

**MASTER POWER PURCHASE AND SALE AGREEMENT**  
**COVER SHEET**

This *Master Power Purchase and Sale Agreement* (Version 2.1; modified 4/25/00) ("Master Agreement") is made as of the following date: October 12, 2005 ("Effective Date"). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with this Agreement) shall be referred to as the "Agreement." The Parties to this *Master Agreement* are the following:

**Name:** Pacific Wind, LLC ("Party A")

**All Notices:**

**Street:** 700 La Terraza Boulevard, Suite 200

**City:** Escondido, CA **Zip:** 92025-3868

**Attn:** Contract Administration

**Phone:** (760) 740-7022

**Facsimile:** (760) 740-7030

**Duns:** N/A

**Federal Tax ID Number:** To be provided

**Invoices:**

Pacific Wind, LLC

P.O. Box 581043

North Palm Springs, CA 92258

**Attn:** Accounting Manager

**Phone:** (760) 329-1437

**Facsimile:** (760) 251-6573

**Scheduling:**

Pacific Wind, LLC

700 La Terraza Boulevard, Suite 200

Escondido, CA 92025-3868

**Attn:** Asset Manager

**Phone:** (760) 740-7022

**Facsimile:** (760) 740-7030

**Payments:**

Pacific Wind, LLC

P.O. Box 581043

North Palm Springs, CA 92258

**Attn:** Accounting Manager

**Phone:** (760) 329-1437

**Facsimile:** (760) 251-6573

**Wire Transfer:** To be provided

**BNK:**

**ABA:**

**ACCT:**

**Confirmation:**

**FAX:**

**Name:** San Diego Gas & Electric Company ("Party B")

**All Notices:**

**Street:** 8315 Century Park Court

**City:** San Diego, CA **Zip:** 92123

**Attn:** Contract Administration

**Phone:** (858) 650-6176

**Facsimile:** (858) 650-6190

**Duns:** 006911457

**Federal Tax ID Number:** 95-1184800

**Invoices:**

San Diego Gas & Electric Company

8315 Century Park Ct.

San Diego, California 92123-1593

**Attn:** Energy Accounting Manager

**Phone:** (858) 650-6177

**Facsimile:** (858) 650-6190

**Scheduling:**

San Diego Gas & Electric Company

8315 Century Park Ct.

San Diego, California 92123-1593

**Attn:** Transaction Scheduling Manager

**Phone:** (858) 650-6160

**Facsimile:** (858) 650-6191

**Payments:**

San Diego Gas & Electric Company

PO Box 25110

Santa Ana, CA 92799-5110

**Attn:** Mail Payments

**Phone:** (619) 696-4521

**Facsimile:** (619) 696-4899

**Wire Transfer:**

**BNK:** Union Bank of California

**for:** San Diego Gas & Electric Company

**ABA:** Routing # 122000496

**ACCT:** #4430000352

**Confirmation:** SDG&E, Major Markets

**FAX:** (213) 244-8316

**Credit and Collections:**

Pacific Wind, LLC  
P.O Box 581043  
North Palm Springs, CA  
Attn: Accounting Manager  
Phone: (760) 329-1437  
Facsimile: (760) 251-6573  
With additional Notices of an Event of Default or  
Potential Event of Default to:  
Pacific Wind, LLC  
700 La Terraza Boulevard, Suite 200  
Escondido, CA 92025-3868  
Attn: Asset Manager  
Phone: (760) 740-7022  
Facsimile: (760) 740-7030

**Credit and Collections:**

San Diego Gas & Electric Company, Major Markets  
555 W. Fifth Street, ML 10E3  
Los Angeles, CA 90013-1011  
Attn.: Major Markets, Credit and Collections Manager  
Fax No.: (213) 244-8316  
Phone: 1-866-313-6622 (toll-free)  
With additional Notices of an Event of Default or  
Potential Event of Default to:  
Sempra Energy  
101 Ash Street  
San Diego, CA 92101  
Attn: Assistant General Counsel, Commercial Law  
Facsimile: (619) 696-4377

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

- Party A Tariff Party A Tariff (Not applicable – the facility will be a Qualifying Facility as defined in the Public Utility Regulatory Policies Act)
- Party B Tariff FERC Electric Tariff, Original Volume No. 10, Original Sheet Nos. 1-3 (Supersedes FERC Electric Tariff, Original Volume Nos. 7 and 8) Effective May 12, 2003, Docket No. ER03-418-000.

