recognized that, in a dry year, this agreement may require that Little Grass Valley and Sly Creek Reservoirs shall be drawn to the storage levels provided in Appendix II (Reservoir Rule Curve).

(d) From time-to-time as reasonably determined to be necessary by the Parties, the Parties shall reasonably cooperate to confer and agree upon written operating procedures ("Operating Procedures") addressing how the Parties will coordinate operations and perform their respective obligations under this Agreement, including, but not limited to: (1) the method of day-to-day communications for operating, scheduling and dispatching the System, which initially shall be as described in Appendix IV; (2) key personnel lists for each Party; (3) the methods and procedures of collecting and sharing hydrologic data, and jointly developing and conferring on forecasts of runoff and operations schedules; (4) procedures for Forced Outage, and Scheduled Outage scheduling and reporting, which initially shall be as described in Appendix IV; (5) procedures for reporting daily reservoir levels, available powerhouse capacity and energy output; (6) procedures for record keeping; provided that the failure to agree on Operating Procedures will not relieve the Parties of their respective obligations under this Agreement.

(e) In an event that the parties fail to reach agreement on the Operating Procedures described above, Seller will have the final decision on the monthly powerhouse quantities drafted from the storage reservoirs for the Uncontrolled Period (as defined below); however, PG&E will have the final decision on the daily and hourly draft schedule. For the Controlled Period (as defined below), PG&E will have the final decision on the monthly, daily and hourly powerhouse dispatches.

3.3 Scheduling.

(a) Scheduling Coordinator. PG&E shall be Seller's designated Scheduling Coordinator. PG&E shall schedule and dispatch the System based on Good Utility Practice, instructions related to non-generation water use requirements provided by Seller and all System, FERC, and any other regulatory permit and/or license terms and conditions that are applicable to the System. Seller shall use its best efforts to operate the System in accordance with PG&E's dispatch and schedule instructions or any instructions provided by the CAISO, in all cases as communicated to Seller by PG&E.

(b) Scheduling by PG&E. PG&E shall provide schedules to Seller sufficiently in advance, but not later than 4:00 pm of the day ahead unless the CAISO is late in publishing its schedules, to enable Seller to request changes to such schedules to account for System conditions and limitations. Subject to these limitations, and the limitations in any operating plan agreed to in accordance with Section 3.2, PG&E shall have dispatch control of the

System and will serve as the Control Center. Seller shall notify PG&E of any changes made for any reason by Seller to a schedule (other than a change ordered by the CAISO) as soon as practicable. Subject to timely notice from Seller of System conditions and generation changes, PG&E will use its best efforts to minimize Imbalance Energy.

(c) CAISO Imbalance Energy Charges. Except to the extent that a schedule deviation or a charge therefor is the result of Buyer's action or inaction in its role as Scheduling Coordinator or Control Center for the System, Seller shall be liable for CAISO Imbalance Energy Charges that result from a deviation from the Day Ahead or the Hour Ahead schedule, as applicable, submitted by Buyer to the CAISO; provided that, such schedule accurately reflects and is based on the relevant Unit-availability information provided to Buyer by Seller. Buyer and Seller shall cooperate to minimize such charges to the extent possible.

3.4 Standards of Care.

(a) General Operation. Seller shall comply with all applicable requirements of Law, the CAISO, NERC, FERC and WECC relating to the System.

(b) CAISO and WECC Standards. Each Party shall perform all generation, scheduling and transmission services in compliance with all applicable (i) operating policies, criteria, rules, guidelines, tariffs and protocols of the CAISO, (ii) WECC scheduling practices and (iii) Good Utility Practices.

(c) Reliability Standard. Seller agrees to abide by all NERC and WECC requirements.

3.5 Metering. All output delivered per the terms of this Agreement must be delivered through a single CAISO revenue meter at each PH, and that meter must be dedicated exclusively to the PH described herein. All Energy purchased under this Agreement must be measured by the CAISO revenue meter to be eligible for payment under this Agreement. Seller shall bear all costs relating to all metering equipment installed to accommodate the System. In addition, Seller hereby agrees to provide all meter data to Buyer, and consents to Buyer obtaining from the CAISO the CAISO meter data applicable to the System and all inspection, testing and calibration data and reports. Seller shall grant Buyer the right to retrieve the meter reads from the CAISO Operational Meter Analysis and Reporting (OMAR) web and/or directly from the CAISO meter at each PH. If the CAISO makes any adjustment to any CAISO meter data for a given time period, Seller agrees that it shall submit revised monthly invoices, pursuant to Section 6.2, 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 CAISO provides to Seller such binding adjustment to the meter data.

3.6 Outages and Outage Notification.

(a) CAISO Approval of Outage(s). In its role as Scheduling Coordinator, PG&E will be responsible for securing CAISO approvals for Unit outages, including securing changes in its outage schedules when CAISO disapproves Seller's schedules or cancels previously approved outages. Seller shall provide PG&E with current information sufficiently in

advance of CAISO notification requirements to enable PG&E to perform these duties in compliance with CAISO requirements.

(b) Scheduled Outages. Scheduled Outages are used for maintenance of the System, only.

