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Witness(es): Michael Schonherr  
Andrew K. Williams

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**PACIFIC GAS AND ELECTRIC COMPANY**

**S851 TRANSFER OF NON-NUCLEAR GENERATION PORTFOLIO  
AND SALE OF MINORITY INTEREST**

**CHAPTER 4**

**PACIFIC GENERATION'S FUTURE RELATIONSHIP WITH PG&E**

**AMENDED AND RESTATED TESTIMONY**

**(CLEAN VERSION)**

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1 **S851 TRANSFER OF NON-NUCLEAR GENERATION PORTFOLIO**  
2 **AND SALE OF MINORITY INTEREST**  
3 **CHAPTER 4**  
4 **PACIFIC GENERATION’S FUTURE RELATIONSHIP WITH PG&E**  
5 **AMENDED AND RESTATED TESTIMONY**

6 **A. Introduction (A. Williams)**

7 This chapter provides an overview of the future working relationship  
8 between Pacific Gas and Electric Company (PG&E) and Pacific Generation.  
9 This chapter fully supersedes the prior Chapter 4, to provide more details as to  
10 the anticipated intercompany agreements between PG&E and Pacific  
11 Generation. Through the Proposed Transaction—and as explained in more  
12 detail in Chapter 2—Pacific Generation would own substantially all of the  
13 non-nuclear generation assets currently owned and operated by PG&E (the  
14 Generation Assets). PG&E will continue to operate and maintain the Generation  
15 Assets in substantially the same manner as today, using the same employees,  
16 practices, and policies.

17 This chapter discusses the key intercompany agreements between Pacific  
18 Generation and PG&E (the Intercompany Agreements), which currently are  
19 anticipated to include an **operations and services agreement**, covering  
20 PG&E’s provision of all services necessary or appropriate to operate Pacific  
21 Generation’s business, including those necessary to ensure the continued  
22 construction, operation, maintenance, repair, and support of the Generation  
23 Assets by PG&E, as well as corporate services such as finance, human  
24 resources, and safety and risk management; a **generation facility operations,**  
25 **scheduling and dispatch agreement**, pursuant to which PG&E will continue  
26 dispatching and scheduling the output generated by the assets using the same  
27 least-cost dispatch approach used today and procure certain necessary  
28 resource inputs (such as electricity for battery storage facilities); a **fuel**  
29 **procurement agreement**, pursuant to which PG&E will procure fuel for certain  
30 of Pacific Generation’s Generation Assets; **interconnection agreements**, which  
31 will govern the interconnection between Pacific Generation’s Generation Assets  
32 and PG&E’s electric transmission and distribution grid; a **benefits agreement**,  
33 whereby employees of Pacific Generation who are not PG&E employees will be

1 permitted to participate in certain PG&E and/or PG&E Corporation employee  
2 benefits plans; a **billing services agreement**, pursuant to which PG&E will act  
3 as billing agent and servicer for Pacific Generation, including billing Pacific  
4 Generation's customers and collecting payment of Pacific Generation's charges;  
5 a **legal and regulatory matters agreement**, which addresses the treatment of  
6 information shared between PG&E and Pacific Generation in connection with  
7 regulatory filings and other legal matters; a **wildfire indemnification**  
8 **agreement**, pursuant to which PG&E will indemnify Pacific Generation for  
9 certain liabilities related to wildfires; and a **forecast realization adjustment**  
10 **agreement** to account for potential forecast-to-actual variance in Pacific  
11 Generation's CAISO market revenues and gas fuel costs.

12 This chapter also details the Proposed Transaction's consistency with  
13 California Public Utilities Code (Pub. Util. Code) Section 362 relating to system  
14 reliability and consistency.