**Article Two**

Transaction Terms and Conditions  Optional provision in Section 2.4. If not checked, inapplicable.

**Article Four**

Remedies for Failure to Deliver or Receive  Accelerated Payment of Damages. If not checked, inapplicable.

**Article Five**

- Events of Default; Remedies  Cross Default for Party A:
- Party A: N/A Cross Default Amount: N/A
- Other Entity: N/A Cross Default Amount: N/A
- Cross Default for Party B:
- Party B: N/A Cross Default Amount: N/A
- Other Entity: N/A Cross Default Amount: N/A

**5.6 Closeout Setoff**

- Option A (Applicable if no other selection is made.)
- Option B – Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows:
- Option C (No Setoff)

**Article 8**

**8.1 Party A Credit Protection:**

**Credit and Collateral Requirements**

(a) Financial Information:

- Option A
- Option B Specify: \_\_\_\_\_
- Option C Specify: \_\_\_\_\_

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, complete the following: N/A

Party B Collateral Threshold: \$ \_\_\_\_\_; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount \$ \_\_\_\_\_

Party B Rounding Amount \$ \_\_\_\_\_

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following: N/A

It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below \_\_\_\_\_ from S&P or \_\_\_\_\_ from Moody's or if Party B is not rated by either S&P or Moody's

Other:  
Specify: \_\_\_\_\_

(e) Guarantor for Party B: None

Guarantee Amount: N/A

**8.2 Party B Credit Protection:**

(a) Financial Information:

Option A

Option B Specify:

Option C Specify: Unaudited Financial Statements as attested to by the Chief Financial Officer of Party A

(b) Credit Assurances:

Not Applicable

Applicable

(c) Collateral Threshold:

Not Applicable

Applicable

If applicable, complete the following: N/A

Party A Collateral Threshold: \$ \_\_\_\_\_; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount \$ \_\_\_\_\_

Party A Rounding Amount \$ \_\_\_\_\_

(d) Downgrade Event:

Not Applicable

Applicable

If applicable, complete the following: N/A

It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below \_\_\_\_\_ from S&P or \_\_\_\_\_ from Moody's or if Party A is not rated by either S&P or Moody's

Other:

Specify: \_\_\_\_\_

(e) Guarantor for Party A: None

Guarantee Amount: N/A

(f) 8.4 If the parties elect as being applicable, Section 8.4 shall apply:

Not Applicable

Applicable

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**Article 10**

**Confidentiality**

- Option A: Confidentiality Applicable. If not checked, inapplicable.
- Option B: RPS Confidentiality Applicable. If not checked, inapplicable.
  
- Option C: Confidentiality Notification.

If Option C is checked on the Cover Sheet, Seller has waived its right to notification in accordance with Section 10.11(v).

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**Schedule M**

- Party A is a Governmental Entity or Public Power System
- Party B is a Governmental Entity or Public Power System
- Add Section 3.6. If not checked, inapplicable

**Schedule P**

Schedule P: Products and Related Definitions shall be deleted in its entirety.

**Other Changes**

Specify, if any: The following changes shall be applicable:

**Article One. General Definitions.**

(a) **Definitions.** The following definitions are amended as set forth below:

(1) Section 1.11 "Costs" shall be deleted in its entirety and replaced with the following:

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

(2) Section 1.23 "Force Majeure" shall be deleted in its entirety and replaced with the following:

"Force Majeure" means any cause or event beyond the reasonable control of the affected Party which was not anticipated as of the date of the Transaction and not due to the fault or negligence of the Party affected, and which could not have been avoided by due diligence and use of reasonable efforts, including but not limited to (but only to the extent that the following examples satisfy such definition): (a) acts of God such as extreme weather conditions, droughts, floods, earthquakes, (b) fires, explosions, accidents that could not have been prevented by acting in accordance with Good Utility Practice (defined below), and (c) war (declared or undeclared), riots, insurrection, rebellion, acts of the public enemy, acts of terrorism and sabotage, blockades, embargoes, industry-wide strikes. Notwithstanding anything to the contrary in the foregoing, the following shall not constitute Force Majeure: (a) lack of finances; (b) breakage or malfunction of equipment (except to the extent that such failure was caused by an event that would otherwise satisfy the definition of a Force Majeure event as defined above); or (c) changes in governmental approvals or the conditions imposed thereunder or the failure to grant or renew such governmental approvals.