(i) Procedure. Seller shall notify Buyer of its proposed Scheduled Outage schedule for the System for the following calendar year no later than August 1st of each year during the Delivery Term. Scheduled Outages shall not be scheduled during On-Peak Hours during the months of June, July, August or September. The Scheduled Outage schedule is subject to Buyer's approval, which approval may not be unreasonably withheld or conditioned. Seller shall also submit a completed Outage Notification Form in accordance with the provisions set forth in Appendix V no later than fourteen (14) days prior to each Scheduled Outage. Seller shall contact Buyer with any requested changes to the Scheduled Outage schedule if Seller believes a Unit must be shut down to conduct maintenance that cannot be delayed until the next Scheduled Outage, consistent with Good Utility Practice. Seller shall not change its Scheduled Outage schedule without Buyer's approval, not to be unreasonably withheld or conditioned. After any Scheduled Outage has been scheduled, at any time up to the commencement of work for the Scheduled Outage, Buyer may request that Seller change its outage schedule. Seller shall notify Buyer of any incremental costs associated with such 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 to accommodate Buyer's request. Unless Buyer is transmitting a CAISO order to Seller once a Scheduled Outage schedule has been finalized by Buyer and Seller, Buyer may not change Seller's Scheduled Outage schedule without Seller's approval.

(ii) Effect of Scheduled Outage hours. Except as set forth in the Adjustment of the Fixed Monthly Payment, Section 4.1(f), all hours within the scheduled time for each Scheduled Outage that is taken in accordance with the procedure set forth in part (i) above shall be excused and shall not be counted as "unavailable" for any purpose under this Agreement.

(c) Unscheduled Outages. Forced Outages and Force Majeure Events are examples of Unscheduled Outages; however, an Unscheduled Outage also shall be deemed to occur whenever Buyer dispatches the System in accordance with the agreed-upon operational limitations of the System and Seller fails to deliver energy in response to that dispatch.

- (i) **Forced Outages.** Seller shall notify Buyer of any Forced Outage within ten (10) minutes of the identification by Seller (or notification by PG&E's Control Center, if outside normal business hours) of such outage, (ii) provide a written estimate of its expected duration of the outage within four (4) hours thereafter, and (iii) submit a completed Outage Notification Form to Buyer in accordance with the instructions provided therein. Seller shall also keep PG&E informed of changes in the estimated duration of such an outage. A Forced Outage that results from an interruption on a transmission line shall not cause any affected Unit to be counted as "unavailable" for any purpose under this Agreement.
- (ii) **Force Majeure.** Within forty-eight (48) hours of commencement of an event of Force Majeure, the non-performing Party shall provide the other Party with oral notice of the event of Force Majeure, and within two (2) weeks of the commencement of an event of Force Majeure the non-performing Party shall provide the other Party with 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. 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.
- (iii) **Effect of Unscheduled Outages.** For purposes of this Agreement, all hours during an Unscheduled Outage shall be deemed to be hours of "unavailability" for the affected Unit(s). If the Unscheduled Outage persists long enough or is sufficiently recurrent to constitute a Prolonged Outage, the Term of this Agreement shall be extended on a day-for-day basis by the full duration of the Prolonged Outage.

3.7 Operations Logs and Access Rights.

(a) **Operations Logs.** Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, availability, maintenance performed, outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall provide this information electronically to Buyer within thirty (30) days of Buyer's request.

(b) **Access Rights.** Buyer, its authorized agents, employees and inspectors shall have the right of ingress to and egress from each PH on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement or the exercise of any and all rights secured to Buyer by law, or its tariff schedules, PG&E Interconnection Handbook, Electric Rule 21, and rules on file with the CPUC. Buyer shall make

reasonable efforts to coordinate its activities with Seller. Seller shall keep Buyer advised of current procedures for contacting Seller's operating department.

(c) Changes to Operating Procedures. The transmission and scheduling mechanisms, metering requirements, outage notification procedures, and operating procedures applicable to the System as of the Execution Date are subject to change from time to time during the Term of this Agreement. Buyer shall provide advance notification to Seller of any such changes or proposed changes, and both Parties agree to cooperate in good faith to implement any such changes.

3.8 Increases in System Capacity. If Seller elects at any time during the Delivery Term to construct any Betterment or Improvement, Seller shall use commercially reasonable efforts to minimize any interruption of or reduction to the Contract Capacity and shall schedule any such work in coordination with Buyer. To the extent possible, Seller agrees to limit such work to off-peak periods. Any demonstrable increase in capacity or energy resulting from a Betterment or Improvement shall be sold to Buyer under the terms and conditions of this Agreement.

ARTICLE FOUR: COMPENSATION; MONTHLY PAYMENTS

4.1 Contract Price.

(a) The price paid for the Products shall be aggregated into a Monthly Payment Amount (as defined below). For purposes of determining the Monthly Payment Amount, the following definitions shall apply:

- (i) "Controlled Period" means the period set forth in Appendix II.
- (ii) "Daily Firm Off-Peak Price" means the ICE Daily Index at NP15 for Off-Peak Energy.
- (iii) "Daily Firm On-Peak Price" means the ICE Daily Index at NP15 for On-Peak Energy.
- (iv) "Fixed Monthly Payment" means \$354,167.
- (v) "Hourly Index Price" is the weighted average of the prices determined by the CAISO's day-ahead based Integrated Forward Market (IFM) published for the hour of delivery for the Nodal Delivery Points(s) and the Weighting Factors both of which are described in Appendix I.
- (vi) "ICE Daily Index" means the weighted average index for day ahead physical firm power transactions reported daily in the *ICE Day Ahead Power Price Report* published by *ICE Data* or a successor publication owned by the Intercontinental Exchange.

- (vii) "Monthly Index Price" is the average of the Hourly Index Price for all of the On-Peak Hours in such month.
- (viii) "Off-Peak Hours" shall mean Monday through Saturday, hours ending 0100 – 0600 PPT (12:00 midnight to 6:00 am), plus hours ending 2300 – 2400 PPT (10:00 pm to 12:00 midnight), and including all hours on Sundays and NERC Holidays.
- (ix) "Uncontrolled Period" means the period specified in Appendix II.