15 **B. PG&E and Pacific Generation's Intercompany Agreements (*M. Schonherr*;**  
16 ***A. Williams*)**

17 PG&E and Pacific Generation will establish a series of Intercompany  
18 Agreements in order to provide for the ongoing operation of Pacific Generation's  
19 assets and business. These agreements will ensure that Pacific Generation and  
20 Pacific Generation's facilities continue to be operated in the same manner as  
21 today by the same experienced PG&E personnel; continue to schedule and  
22 dispatch output into the California Independent System Operator (CAISO)  
23 market in the same manner as today; and recover revenue requirements jointly  
24 with PG&E through a single bill. This testimony addresses the proposed nature  
25 and scope of these agreements between PG&E and Pacific Generation, which  
26 will govern post-closing operations.

27 Under the terms of the Intercompany Agreements, PG&E will charge Pacific  
28 Generation periodically for the various services it provides, and the materials  
29 and supplies it purchases on behalf of Pacific Generation, in accordance with  
30 the compensation methodologies described below. However, for billing and  
31 other services and expense items that are not currently billed to the Power  
32 Generation functional area (FA) within PG&E—given the rate case cycle, cost of  
33 service ratemaking under which no profit is made on such services or expense  
34 items, and that PG&E and Pacific Generation generally will have the same

1 customer base—the cost of such services will be collected by PG&E in PG&E  
2 rates until the next General Rate Case (GRC). In the Test Year (TY) 2027 GRC,  
3 PG&E and Pacific Generation intend to address—and the California Public  
4 Utilities Commission (CPUC or Commission) would determine—the portion of  
5 such costs that relate to Pacific Generation for inclusion in Pacific Generation’s  
6 revenue requirement.

7 **1. Operations and Services Agreement (A. Williams)**

8 At the closing of the asset contribution, PG&E and Pacific Generation  
9 will enter into an Operations and Services Agreement (OSA), pursuant to  
10 which PG&E will provide to Pacific Generation all services necessary or  
11 appropriate for the operation of Pacific Generation’s business, including  
12 services to construct, operate, maintain, repair, and support Pacific  
13 Generation’s generation assets on an ongoing basis in substantially the  
14 same manner as today and by providing procurement, corporate and other  
15 support services, all using PG&E’s experienced personnel and contractors.  
16 Per the terms of this agreement, PG&E will provide Pacific Generation with  
17 all necessary support services for each of Pacific Generation’s facilities, and  
18 will act as Pacific Generation’s agent with respect to the procurement of  
19 materials and supplies. Such services will encompass all functions  
20 necessary to run the Generation Assets on an ongoing basis, in compliance  
21 with applicable law and in accordance with applicable utility practices.

22 Among other provisions, the OSA will set forth the nature and scope of  
23 services to be provided by PG&E to Pacific Generation, the responsibilities,  
24 rights, and obligations of both parties in regard to the services, the method  
25 of compensating PG&E for the services provided to and materials procured  
26 for Pacific Generation, a mutual indemnity, and limitations on PG&E’s  
27 liability to Pacific Generation as agent and service provider.

28 Nature and Scope of Services

29 The OSA will encompass all services required to run Pacific  
30 Generation—including those generation facility support services related to  
31 Operations and Maintenance (O&M) and those related to corporate  
32 functions. The scope of the OSA as currently proposed has expanded from  
33 the initial Chapter 4 testimony to include corporate and other support  
34 services that were previously contemplated to be provided for pursuant to a

1 standalone corporate services agreement. The OSA as currently proposed  
2 reflects the proposed nature of Pacific Generation’s future relationship with  
3 PG&E—as PG&E will provide all services and materials Pacific Generation  
4 requires to operate—and the resulting need for an agreement that  
5 encompasses such a comprehensive suite of services and governs PG&E’s  
6 core obligations with respect thereto.