"Good Utility Practice" means any practices, methods and acts (i) required by the National Electric Safety Code or NERC, whether or not Seller is a member thereof, or (ii) otherwise engaged in or approved by a significant portion of the utility electric generation industry during the relevant time

period or any of the practices, methods and acts that in the exercise of commercially reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be the optimum practice, method or act to the exclusion of all others, but rather is intended to be any of the practices, methods and/or actions generally accepted in the region.

- (3) Section 1.24 “Gains” shall be deleted in its entirety and replaced with the following:

“Gains” means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction for the remaining term of such Transaction, determined in a commercially reasonable manner. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets market referent prices for renewable power set by the CPUC, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining term of the applicable Transaction and include the value of Environmental Attributes.

- (4) Section 1.27 shall be modified by adding the words “and substantially in the same form as the Letter of Credit template attached hereto as Exhibit B” at the end of the first sentence.

- (5) Section 1.28 “Losses” shall be deleted in its entirety and replaced with the following:

“Losses” means with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction for the remaining term of such Transaction, determined in a commercially reasonable manner. Factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, market referent prices for renewable power set by the CPUC, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g. NYMEX), all of which should be calculated for the remaining term of the applicable Transaction and include the value of Environmental Attributes.

- (6) Sections 1.35 and 1.36 shall be modified by deleting the phrase “as defined in Schedule P.” and replacing such phrase with “as defined in the Confirmation.”

- (7) Section 1.45 shall be modified by including the words “acceptable to the requesting party” after the words “Letter(s) of Credit”.

- (8) Section 1.51 is amended by replacing the current definition with the following:

“Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases for delivery at the Delivery Point (or, if replacement power is not available at the Delivery Point, any other delivery point where Buyer is able to purchase replacement product) a replacement for any Product that includes its associated Environmental Attributes and meets the requirements of Section 10.2(xiii) but was not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or absent a purchase, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner. The Replacement Price also shall include all charges and penalties calculated

in dollars per megawatt hour with respect to the deviation from the scheduled supply resulting from Seller's failure to deliver; provided, however, in no event shall such price include any ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point. If for any reason a Replacement Price is unavailable at the Delivery Point during a Transaction when Seller fails to deliver Product ("Missing Hours"), then the Replacement Price for Missing Hours shall be the last available Replacement Price prior to the Missing Hours together with any charges and penalties allocated to Buyer for the Missing Hours.

"California Renewables Portfolio Standard" means the Renewables Portfolio Standard of California under California Senate Bill 1078 as codified in Sections 387, 390.1, and 399.25 and Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of, the California Public Utilities Code, as such code reference may be amended from time to time.

(9) Section 1.53 is amended by replacing the current definition with the following:

"Sales Price" means the price at which Seller, acting in a commercially reasonable manner, resells any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product including all costs charged by CAISO to deliver the Product into the CAISO System, and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or absent a sale the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner. The Sales Price shall also be reduced by all costs, charges and penalties calculated in dollars per megawatt hour with respect to the deviation from the scheduled supply resulting from Buyer's failure to take Product; provided, however, in no event shall such price include any ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer's liability. The Sales Price may be less than zero.

(10) Section 1.62 is added as follows:

"CAISO" is the California Independent System Operator, or its successor in interest.

(11) Section 1.63 is added as follows:

"CAISO Tariff" means the CAISO Operating Agreement and Tariff, as it may be modified from time to time.

(12) Section 1.64 is added as follows:

"EIRP" means the Eligible Intermittent Resources Protocol, as in effect on the date of execution of this Agreement and as may be amended from time to time, which is part of the CAISO Tariff.