(b) The Monthly Payment Amount shall be the sum of (i) the Variable Sly/Woodleaf/Forbestown Monthly Energy Payment, (ii) the Variable Kelly Ridge Monthly Energy Payment, and (iii) the Fixed Monthly Payment where:

(A) The Variable Sly/Woodleaf/Forbestown Monthly Energy Payment for each month equals:

(I) During the Uncontrolled Period:

Σ For each hour, the MWh of energy as measured at the CAISO revenue meter at each Sly Creek PH, Woodleaf PH, and Forbestown PH, times the Hourly Index Price

OR

(II) During the Controlled Period:

Σ The MWh of energy as measured at the CAISO revenue meter at each Sly Creek PH, Woodleaf PH, and Forbestown PH, times the Monthly Index Price

(B) The Variable Kelly Ridge Monthly Energy Payment equals:

Σ For each hour, the MWh of energy as measured at the CAISO revenue meter at Kelly Ridge PH times the Hourly Index Price

(c) In the event that within a month there is a shift from a Controlled Period to an Uncontrolled Period, then (i) the portion of the month that is within the Controlled Period will be based on the Energy delivered during such Controlled Period and payment formula in Section 4.1(b)(A)(II) shall apply; and (ii) the portion of the month that is within the Uncontrolled Period will be based on the Energy delivered during such Uncontrolled Period and the payment formulae in Section 4.1(b)(A)(I) shall apply.

(d) In the event that a Restructuring Event has not occurred then instead of the Variable Sly/Woodleaf/Forbestown Monthly Energy Payment determined as specified in Section 4.1(b)(A) above, the Variable Sly/Woodleaf/Forbestown Monthly Energy Payment shall be determined as follows:

(I) During the Uncontrolled Period equals:

Σ For each day, the MWh of energy as measured by the CAISO revenue meter during the on-peak and off-peak hours, respectively, at each Sly Creek PH, Woodleaf PH, and Forbestown PH, net of any and all transformation and transmission losses between the PH and the Delivery Point as determined by the applicable Generation Meter Multipliers ("GMM's") or any successor method to account for such transmission losses established by the CAISO (or any successor organization) times the Daily Firm On-peak Price and the Daily Firm Off-peak Price, respectively, for such day.

OR

(II) During Controlled Periods:

Σ The MWh of energy as measured the CAISO revenue meter at each of the Sly Creek PH, Woodleaf PH, and Forbestown PH, times the average of the Daily Firm On-Peak Price for each peak day of the month.

(e) In the event that a Restructuring Event has not occurred then instead of the Variable Kelly Ridge Monthly Energy Payment determined as specified in (b)(B) above, the Variable Kelly Ridge Monthly Energy Payment shall be determined as follows:

Σ For each hour, the MWh of energy as measured the CAISO revenue meter at Kelly Ridge net of any and all transformation and transmission losses between the PH and the Delivery Point as determined by the applicable Generation Meter Multipliers ("GMM's") or any successor method to account for such transmission losses established by the CAISO (or any successor organization) times the applicable Daily Firm On- Peak Price or the Daily Firm Off-Peak Price.

(f) The Fixed Monthly Payment totals \$354,167 for the System; of this amount \$290,000 is associated with the current level of qualifying RA Capacity provided by the System as certified by the CAISO (117MWs), and the remaining \$64,167 is associated with deliveries of renewable power from the ERR Resources.

(g) Adjustment of the Fixed Monthly Payment.

(i) That portion of the Fixed Monthly Payment associated with RA capacity, as set forth above shall be subject to proportionate downward adjustment if the combined RA capacity of the Power Houses, that qualifies as RA capacity as certified by the CAISO or successor entity that certifies RA capacity, falls below the current certified rating of 117 MWs in any month.

- (ii) That portion of the Fixed Monthly Payment associated with deliveries of renewable power from the ERR Resources will be reduced proportionately in any month during which Seller fails to be available for at least 90% of the combined Maximum Output from those ERR Resources. For purposes of this payment reduction, each ERR resource will be assumed to be 100% available unless it is: forced or scheduled out. For purposes of this calculation, Scheduled Outages up to 504 hours per year can be excluded from the availability calculation and shall not result in a reduction in the Fixed Monthly Payment. Buyer and Seller further agree that during the term of this agreement, Seller may schedule a single outage of up to 8 weeks in duration for each of the ERR Resources in order to perform major maintenance. In such year, Scheduled Outages up to 1,344 hours per year can be excluded from the availability calculation and shall not result in a reduction in the Fixed Monthly Payment.

Buyer shall calculate the prorated reduction in the Fixed Monthly Payment for each affected month. Buyer shall include this calculation with its payment statement for each affected month. If Seller disagrees with the calculation, the provisions of Article XII shall apply to the disagreement.

4.2 Failure to Publish Prices. If no price is published by the CAISO or ICE, unless the Parties mutually agree otherwise, the price applicable to such period shall be the price for the next period (settlement period or day as applicable) for which the price is available for a period of no more than three days. If, during the term of this Agreement, any price source referred to in this Agreement or the publication used to ascertain the price ceases to exist or be published for a period greater than three days, then the Parties shall confer in good faith to establish a replacement price mechanism. If the Parties have not so agreed on a replacement price mechanism within ninety (90) days, either Party may request that the matter be resolved pursuant to the dispute resolution provision of Article 12. Until a replacement price mechanism has been determined and applied retroactively, payments shall be made in the interim based on the last posted index or price. Upon determination of a replacement price mechanism, any interim payments shall be adjusted retroactively and if either Party owes payment to the other based upon this retroactive adjustment, payment shall be made by the owing Party with interest accruing at the Fed Funds Rate from the date the retroactively adjusted amounts would have been due until the dates the retroactively adjusted amounts are paid. Notwithstanding the foregoing, if the Parties have determined a price pursuant to this Section and at a later date the responsible exchange, publication or market announces or publishes the relevant price, then such price shall be treated as a corrected price and either Party may notify the other Party of the correction and the amount payable as a result of that correction in accordance with Section 6.2 hereof.