7 The services provided by PG&E to Pacific Generation under the OSA  
8 are intended to include (but are not limited to):

9 *O&M-Related Services:*

- 10 • Operation, maintenance, and repair of hydroelectric, natural gas-fired  
11 and solar generating facilities, and battery and other energy storage  
12 facilities;
- 13 • Condition assessment of generation equipment and infrastructure, asset  
14 management, facility safety, and corrective actions management;
- 15 • Water planning and management;
- 16 • Engineering, technical training, documentation and records  
17 management, and generation security;
- 18 • Project management, outage management, inspection, and contract  
19 management;
- 20 • Facility construction;
- 21 • Portfolio strategy and management, regulatory planning, and business  
22 and financial planning;
- 23 • Hydro licensing, hydro license compliance management, recreation  
24 management, and regulatory permit acquisition and compliance;
- 25 • Land and land rights acquisition, land disposition, land rights  
26 management, real property management, vegetation management,  
27 timber resources management, land surveying, Land Conservation  
28 Commitment implementation and compliance, and land use permit  
29 acquisition and compliance;
- 30 • Corporate real estate strategy and support;
- 31 • Environmental remediation, hazardous materials management, water  
32 quality and air quality management, biological and cultural resources  
33 management, and environmental permit acquisition and compliance;
- 34 • Aviation and transportation support;

- 1 • Supply chain and materials support;
- 2 • Information technology (IT) systems and support;
- 3 • Cyber security support;
- 4 • Electric system protection; and
- 5 • Other support functions of PG&E with dedicated groups servicing Power
- 6 Generation.

7 *Corporate Services:*

- 8 • Human resources;
- 9 • Finance—including cash management and other treasury services and
- 10 insurance;
- 11 • Corporate affairs;
- 12 • Corporate communications;
- 13 • Safety and risk;
- 14 • Information technology (IT);
- 15 • Legal; and
- 16 • Compliance and ethics.

17 Under the OSA, PG&E will also be responsible for procuring and

18 arranging for delivery of all items necessary or appropriate for the operation

19 of Pacific Generation’s business, including all supplies, materials, and

20 equipment.

21 Responsibilities, Rights, and Obligations

22 Pursuant to the OSA, Pacific Generation will engage PG&E to provide

23 all services necessary or appropriate to operate Pacific Generation’s

24 business, which PG&E will perform under the general direction and

25 instruction of Pacific Generation. These include all services that PG&E

26 employees currently perform at, for, and to the Generation Assets in

27 connection with the Power Generation FA, corporate services currently

28 provided to Power Generation, and such other services as are, or in the

29 future become, necessary or appropriate for the operation of Pacific

30 Generation’s business and the generation facilities.

31 PG&E will remain the sole employer of all personnel who provide

32 services to Pacific Generation. All such personnel will be under the

33 exclusive direction, control, and supervision of PG&E, which will have the

34 sole right to determine the tasks and activities carried out by its employees

1 in fulfillment of PG&E's obligations under the OSA and the sole  
2 responsibility for the terms and conditions of their employment, subject to  
3 the collective bargaining agreements between PG&E and the unions  
4 representing its employees.

5 PG&E will provide all services to Pacific Generation under the OSA in a  
6 manner consistent with how PG&E currently provides such services to the  
7 Power Generation FA, and, with respect to services provided for and to the  
8 Generation Assets, in accordance with good utility practices. PG&E will  
9 have the authority to enter into subcontracts in furtherance of its  
10 performance obligations under the OSA, but it will be required to ensure that  
11 any subcontractor performing services for Pacific Generation under the OSA  
12 does so in a manner consistent with PG&E's own performance obligations.

13 PG&E will be responsible for obtaining, maintaining, and complying with,  
14 all licenses, permits and approvals applicable to the generation facilities,  
15 and for preparing and maintaining all operating logs, records and reports  
16 necessary for documenting the operation and maintenance of the generation  
17 facilities. PG&E will also be responsible for maintaining books, records and  
18 accounts relating to the performance of its services under the OSA, as  
19 necessary to verify all capital and operating expenditures and PG&E's  
20 performance of services for Pacific Generation. Such books and records will  
21 be kept in a manner that enables their separation from PG&E's own  
22 corporate books and records and that readily enables the statement of  
23 Pacific Generation's assets and revenue separate from PG&E.