(13) Section 1.65 is added as follows:

"PTC" and "Production Tax Credit" mean the renewable electricity production tax credit described in Section 45 of the Internal Revenue Code of 1986, as amended.

(14) Section 1.66 is added as follows:

"Amendment 42" means Amendment 42 to the CAISO Tariff filed in Docket No. ER02-922-000 (Intermittent Resources; CT 487; Intra zonal Congestion; Real Time Pricing) as in effect on the date hereof and as may be amended from time to time.

(15) Section 1.67 is added as follows:

"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:

(1) Approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of Buyer's administration of the Agreement;

(2) 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;

(3) finds that any procurement pursuant to this Agreement constitutes incremental procurement or procurement for baseline replenishment by Buyer from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation to increase its total procurement of eligible renewable energy resources that it may have pursuant to the California Renewables Portfolio Standard, CPUC Decision 03-06-071, or other applicable law; and

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

(16) Section 1.68 is added as follows:

"Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Unit(s) and its displacement of conventional energy generation. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) 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 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 kWh basis and one Green Tag represents the Environmental Attributes associated with one (1) MWh of energy. Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Unit(s), (ii) production tax credits associated with the construction or operation of the energy projects 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 pre-existing pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Unit(s) for compliance with local, state, or



federal operating and/or air quality permits. If Seller's Unit(s) is a biomass or landfill gas facility and Seller receives any tradable Environmental Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Environmental Attributes to ensure that there are zero net emissions associated with the production of electricity from such facility.

**Article Two: Transaction Terms and Conditions**

- (a) Amend Section 2.1 by deleting the phrase "orally, or if expressly required by either party with respect to a particular Transaction,"
- (b) Section 2.3 shall be deleted in its entirety and replaced with the following: "A Transaction shall be confirmed in writing in a Confirmation Letter agreed to by both parties (the "Confirmation")."

**Article Three: Obligations and Deliveries**

- (a) Section 3.2 "Transmission and Scheduling" shall be deleted in its entirety.
- (b) **Force Majeure.** Add the following two paragraphs at the end of Section 3.3:

"Before or after the date of Commercial Operation, this Agreement may be terminated by the non-claiming party with no further obligation to the other party if a Force Majeure event prevents the performance of a material portion of the obligations hereunder and such Force Majeure event is not resolved within twelve (12) months after the notice given above."

**Article Five: Events of Default**

- (a) **Section 5.1 Events of Default.**

Section 5.1(c) is amended by deleting the reference to "three (3) Business Days" and replacing it with "thirty (30) days."

Amend Sections 5.1(b) and 5.1(h)(i) by adding the following at the end thereof: "or with respect to the representations and warranties made pursuant to Section 10.2 of this Agreement or any additional representations and warranties agreed upon by the parties, any such representation and warranty becomes false or misleading in any material respect during the term of this Agreement or any Transaction entered into hereunder."

Within Section 5.1, add the following new Events of Default:

"(i) if at any time during the Term of Agreement, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement electrical power that was not generated by the Unit(s);"

"(j) failure to meet the performance requirements agreed to pursuant to Section 7.1 of the Confirmation; or"

"(k) a Letter of Credit Default as described in Section 8.4."

- (b) **Section 5 Declaration of an Early Termination Date and Calculation of Settlement Amount.**

Section 5.2, 5.3, 5.4, and 5.5 shall be deleted in their entirety and replaced with the following:

**5.2 Declaration of Early Termination Date and Calculation of Settlement Amounts:** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("Non-Defaulting Party") shall have the right to (i) designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to

accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date. 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. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. The Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount.

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

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, 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 two (2) Business Days after such notice is effective.

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

**(c) Section 5.7 Suspension of Performance.**

Section 5.7 is amended by deleting the phrase "ten (10) NERC Business Days" and replacing it with "five (5) NERC Business Days."

Further amend Section 5.7 by the deletion of the following phrase in the first sentence "or (b) a Potential Event of Default".