4.3 Buyer Setoff Rights for CAISO Imbalance Charges. Buyer may effect reimbursement for the CAISO Charges for which Seller is responsible, in accordance with Section 3.3(c), by setting off the amount of such charges from its payments to Seller under this Agreement.

(a) Records for Payments. Seller and Buyer agree to use the Imbalances Energy prices that the CAISO has posted on or about the fifth (5th) day of the month, following the delivery month and to settle the Imbalance Energy calculations pursuant to Section 4.3(c) below.

(b) Billing. Beginning in the first month in which the Imbalance Price becomes available for the applicable month, there shall be a true-up adjustment for the Imbalance Price payable for the Imbalance Energy, as provided herein, in the monthly invoice, provided pursuant to Section 6.1 of this Agreement.

(c) Imbalance Energy Adjustments. Because the Parties recognize that the Imbalance Prices retrieved from the CAISO on or about the fifth (5th) day of each month, as provided above, may not be the final posted price, either Party shall have the right to request a true-up on the Imbalance Energy calculations once the CAISO has posted the final price for that month, which shall not be more than ninety (90) days from the date on which the initial Imbalance Price was retrieved. Any such adjustment shall be netted against the next following invoice.

ARTICLE FIVE: EVENTS OF DEFAULT; PERFORMANCE REQUIREMENT; REMEDIES

5.1 Events of Default. An "Event of Default" shall mean, with respect to a Party that is subject to the Event of Default, 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 five (5) Business Days after written Notice is received by the Party failing to make such payment;

(b) any representation or warranty made by such Party in Section 10.1(a) either is false or misleading in any material respect when made or becomes false or misleading in any material respect during the Delivery Term;

(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 Notice;

(d) such Party becomes Bankrupt; or

(e) 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.

5.2 Termination. 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: (a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("Early Termination Date"); (b) accelerate all amounts owing between the Parties; (c) collect liquidated damages ("Termination Payment"), which shall be calculated in accordance with Section 5.3 below; (d) withhold any payments due to the Defaulting Party under this Agreement; (e) suspend performance; and (f) exercise any other right or remedy available at Law or in equity to the extent otherwise permitted under this Agreement.

5.3 Calculation of Termination Payment.

(a) The Termination Payment will be equal to the net amount of Losses or Gains, and Costs, which the Non-Defaulting Party incurs as a result of the termination of this Agreement; provided that, 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.

(b) The Non-Defaulting Party shall calculate, in a commercially reasonable manner, its Gains and Losses as of the Early Termination Date. The Non-Defaulting Party shall determine the Gains or Losses, by using the average of market quotations for comparable products requested from three (3) or more bona fide unaffiliated market participants. Where a quote is in the form of bid and ask prices, the price that is to be used in the averaging is the midpoint between the bid and ask price. The quotes obtained shall be: (a) for a like amount, (b) of the same product, (c) at the same Delivery Point, and (d) for the remaining Delivery Term. To the extent that the Non-Defaulting Party cannot obtain at least two quotes, Gains and Losses shall be based on third party information 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 references, market prices for comparable products, forward price curves based on economic analysis of the relevant markets and settlement prices for a comparable transaction at liquid trading hubs (e.g., NYMEX). Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information, provided however that such third parties shall not include an affiliate of the Non-Defaulting Party. The Losses 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 Gains or Losses.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, 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 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 ten (10) 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, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the 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.

5.6 Rights And Remedies Are Cumulative. The rights and remedies of a Party pursuant to this Article Five shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

ARTICLE SIX: PAYMENT

6.1 Billing and Payment; Remedies. On or about the tenth (10th) day of each month beginning with August 10, 2010 and every month thereafter, and continuing through and including the first month following the end of the Delivery Term, Seller shall provide to Buyer (a) records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Delivered Energy by each Unit for any CAISO settlement time interval during the preceding months, and (b) an invoice determined in accordance with Sections 4.1 and, if applicable, CAISO charges pursuant to Section 4.3. Buyer shall pay the undisputed amount of such invoices on or before the later of the twenty-fifth (25th) day of each month or 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 automated clearing house payment, 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 adjustment 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 3.5, in the event adjustments to payments are required as a result of inaccurate meter(s), Seller shall use corrected measurements to recompute the amount due from Buyer to Seller for Delivered Energy under this Agreement 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 Fed Funds Rate from and including the 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 Fed Funds 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 this Agreement occurred, the right to payment for such performance is waived.

ARTICLE SEVEN: 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. UNLESS EXPRESSLY HEREIN PROVIDED, 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 EIGHT: FINANCIAL REPORTING REQUIREMENTS

8.1 Buyer Financial Information. If requested by Seller, Buyer shall deliver to Seller (a) within 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 (b) within 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 prepared in accordance with generally accepted accounting principles. Buyer shall be deemed to have satisfied such delivery requirement if the applicable report is publicly available on www.pge-corp.com or on the SEC EDGAR information retrieval system; provided however, 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.

8.2 **Seller Financial Information.** If Generally Accepted Accounting Principles require Buyer to consolidate Seller's financial information, Seller shall provide financial reports and associated underlying schedules, prepared in accordance with generally accepted accounting principles, as soon as practicable. Seller shall cooperate with Buyer to determine whether Buyer is required to consolidate Seller's financial information. All such information provided by Seller shall be treated as confidential by Buyer and shall be used only for the limited purposes set forth herein.