#### 24 Compensation and Payment

25 All fees payable by Pacific Generation for the costs of services provided  
26 by PG&E under the OSA, and the methodology by which those costs are  
27 either assigned or allocated by PG&E to Pacific Generation, will be  
28 consistent with and implement the General Rate Case (GRC) applicable to  
29 the period such services are provided. Upon the closing of the asset  
30 contribution, all services costs assigned or allocated to the Power  
31 Generation FA in respect of the Generation Assets under the 2023 GRC will



1 be assigned or allocated to Pacific Generation.<sup>1</sup> In subsequent GRC  
2 applications jointly filed by PG&E and Pacific Generation, services costs will  
3 be proposed to be assigned or allocated to Pacific Generation based on a  
4 proposed methodology, subject to approval by the CPUC. PG&E will charge  
5 Pacific Generation these assigned and allocated services costs at regular  
6 intervals as agreed by the parties.

7 Subject to these general provisions and to modification by the CPUC,  
8 the OSA provides for the following compensation and payment methodology  
9 for the services PG&E will provide to Pacific Generation:

10 *Direct Assignment of Services Costs*

11 Prior to approval by the CPUC of the first GRC jointly filed by PG&E and  
12 Pacific Generation, the costs of services incurred by PG&E that are directly  
13 assigned to Power Generation in respect of the Generation Assets under the  
14 terms of the 2023 GRC will be assigned to Pacific Generation. Today, these  
15 costs are those incurred in the provision of services that (i) benefit and are  
16 directly identifiable with Power Generation in respect of the Generation  
17 Assets, or (ii) simultaneously benefit and are directly identifiable with Power  
18 Generation and one or more other operating functions of PG&E and which  
19 can be apportioned among Power Generation and such other operating  
20 functions based on operating data or another reasonable apportionment  
21 methodology, provided only that portion which is attributable to Power  
22 Generation is assigned thereto. In future GRC applications jointly filed by  
23 PG&E and Pacific Generation, PG&E anticipates that services costs will be  
24 proposed to be assigned to Pacific Generation based on a similar direct  
25 assignment methodology, subject to approval by the CPUC.

26 Services costs will also be directly assigned to Pacific Generation that  
27 are reasonably incurred by PG&E for repairs of the Generation Assets due  
28 to breakdowns, casualty, in response to an emergency situation, or to  
29 comply with applicable law or regulatory requirements, whether or not

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<sup>1</sup> See Chapter 9 at 9-3 regarding circumstances where the Proposed Transaction closes before the Commission issues a final decision on PG&E's 2023 GRC. In those circumstances, all services costs assigned or allocated to the Power Generation FA in respect of the Generation Assets under the 2020 GRC will be assigned or allocated to Pacific Generation, with applicable attrition and true up once a final decision on PG&E's 2023 GRC issues.

1 rate-recoverable, as will services costs that are not rate-recoverable  
2 pursuant to the applicable GRC but which are analogous to directly  
3 assigned costs under the GRC in that they: (1) benefit and are directly  
4 identifiable with Pacific Generation, or (2) simultaneously benefit both PG&E  
5 and Pacific Generation and are identifiable with one or more operating  
6 functions of PG&E such that they can be apportioned between the parties  
7 based on specific operating data or other reasonable apportionment  
8 methodology. The costs of services that are added to PG&E's initial OSA  
9 obligations will also be directly assigned to Pacific Generation, until such  
10 time as the CPUC approves the assignment or allocation of such services in  
11 a subsequent GRC decision.

12 Directly assigned services costs will be tracked and recorded in orders  
13 specific to Pacific Generation using substantially the same methodology as  
14 PG&E currently employs to track and record costs incurred in the provision  
15 of equivalent services to its various operating functions.