**Article Six: Payment and Netting**

**(a) Section 6.2 Timeliness of Payment.**

Section 6.2 shall be replaced by the following: "Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party's invoice instructions thirty (30) days after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any 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. Seller shall submit a monthly invoice via fax and email during the Delivery Term. Buyer has 30 days to pay the invoice. Invoice shall be itemized, identifying all component charges and unit prices. Invoice shall

identify the Output scheduled and delivered during all hours of the month. The invoice shall describe in reasonable detail the calculations used to arrive at invoiced amounts.”

**(b) Section 6.3 Disputes and Adjustments of Invoices.**

Section 6.3 shall be modified by replacing all three references to “twelve (12) months” to “eighteen (18) months”.

**(c) Section 6.4 Netting of Payments.**

Section 6.4 shall be modified by inserted the word “undisputed” between the words “and” and “payment”.

**(d) Sections 6.7**

Section 6.7 Payment for Options is amended by deleting the text and substituting therefore “Intentionally omitted.”

**Article Eight: Credit and Collateral Requirements**

**(a) Party A Credit Protection.** The first three sentences in Section 8.1 shall be deleted in their entirety and replaced with the following:

“8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet and shall only apply if marked as “Applicable” on the Cover Sheet.”

**(b) Party B Credit Protection.** The first three sentences in Section 8.2 shall be deleted in their entirety and replaced with the following:

“8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet and shall only apply if marked as “Applicable” on the Cover Sheet.”

**(c) Performance Security.** Section 8.3 is amended by deleting “or deemed occurrence” from the beginning of the second sentence.

**(d) If the parties elect as being applicable on the Cover Sheet, the following new Section 8.4 shall be added:**

“8.4 To secure its obligations under this Agreement, in addition to satisfying any credit terms pursuant to the terms of Section 8.2 to the extent marked applicable, Seller agrees to deliver to Buyer (the “Secured Party”), and Seller shall maintain in full force and effect (a) from a date that is no more than thirty (30) days after the date on which all of the conditions precedent set forth in Section 1 of this Confirmation are either satisfied or waived until the Commercial Operation date, a Letter of Credit in the amount of \$6,061,920, and (b) from the Commercial Operation date until the end of the Term, a Letter of Credit in the amount of \$9,092,880 which Letter of Credit shall replace any previously issued Letter of Credit and shall not be cumulative. Any such security shall not be deemed a limitation of damages.

All Letters of Credit shall be subject to the following provisions:

(a) The Seller shall (i) renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and in accordance with this Agreement, (ii) if the issuer has indicated its intent not to renew such Letter of Credit, provide a substitute Letter of Credit at least sixty (60) days prior to the expiration of the outstanding Letter of Credit, and (iii) if an issuer of a Letter of Credit shall fail to honor the Buyer’s properly documented request to draw on an outstanding Letter of Credit, provide for the benefit of the Buyer a substitute Letter of Credit, that is issued by an alternate issuer acceptable to the Buyer within five (5) Business Days after the Seller receives notice of such refusal.

(b) “Letter of Credit Default” shall mean with respect to an outstanding Letter of Credit, the occurrence of

any of the following events: (i) the issuer of such Letter of Credit shall fail to maintain a Credit Rating of at least "A-" by S&P or "A3" by Moody's; (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or (iv) Seller shall fail to meet the requirements of this Section 8.4 after the applicable cure periods, if any.

#### **Article Ten: Miscellaneous**

(a) **Term of Master Agreement.** Add the following sentence to Section 10.1: "The Transaction shall terminate on the day following the last day of the Delivery Term, unless terminated sooner pursuant to the express provisions of this Agreement".

(b) **Representations and Warranties.**

Section 10.2(vi) is amended to delete the phrase "or any of its Affiliates."

Section 10.2(ix) is deleted in its entirety and the words "Intentionally Omitted" are put in its place.

The following Section 10.2(xiii) shall be added:

"The Seller and, if applicable, its successors, represents and warrants throughout the term of the Delivery Term of each Transaction entered into under this Agreement that: (a) the Unit(s) 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 (b) the Unit(s) Output delivered to Buyer qualifies under the requirements of the California Renewable Portfolio Standard."

