properly formatted, and delivered to the correct address within the prescribed ten-day period, Seller may, without penalty, (i) suspend the provision of services under this Confirmation and (ii) the capacity payments under section 7 shall continue to accrue during the suspension' period, and (iii) make sales to third parties fiom the Unit(s) until such payment, including applicable accrued interest, is received by Seller. Upon receipt by Seller of Buyer's payment, Buyer's rights hereunder shall be fully restored.

c. The Parties confirm that Article 4 of the Master Agreement applies to the failure by either Party to schedule, deliver or receive, as applicable, the Product under circumstances described therein. Late payment of undisputed amounts by Buyer and the failure by either Party to make required payments hereunder shall not constitute an Event of Default provided that payment is received no more than sixty (60) calendar days after an invoice for the underlying charges has been delivered to the Party required to make such payment. The Parties agree that an outage or curtailment for scheduled or unscheduled maintenance will not be considered a failure to schedule or deliver for purposes of Article 4 of the Master Agreement but may be subject to section 14.a.

d. The Parties acknowledge that the Unit(s) subject 'to this Confirmation are subject to an RMR Contract, but that such Unit(s) are not currently designated as an RMR resource by the CAISO. If, during the term of this Confirmation, the Unit(s) are subject to an RMR Contract and the Unit(s) are designated as an RMR resource by the CAISO for a given calendar year, then, at Buyer's option, which may be elected one time prior to the effective date of the RMR designation for the duration of the RMR designation, Seller shall assign a pro rata portion (prorated as set forth in the next sentence) of the Monthly Availability Payments and Non-performance Penalties (as defined in the applicable RMR Contract) under such RMR Contracts to the extent such payments and penalties relate to such Units(s) to Buyer, for the period such Unit(s) are designated as RMR resources only, in accordance with the applicable terms of such RMR Contracts. Any such Monthly Availability Payments and Non-Performance Penalties shall be prorated based on the proportion which the energy delivered hereunder bears to the total energy delivered by such Unit(s). To the extent Buyer receives any payments fiom such assigned portion of any Monthly Availability Payments and Non-Performance Penalties, it shall retain such payments, but shall not be entitled to retain Monthly Surcharge Payments, the ISO Repair Share, Motoring Charges for Ancillary Services Dispatch, Start-up Adjustment Charges, or Prepaid Start-up Charges, as each is defined in the applicable RMR Contracts, all of which shall be remitted to Seller in accordance with such RMR Contracts.

e. For purposes of the Master Agreement, including Article 4 thereof, the "Contract Price" for any hour shall be the energy price hereunder plus the pro rata portion of the Capacity Payment for the month in question, based on the Capacity Payment schedule attached hereto as Attachment B, prorated over the total number of hours in such month.

15. Non-performance:

a. In the event that the Unit(s) specified in Section 3 of this Confirmation is not commercially operable and delivering to Buyer on or before December 31, 2003 as a result of the Unit(s) not being commercially operational or Seller's inability to deliver the energy provided for in this Confirmation, and, without limiting the generality of the foregoing, not as result of the failure of any of the conditions set forth in the first paragraph of this Confirmation to be satisfied, PG&E may at its sole discretion terminate this Confirmation and Seller shall pay PG&E damages in the form of $15,000.00 (fifteen thousand dollars) times the MW specified under this Confirmation; provided, however, that the foregoing termination right shall terminate and be of no further force and effect as soon as Seller begins deliveries of energy to Buyer hereunder. Seller and Buyer agree that such damages are a reasonable approximation of the damages that Buyer will incur and shall be construed as liquidated damages and not as a penalty. Such liquidated damages shall apply solely to a termination of this agreement by PG&E for the reasons stated in this Section 15.

b. Within thirty (30) days of acceptance of this Confirmation by Buyer, Seller shall provide to PG&E, as security for the payment of liquidated damages in accordance with paragraph 15.a above, a letter of credit or surety bond issued for the benefit of PG&E, in the form attached to PG&E's Request For Offers, or other security acceptable to PG&E. Within five *(5)* Business Days after the earlier of (i) termination of Buyer's right to terminate this Confirmation pursuant to Section 15.a or (ii) termination by either Party of this Confirmation as a result of the failure of any of the conditions set forth in the first paragraph of this Confirmation Letter, Buyer shall return such letter of credit or surety bond to Seller.