#### 16 *Allocation of Services Costs*

17 Prior to approval by the CPUC of the first GRC jointly filed by PG&E and  
18 Pacific Generation, the costs of services incurred by PG&E that are  
19 allocated to Power Generation in respect of the Generation Assets under the  
20 terms of the 2023 GRC will be allocated to Pacific Generation. Today, these  
21 costs are those incurred in the provision of services that provide  
22 enterprise-wide benefits and are not directly identifiable with one or more  
23 operating functions. Under the terms of the 2023 GRC, such costs are  
24 allocated among PG&E's various operating functions, including Power  
25 Generation, according to the O&M Labor Factors set forth in the 2023 GRC,  
26 which are based on the relative labor expense incurred in the provision of  
27 such services across operating functions. Services costs that are allocated  
28 to Power Generation pursuant to this methodology will be further allocated  
29 between PG&E and Pacific Generation according to the unbundled cost  
30 categories described in the applicable GRC. The bases for such allocations  
31 are subject to modification by the CPUC and will at all times be consistent  
32 with the GRC applicable to the period such services are provided. In future  
33 GRC applications jointly filed by PG&E and Pacific Generation, PG&E  
34 anticipates that services costs will be proposed to be allocated to Pacific

1 Generation based on a similar allocation methodology, subject to approval  
2 by the CPUC.

3 Indemnification and Liability

4 In addition to PG&E's indemnification obligations under the Wildfire  
5 Indemnification Agreement, under the OSA PG&E will indemnify Pacific  
6 Generation and Pacific Generation's officers, directors, employees and  
7 agents for losses from third party claims resulting from or arising out of any  
8 intentional misconduct of PG&E or the knowing and material  
9 non-compliance with applicable law by PG&E. Pacific Generation  
10 will indemnify PG&E and PG&E's officers, directors, employees and agents  
11 for losses from third party claims resulting from or arising out of the  
12 intercompany service agreements, the performance of the parties'  
13 obligations under the intercompany service agreements, or Pacific  
14 Generation's ownership of the generation facilities (except for losses for  
15 which PG&E is required to indemnify Pacific Generation).

16 **2. Generation Facility Operations, Scheduling, and Dispatch Agreement**  
17 **(A. Williams)**

18 PG&E and Pacific Generation will enter into a Generation Facility  
19 Operations, Scheduling, and Dispatch Agreement addressing PG&E's  
20 obligation to operate, maintain, dispatch and schedule Pacific Generation's  
21 facilities in accordance with applicable law and regulation. Under this  
22 agreement, Pacific Generation will delegate to PG&E the authority to  
23 operate, maintain, schedule and dispatch the generation facilities, and it will  
24 appoint PG&E as its scheduling coordinator. PG&E will schedule and  
25 dispatch the full output from Pacific Generation's facilities into the CAISO  
26 market under PG&E's existing least-cost dispatch principles as part of an  
27 integrated resource portfolio. The same PG&E team that undertakes these  
28 dispatching and scheduling efforts for PG&E today will continue to do so for  
29 Pacific Generation assets under the terms of the agreement. The Proposed  
30 Transaction will have no functional effect on the manner in which output  
31 from these generation facilities is scheduled and dispatched today.

32 The Generation Facility Operations, Scheduling, and Dispatch  
33 Agreement will also address PG&E's responsibility for operating and  
34 maintaining the generation facilities, including planning and scheduling

1 maintenance outages and responding to emergencies. PG&E's  
2 responsibilities in this regard will be unchanged from its current role. The  
3 Generation Facility Operations, Scheduling, and Dispatch Agreement will  
4 also provide for PG&E's procurement of certain necessary resource inputs  
5 (such as electricity for energy storage facilities and fuel for gas-fired power  
6 plants) and give PG&E authority to enter into, on behalf of Pacific  
7 Generation, agreements for the purchase and sale of energy, capacity,  
8 ancillary services and renewable energy credits or similar products. The  
9 Generation Facility Operations, Scheduling, and Dispatch Agreement will be  
10 filed with the Federal Energy Regulatory Commission (FERC), as it reflects  
11 practices that may affect wholesale rates. Nevertheless, FERC's jurisdiction  
12 to review this agreement will not affect the CPUC's exclusive jurisdiction to  
13 set Pacific Generation retail rates.