ARTICLE NINE: 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 Products arising prior to and at the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Products 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. A Party that is exempt at any time and for any reason from one or more Governmental Charges bears the risk that such exemption shall be lost or the benefit of such exemption reduced; and thus, in the event a Party's exemption is lost or reduced, each Party's responsibility with respect to such Governmental Charge shall be in accordance with the first four sentences of this Section.

ARTICLE TEN: GENERAL PROVISIONS

10.1 Representations and Warranties.

- Party that:
- (a) On the Execution Date, each Party represents and warrants to the other
 - (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

- (ii) it has all regulatory authorizations necessary for it to perform its obligations under this Agreement, except for (i) CPUC Approval in the case of Buyer, and (ii) a final FERC license in the case of Seller;
- (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 a 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 materially adversely affect its ability to perform its obligations under this Agreement;
- (vii) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would 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 the Product as provided in this Agreement.

(b) Seller Representations and Warranties.

Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of 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 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under

the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in Law.

10.2 Covenants.

- Term:
- (a) General Covenants. Each Party covenants that throughout the Delivery
- (i) it shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
 - (ii) 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;
 - (iii) it shall perform its obligations under this Agreement and the Transaction in a manner that does 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; and
 - (iv) 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).

(b) Seller Covenant. Seller covenants throughout the Delivery Term that it, or its permitted successors or assigns, have or will have ownership of the System.

10.3 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 Product 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.

10.4 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 the Products delivered under this Agreement to the Delivery Point, Seller’s operation and maintenance of the System, and 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 Seller, or others, excepting only such loss, Claim, action, or suit as may be

caused solely by the willful misconduct or gross negligence 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 Products delivered under this Agreement at and after the Delivery Point. In addition, 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 Buyer's actions or omissions in serving as Scheduling Coordinator for Seller, excepting only such loss, Claim, action or suit as may be caused solely by the willful misconduct or gross negligence 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.

10.5 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.

10.6 Confidentiality. Neither Party shall disclose the non-public terms or conditions of this Agreement, or any Transaction hereunder, or any other confidential information provided in accordance with section 3.2 of this Agreement to a third party, other than (i) the Party's employees, lenders, investors, 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 10.7 of this Agreement; (v) in order to comply with any applicable law, regulation, or any exchange, control area 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 (v) 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 (iv) of this Section 10.6 ("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.

10.7 RPS Confidentiality. Notwithstanding Section 10.6 of this Agreement, at any time on or after the date on which the Buyer files an application 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, Contract Capacity, Contract Quantity, and Delivery Point.

10.8 Audit. Each Party has the right, at its sole expense and during normal working hours, 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 Delivered Energy or Scheduled Energy. 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 paid; 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.

10.9 Change in FERC License Conditions. If at any time during the Delivery Term the conditions of Seller's FERC license are changed in a manner that decreases the Contract Capacity, and the resultant decrease is greater than 10% of the Contract Capacity, Buyer may calculate appropriate modifications to the Monthly Fixed Payment to account for the changes; provided that, Buyer's calculation is subject to dispute by Seller, and, if Seller raises such a dispute, the provisions of Article XII shall be used to resolve the dispute.

10.10 Insurance. Seller shall maintain its insurance coverage extant on the Execution Date for the Delivery Term in accordance with Good Utility Practice.

10.11 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

10.12 General. 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. 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. 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 headings used herein are for convenience and reference purposes only. Facsimile or PDF transmission will be the same as delivery of an original document; provided that at the request of either Party, the other Party will confirm facsimile or PDF signatures by signing an original document. This Agreement shall be binding on each Party's successors and permitted assigns. The standard of review the FERC shall apply when

acting on proposed modifications to this Agreement, either on FERC's own motion or on behalf of a signatory or a non-signatory, shall be the "just and reasonable" standard of review rather than the "public interest" standard of review. Nothing in this Agreement shall in any way restrict or otherwise limit the rights of either Party under Sections 205 and 206 of the Federal Power Act.

10.13 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.

10.14 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 fax will be deemed as effective as delivery of an originally executed counterpart. Any Party delivering an executed counterpart of this Agreement by facsimile 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.

10.15 FERC 2004 Waiver. Seller consents to and authorizes PG&E's transmission function to disclose to PG&E's merchant function all nonpublic transmission-related information to the extent such information relates to this Agreement.

ARTICLE ELEVEN: CONDITIONS PRECEDENT

11.1 Conditions Precedent. The Term shall not commence until the occurrence of all of the following:

- (a) This Agreement has been duly executed by the authorized representatives of each of Buyer and Seller;
- (b) CPUC Approval has been obtained; and
- (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 (such occurrences in subsections (a) through (c) shall be referred to collectively as "Conditions Precedent").

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 January 31, 2010, then either Party may terminate this Agreement effective upon receipt of Notice by the other Party. Neither Party shall have any obligation or liability to the other, including for a Termination Payment, by reason of such termination.

ARTICLE TWELVE: DISPUTE RESOLUTION

12.1 Intent of the Parties. Except as provided in the next sentence, the sole procedure to resolve any claim arising out of or relating to this Agreement or any related agreement is the dispute resolution procedure set forth in this Article Twelve. This clause shall not preclude either Party from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction if such action is deemed necessary to prevent irreparable harm or preserve the status quo.

12.2 Management Negotiations.

(a) The Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement or any related agreements by prompt negotiations between each Party's Authorized Representative, or such other person designated in writing as a representative of the Party (each a "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.

(b) The provisions of California Evidence Code Section 1119 et seq. shall apply to all communications made in the course of such negotiations.