(c) **Assignment.**

Article 10.5 shall be deleted in its entirety and replaced with the following:

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

10.5.3 Financing Documents. Buyer agrees to (a) cooperate fully with the financing parties in negotiating a consent and agreement and to enter into a consent and agreement in favor of the financing parties to Seller substantially in the form of Exhibit C, (b) execute and deliver an estoppel certificate in favor of the Seller substantially in the form of Exhibit D, and (c) request a legal opinion from outside counsel addressed to the tax investors in Seller and the financing parties to Seller, opining at a minimum as to the due incorporation of Buyer, the authorization of Buyer to enter into this Agreement, the binding nature of this Agreement and the enforceability of this Agreement as to Buyer, provided at Seller's expense."

(d) **Governing Law/Venue.** Article 10.6 shall be modified as follows:

Section 10.6 "Governing Law" shall be amended by deleting "NEW YORK" and inserting "CALIFORNIA" in place thereof.

Add the following to the end of Article 10.6:

**“THE PARTIES HEREBY CONSENT TO CONDUCT ALL DISPUTE RESOLUTION, JUDICIAL ACTIONS OR PROCEEDINGS ARISING DIRECTLY, INDIRECTLY OR OTHERWISE IN CONJUNCTION WITH, OUT OF, RELATED TO OR ARISING FROM THIS AGREEMENT IN THE CITY OF SAN DIEGO, CALIFORNIA.”**

**(e) Section 10.8 General.**

Section 10.8 shall be modified by deleting the following sentence “Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties” and replacing it with the following: “No amendment or modification to this Agreement shall be enforceable unless reduced to writing and executed by both Parties.”

**(f) Section 10.11 Confidentiality.** Section 10.11 shall be deleted in its entirety and replaced with the following:

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

**(g) RPS Confidentiality.** Add a new section to Article 10 as follows:

**“10.12 RPS Confidentiality.** Notwithstanding Section 10.11 of this Agreement at any time on or after the date on which the Buyer makes its advice filing letter seeking CPUC Approval of the Agreement either Party shall be permitted to disclose the following terms with respect to such Transaction: Party names, resource type, delivery term, project location, and project capacity. If Option B is checked on the Cover Sheet, neither Party shall disclose party name or project location, pursuant to this Section 10.12, until six months after such CPUC Approval.

**(h) Publicity.** Add a new Section to Article 10 as follows:

**“10.13 Publicity.** Except as provided for in Sections 10.11 and 10.12 above, no announcement, publicity, advertising, press release, promotional or marketing materials regarding the arrangement contemplated under this Agreement, including the existence hereof, shall be made by either Party without the prior written approval of the other Party which approval shall not be unreasonably withheld or delayed.”

**(i) Dispute Resolution.** Add a new section to Article 10 as follows:

**“10.14 Dispute Resolution.**

**(a)** If a dispute shall arise between the Parties relating to the interpretation of this Agreement or to performance of any Transaction under it, the Party desiring resolution of the dispute shall notify

the other Party in writing. The notice shall set forth the matter in dispute in reasonable detail and a proposed solution.

(b) The Parties shall attempt to resolve any dispute within 30 calendar days after delivery of the written notice referred to above. Any disputes not so resolved shall be referred by each Party to a senior officer (or the officer's designee) for resolution. If the Parties fail to reach an agreement within 30 days after such referral, each Party shall have the right to pursue any and all remedies provided in this Agreement and as afforded by law.

(j) **10.15. Prevailing Wages.** To the extent applicable, Seller shall comply with the prevailing wage requirements of California Public Utilities Code section 399.14, subdivision (h).

**Exhibits**

The contents of Exhibit A are deleted and replaced with the phrase "Intentionally Omitted."

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

Party A – Pacific Wind, LLC

Party B – SAN DIEGO GAS & ELECTRIC COMPANY

By: enxco Development Corporation  
its Sole Member

By: T.C. Farrelly

Name: Jorge E. Colmenares

Name: T.C. Farrelly

Title: JORGE E. COLMENARES - VICE PRESIDENT

Title: Vice President  
Electric & Gas Procurement

APPROVED as to legal form q.s.