16. Remedy for Default: Except as otherwise set forth in Section 15 above, the Non-Defaulting Party's sole remedy for termination of this Agreement shall be to recover an amount (the "Termination Amount") equal to the Non-Defaulting Party's damages for the loss of the economic benefit, if any, of this Agreement for the remaining term. Factors used in determining the loss of economic benefit may include, without limitation, a comparison of comparable transactions, third-party quotations from leading dealers in energy and gas contracts, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), the remaining term of the Agreement, value of Environmental Attributes, and current discount rates. The Non-Defaulting Party will have the burden of proving the Termination Amount. In no event shall the Non-Defaulting Party have to enter into actual transactions in order to provide the Termination Amount. If the Parties cannot agree on a Termination Amount, the Termination Amount will be determined pursuant to the provisions governing dispute resolution set forth in Section 17.

17. Dispute Resolution:

a. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, including any claims based on contract, tort, statute, or other authority, shall be resolved at the request of either Party through a two-step dispute resolution process administered by the American Arbitration Association ("AAA"). As the first step the Parties agree to mediate any controversy before a mediator from the AAA panel, pursuant to AAA's Commercial Mediation Rules, as in effect on the date of this Agreement, in San Francisco, California. Either Party may begin mediation by serving a written demand for mediation on the other Party and by filing a written request for mediation with the AAA together with the appropriate filing fee. If within sixty (60) days after service of a written demand for mediation, the mediation does not result in resolution of the dispute, then the dispute shall be settled by arbitration conducted by a retired judge or justice from the AAA panel, conducted in San Francisco, California, administered by and in accordance with AAA's Commercial Arbitration Rules, as in effect on the date of this Agreement. At any time within sixty (60) days of service of a written demand for mediation, either Party may initiate arbitration by filing with AAA a notice of intent to arbitrate, if the dispute has not been resolved by mediation.

At the request of either Party, upon good cause shown, the arbitrator shall have the discretion to order examination by deposition of witnesses to the extent the arbitrator deems such additional discovery relevant and appropriate. The arbitrator shall also have discretion to order the Parties to answer interrogatories and exchange relevant documents upon good cause shown.

c. The arbitrator shall have no authority to award punitive or exemplary damages.

d. The arbitrator's award shall be made within three (3) months of the filing of the notice of intention to arbitrate (demand), and the arbitrator shall agree to comply with this schedule before accepting appointment. However, this time limit may be extended by agreement of the Parties or by the arbitrator, if necessary. The California Superior Court of the City and County of San Francisco, or, until Party B has been discharged from bankruptcy, the United States District Court for the Northern District of California, may enter judgment upon any award rendered by the arbitrator. The Parties are aware of the California Supreme Court's Decision in *Advanced Micro Devices, Inc. v. Intel Corp.*, 9 Cal. 4th 362 (1994), and, except as modified by this Agreement, intend to limit the power of the arbitrator to that of a Superior Court judge enforcing California law. The prevailing Party in this dispute resolution process shall be entitled to recover its reasonable costs and reasonable attorneys' fees.

e. Except as may be required by law, neither Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

18. Other Terms and Conditions: The Master Agreement applies to this transaction. To the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the parties hereto. In addition to the other remedies available to PG&E hereunder, Seller hereby waives any defense it may have to specific performance, including any defenses it may otherwise have under the Bankruptcy Code, so that PG&E may require the Unit(s) to produce electricity as set forth in this Confirmation for the full term hereof. Seller hereby indemnifies against and holds PG&E harmless from any loss or cost of any kind that PG&E suffers as a result of the failure of this specific performance remedy to provide to PG&E the full benefits of its bargain hereunder.

PACIFIC GAS AND ELECTRIC COMPANY	SELLER
By: Gordon R. Smith	By: Jacob M. Rudisill
Name: GORDON R. SMITH	Name: JACOB M. RUDISILL
Title: President + CEO	Title: SENIOR VICE PRESIDENT
Date: November 14, 2002	Date: November 14,2002

Attachment A
Environmental Attributes

"Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable from the facility. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4) and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights such as Green Tag Reporting Rights to these avoided emissions. 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 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 kWh basis and one Green Tag represents the Environmental Attributes associated with one (1) MWh of energy. Environmental Attributes do not include any energy, capacity, reliability or other power attributes fi-om the project nor production tax credits 'or certain other financial incentives existing now or in the future associated with the construction or operation of the energy projects."

Attachment B
Capacity Payment Schedule

January	10.0%
February	2.8%
March	2.8%
April	2.8%
May	2.8%
June	12.0%
July	15.0%
August	15.0%
September	12.0%
October	12.0%.
November	2.8%
December	10.0%