(c) It is understood that any agreement reached in the course of negotiations may require the approval of the Parties' respective governing body. If the matter is not resolved, and approved, within forty-five (45) days of the Referral Date, or if the Party receiving the written request to meet, pursuant to subsection (a) above, refuses or does not meet within the ten (10) Business Day period specified in subsection (a) above, either Party may initiate arbitration of the controversy or claim according to the terms of the following Section 12.3.

12.3 Arbitration.

(a) Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and party-agreed procedures. Judgment on the Award may be entered in any court having jurisdiction. Nothing herein shall preclude the Parties from mediation of the dispute in accordance with the mediation rules established by JAMS.

(b) The arbitration shall be by a single neutral arbitrator.

(c) The arbitrator shall be a retired trial or appellate court judge.

(d) The arbitration shall take place in Sacramento, California.

(e) The parties incorporate the provisions of Code of Civil Procedure section 1283.05, pertaining to discovery.

(f) The arbitration decision shall be made within nine months of submission of the dispute, claim or controversy for arbitration.

(g) The arbitrator shall render a reasoned decision.

(h) The law of the state of California shall be applied.

ARTICLE THIRTEEN: 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, shall be provided in accordance with the terms set forth in the relevant section of this Agreement or the Operating Procedures. 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 of 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.

SIGNATURES

Agreement Execution

In WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the dates provided below:

SOUTH FEATHER WATER AND POWER,
A CALIFORNIA IRRIGATION DISTRICT

PACIFIC GAS AND ELECTRIC COMPANY,
A CALIFORNIA CORPORATION

Signature: 

Name: Michael C. Glaze

Title: General Manager

Date: 4.28.09

Signature: 

Name: Roy M. Kuga

Title: Vice President, Energy Supply

Date: 4/16/09



APPENDIX I

CONTRACT PRICING NODES

Powerhouses:

- Colgate 1, 2 – YCWA under contract to PG&E
- Narrows 2 – YCWA under contract to PG&E
- Narrows 1 – PG&E
- Poe – PG&E
- Cresta – PG&E
- Rock Creek – PG&E
- Bucks Creek – PG&E
- Belden – PG&E
- Caribou 1,2 – PG&E
- Hyatt – DWR owned and operated
- Thermolito – DWR owned and operated
- Sly Creek
- Forbestown
- Kelly Ridge
- Woodleaf

Weighting Factors:

The Weighting Factors for the Nodal Delivery Points associated with the above powerhouses will be equal to the ratio of each EZ Gen NP15 Trading Hub Aggregate Pnode (APNode) allocation factors used by the CAISO in the definition of the EZ Gen NP15 Trading Hub for such Nodal Delivery Point for the corresponding season and on-peak or off-peak period as described in Section 27.3 of the Updated California ISO 4th Replacement (MRTU) Tariff as of August 7, 2008 ("Allocation Factors") to the sum of such Allocation Factors for all of the Nodal Delivery Points. A sample calculation of the Weighting Factors is shown below.

Prior to the initial delivery date and throughout the contract term, the parties will work together in good faith to identify the applicable hubs associated with each powerhouse and reset them as required for settlements under this contract. Further, the parties intend to work in good faith together to investigate whether weighting factors for each powerhouse can be established that would be used for the entire contract term. If the parties are able to agree to one set of weighting factors for the entire term, those factors would be confirmed by separate letter agreement.

Appendix 1 - Illustrative Example (of Hub weighting)

	Season 1 On-Peak		Hourly Nodal Price
Powerhouse			
Colgate 1 - YCWA under contract to PG&E	0.0089115834	5.47%	80
Colgate 2 - YCWA under contract to PG&E	0.0093837303	5.76%	72
Narrows 1 - PG&E	0.0000960325	0.06%	78
Narrows 2 - YCWA under contract to PG&E	0.0040189276	2.47%	75
Poe - PG&E	0.0057092322	3.51%	80
Cresta - PG&E	0.0061459447	3.78%	81
Rock Creek 1 - PG&E	0.0045953408	2.82%	81
Rock Creek 2 - PG&E	0.0047132025	2.90%	78
Bucks Creek - PG&E	0.0297429358	18.27%	85
Belden - PG&E	0.0042290453	2.60%	84
Caribou 1 - PG&E	0.0150414282	9.24%	78
Caribou 2 - PG&E	0.0150414282	9.24%	80
Hyatt - DWR Owned & Operated	0.0140429143	8.63%	78
Thermolito - DWR owned & operated	0.0297429358	18.27%	78
Sly Creek	0.0006114187	0.38%	78
Forbestown	0.0038714571	2.38%	78
Kelly Ridge	0.0012126772	0.74%	82
Woodleaf	0.0056663137	3.48%	82
Total	0.1627765482	100.00%	

Hourly Index Price

79.75

Any rounding difference will be adjusted to Thermolito (or another unit if mutually agreed on an annual basis).

Generation (MWs) at South Feather Powerhouses (Sly Creek, Forbestown, Kelly Ridge, and Woodleaf)

90

Variable Settlement (\$) per Article 4.1(A)1

7,177.50

APPENDIX II

HYDROLOGICAL CONDITIONS

Hydro Condition	Controlled Period	Uncontrolled Period
Dry	Entire Year	Not applicable
Below Normal	June 1 to end of February or to spilling of either Little Grass or Sly Creek Reservoir (which ever occurs first)	Beginning of the day after the end of the Controlled Period and Lasting until May 31
Normal	June 1 to end of February or to spilling of either Little Grass or Sly Creek Reservoir (which ever occurs first)	Beginning of the day after the end of the Controlled Period and Lasting until May 31
Wet	July 1 to end of February or to spilling of either Little Grass or Sly Creek Reservoir (which ever occurs first)	Beginning the day after the end of the Controlled Period and lasting until June 30

Hydro Condition Type

The determination of hydro condition type year will be based on the California Department of Water Resource's (DWR) forecast for annual unimpaired inflow at Oroville (as set forth in DWR's Bulletin 120 entitled Water Conditions in California).

Hydro Condition	DWR Forecast Annual Unimpaired Inflow at Oroville (million acre-feet)
Dry	Less than or equal to 2.4
Below Normal	Greater than 2.4 and less than or equal to 4.0
Above Normal	Greater than 4.0 and less than 7.1
Wet	Greater than or equal to 7.1

Clarifications:

- 1) The "February 1 Forecast" will be used to determine the March Hydro Condition Type;
- 2) The "March 1 Forecast" will be used to determine the April Hydro Condition Type;
- 3) The "April 1 Forecast" will be used to determine the May Hydro Condition-Type; and
- 4) The May forecast will be used to determine the Hydro Condition Type for the period of time from June through the end of February of the following year.

Minimum combined storage

Little Grass, Sly Creek, and Lost Creek reservoirs will be operated consistent with the historical operational pattern. The minimum normal operating combined storage of Little Grass and Sly Creek shall be 60,000 ac-ft. Any operations below this level requested by either PG&E or SFWPA will require written concurrence from the other party.

Reservoir Rule Curves

In a year when the inflow at Oroville between October 1 and September 30 as forecasted by the Department of Water Resources (DWR) of California in April is greater than 4 million acre-ft and the reasonably projected reservoir storage in Little Grass and Sly Creek reservoirs to be greater than the end-of-month storage values in thousand acre-ft (TAF) shown in the table below (an "Above Average Water Year"), the SFWPA reservoirs will be operated to maximize the generation benefit subject to 3.2(c) (Sellers right to withdraw water for beneficial consumptive uses).

<u>END OF</u>	<u>LITTLE GRASS</u>	<u>SLY CREEK</u>	<u>COMBINED</u>
<u>JANUARY</u>	<u>50</u>	<u>20</u>	<u>70</u>
<u>FEBRUARY</u>	<u>55</u>	<u>25</u>	<u>80</u>
<u>MARCH</u>	<u>65</u>	<u>35</u>	<u>100</u>
<u>APRIL</u>	<u>70</u>	<u>50</u>	<u>120</u>
<u>MAY</u>	<u>80</u>	<u>55</u>	<u>135</u>
<u>JUNE</u>	<u>80</u>	<u>50</u>	<u>130</u>
<u>JULY</u>	<u>70</u>	<u>40</u>	<u>110</u>
<u>AUGUST</u>	<u>65</u>	<u>30</u>	<u>95</u>
<u>SEPTEMBER</u>	<u>55</u>	<u>20</u>	<u>75</u>
<u>OCTOBER</u>	<u>50</u>	<u>15</u>	<u>65</u>
<u>NOVEMBER</u>	<u>45</u>	<u>15</u>	<u>60</u>
<u>DECEMBER</u>	<u>45</u>	<u>15</u>	<u>60</u>

APPENDIX III

NOTICES LIST

Name: South Feather Water and Power Agency
a California Irrigation District ("Seller")

All Notices: *[Seller to complete]*

Delivery Address:

Street: 2310 Oro Quincy Highway
City: Oroville State: CA Zip: 95966

Mail Address: (if different from above)

Attn: Michael Glaze

Phone: [REDACTED] 3
Facsimile: [REDACTED] 0

Federal Tax ID Number: [REDACTED] 0

Invoices:

Attn:

Phone:
Facsimile:

Scheduling:

Attn:
Phone:
Facsimile:

Payments:

Attn:
Phone:
Facsimile:

Wire Transfer:

BNK:
ABA:
ACCT:

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

All Notices:

Delivery Address:

77 Beale Street, Mail Code N12E
San Francisco, CA 94105-1702

Mail Address:

P.O. Box 770000, Mail Code N12E
San Francisco, CA 94177
Attn: Candice Chan [REDACTED]@pge.com
Director, Contract Mgmt & Settlements
Phone: [REDACTED]
Facsimile: [REDACTED]

Federal Tax ID Number: [REDACTED]

Invoices:

Attn: Amol Patel [REDACTED]@pge.com
Manager, Bilateral Settlements
Phone: [REDACTED]
Facsimile: [REDACTED]

Scheduling:

Attn: Kevin F. Coffee [REDACTED]@pge.com
Phone: [REDACTED]
Facsimile: [REDACTED]

Payments:

Attn: Amol Patel [REDACTED]@pge.com
Manager, Bilateral Settlements
Phone: [REDACTED]
Facsimile: [REDACTED]

Wire Transfer:

BNK: [REDACTED]
[REDACTED]
ACCT: [REDACTED]
FOR CREDIT OF: [REDACTED]

With additional Notices of an Event of Default
to Contract Manager:

Attn: Michael Glaze _____

Phone: _____

Facsimile: _____

Contract Manager:

Attn: Jeannette Woo _____@pge.com)

Manager, Contract Management

Phone: _____

Facsimile: _____

With additional Notices of an Event of Default to:

PG&E Law Department

Attn: Renewables Portfolio Standard attorney

Phone: (415) 973-4377

Facsimile: (415) 972-5952

APPENDIX IV

COUNTERPARTY NOTIFICATION REQUIREMENTS FOR OUTAGES AND GENERATION SCHEDULES

A. NOTIFICATION REQUIREMENTS FOR START-UP AND SHUTDOWN

Prior to paralleling to or after disconnecting from the electric system, ALWAYS notify your designated Area Control Center as follows:

- Call for permission to parallel before any start-up at the appropriate Area Control Centers [Buyer to insert phone number.]
- Call your Area Control Center again after start-up with parallel time.
- Call your Area Control Center after any separation and report separation time as well as date and time estimate for return to service.

B. NOTIFICATION REQUIREMENTS FOR [AVAILABILITY NOTICES,] SCHEDULES AND CHANGES TO SCHEDULES

1. Send Day Ahead Schedule by the following method:
 - a. Internet site. Access and your password to this web site to be provided upon execution of the related power purchase and sale agreement; or
 - b. E-mail. If the Internet site is not available, then send data via e-mail with an attached Excel spreadsheet in the format provided by PG&E. The spreadsheet must contain the following information: assigned log # of unit in first column; date and time (i.e., Hour Ending) in second column; and, generation level in kW in third column. Contact your designated PG&E Settlement Analyst or the Manager of Electric Settlements if you encounter any issue; or
 - c. Via Facsimile, Attention: Manager of Electric Settlements. If e-mail is not available, then the send via facsimile, a spreadsheet in the format specified above in subpart (b), submit your Project schedules and be sure to include the name and phone number of the individual that is providing this information. This method is discouraged as it involves additional steps, one of which may be manual data entry if the document cannot be scanned and read properly.
2. Send Hour Ahead notification of changes to Day Ahead Schedules by both of the following methods:
 - 2.1 Internet site. Access and your password to this web site to be provided upon execution of the power purchase and sale agreement; and

- 2.2 Phone: Call PG&E's Hour-Ahead Trading Desk with any changes to the schedule or notifications at least 30 minutes prior to the ISO scheduling hour-ahead deadline for that delivery hour.
3. Send the Outage Notification Form by the following method:
 - 3.1 Internet site. Access and your password to this web site to be provided upon execution of the power purchase and sale agreement; or
 - 3.2 Email. If the Internet site is not available, then send via e-mail, a completed Outage Notification Form and be sure to include the name and phone number of the individual that is providing this information. Contact your designated PG&E Settlement Analyst or the Manager of Electric Settlements if you encounter any issue; or
 - 3.3 Via Facsimile, Attention: Manager of Electric Settlements. If e-mail is not available, then send via facsimile a completed Outage Notification Form and be sure to include the name and phone number of the individual that is providing this information. This method is discouraged as it involves additional steps, one of which may be manual data entry if the document cannot be scanned and read properly.

C. REASONS TO SEND NOTIFICATION AND TIMING REQUIREMENTS

This subpart C addresses (I) instructions for submitting generation and outage information to PG&E for each Unit and (II) the cut off times that determine when certain of these notifications need to be communicated directly (i.e., called in) to PG&E's Short-Term Electric Supply.

I. Submission of Outages, Generation

Whenever the Unit experiences an outage, plans to schedule maintenance, or is subject to a curtailment, PG&E's web site which contains the Outage Notification Form or its equivalent, is to be used to comply with the notification requirements under the contract. The Outage Notification Form or its equivalent shall be used when reporting outages or curtailment. The Outage Notification Form or its equivalent must be completely filled out, including date and start time of event, cause of the outage or curtailment, expected duration, expected time and date of return to service or full output and transmitted to Power Trading and Power Settlements.

1. Testing the Unit(s) During an Outage. Notify the designated PG&E Control Center by telephone and the Power Settlements Department as provided above before testing the Unit(s) during an Outage. Indicate on the original Outage Notification Form if testing will be conducted during an Outage.
2. Communication with PG&E Control Center. Seller shall maintain operating communications with the PG&E Control Center at _____. The operating communications shall include, but not be limited to, system parallel operation or separation, scheduled and unscheduled Outages, equipment clearances, protective relay operations, levels of operating voltage and reactive power, and daily capacity and generation reports.

3. Logs of Communication Records with PG&E's Area Control Center and Electric Settlements personnel: Seller shall maintain written records of all communiqués with PG&E which will be available for audit at PG&E's request. These records shall include, but not be limited to, system parallel operation or separation, scheduled and unscheduled outages, equipment clearances, protective relay operations, levels of operating voltage and reactive power, and daily capacity and generation reports.

II. Cut Off Times for Notifications to Electric Settlements Versus Having to Contact Short-Term Electric Supply Directly

Even though PG&E's Electric Settlements department requires that all Day-Ahead and Hour-Ahead Schedules and outages be submitted via the Internet web site, (or in the event it is not available email, or facsimile) in cases where information has changed (i.e., exceptions) Seller must call:

- (a) the Day-Ahead Trading Desk with updated Day-Ahead information at least 5 hours prior to the ISO Day-Ahead scheduling deadline for that delivery day;
- (b) the Hour Ahead Trading Desk with any Hour Ahead changes or modifications at least 30 minutes prior to the ISO scheduling deadline for that delivery hour: and
- (c) the Outage Coordinator with any outage information that was not submitted to Electric Settlements at least 38 hours prior to the delivery day.



PLEASE DO NOT ALTER THIS

APPENDIX V

OUTAGE NOTIFICATION FORM

(To be faxed to two groups at PG&E)

SEND VIA FAX
To Pacific Gas & Electric Company

DATE: _____



PG&E LOG NUMBER: _____

Unit/ProjectName: _____

NOTIFICATION OF:

SCHEDULED OUTAGE / FORCED OUTAGE / CURTAILMENT / PROLONGED OUTAGE

The Unit will shut down for SCHEDULED OUTAGE from:

_____ to _____

(Date and Time)

(Date and Time)

The Unit 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: _____ Phone #: _____
(Print Name)