### 14 **3. Interconnection Agreements (*M. Schonherr*)**

15 At the closing of the Proposed Transaction, PG&E, Pacific Generation,  
16 and CAISO will enter into interconnection agreements that will govern the  
17 interconnection between Pacific Generation's generation assets and  
18 PG&E's electric transmission and distribution grid. These agreements will  
19 be based on the then-effective, applicable pro-forma agreements that are  
20 part of the CAISO Tariff or PG&E's Wholesale Distribution Tariff, as the case  
21 may be. Specifically, each of the aforementioned tariffs currently has  
22 two different pro-forma interconnection agreements—one for large  
23 generating facilities (more than 20 megawatts (MW)) and one for small  
24 generating facilities (20 MW or less). Accordingly, the pro-forma  
25 interconnection agreement applicable to any particular Generation Asset will  
26 depend upon (a) the size of the facility; and (b) whether the facility  
27 interconnects pursuant to the CAISO Tariff or PG&E's Wholesale  
28 Distribution Tariff. These agreements will reflect the fact that the  
29 interconnection equipment that ties the generation facilities to PG&E's  
30 electric grid on Pacific Generation's side of the Point of Interconnection will  
31 be transferred to Pacific Generation as part of the generation rate base  
32 assets conveyed in the Proposed Transaction, though such interconnection  
33 equipment will continue to be managed by PG&E as part of the services  
34 provided to Pacific Generation.

1       **4. Billing Services Agreement (A. Williams)**

2             Under a Billing Services Agreement, PG&E will act as the billing agent  
3             and servicer for Pacific Generation. As explained in further detail in  
4             Chapters 9 and 10, Pacific Generation will use a variety of  
5             Commission-approved and regulated rates and charges to recover its  
6             revenue requirements from customers. PG&E will calculate Pacific  
7             Generation’s charges consistent with the relevant tariffs, collect these  
8             charges from Pacific Generation’s customers through a joint bill containing  
9             both PG&E’s charges and Pacific Generation’s charges, and remit relevant  
10            collected payments to Pacific Generation. PG&E and Pacific Generation  
11            expect the joint bills to look substantially similar to PG&E’s bills today in part  
12            because of the joint tariff proposal described in Chapter 10 and the  
13            description of Pacific Generation’s charges in Chapter 9.<sup>2</sup> Consistent with  
14            this approach, under the Billing Services Agreement, PG&E’s charges and  
15            Pacific Generation’s charges may be presented on the bill on a consolidated  
16            basis by type. Each bill also will include a notice to customers that PG&E is  
17            collecting charges for Pacific Generation in the capacity as agent and  
18            servicer for Pacific Generation. Payments of Pacific Generation’s charges  
19            will be accounted for and transferred by PG&E to a Pacific Generation  
20            account no later than seven business days after funds are received or  
21            seven business days after funds are deemed received pursuant to a  
22            segregation methodology (including periodic true ups, if applicable) mutually  
23            agreed upon by the parties.

24       **5. Legal and Regulatory Matters Agreement (A. Williams)**

25             Pursuant to the OSA, PG&E will provide certain legal services to Pacific  
26             Generation, including matters involving the prosecution or defense of, or  
27             other participation in, legal and regulatory proceedings; the prosecution of  
28             Pacific Generation’s GRCs before the Commission; the pursuit of corporate  
29             and commercial transactions; internal organizational governance;  
30             correspondence with federal, state, and local government authorities;  
31             ongoing legal and regulatory compliance; and the engagement of outside  
32             legal counsel and regulatory consultants. Pacific Generation’s governance

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2       See Chapter 9 at 9-14 to 9-16.

1 regarding the settlement of legal proceedings and certain significant  
2 transactions—among other matters—is discussed in Chapter 5.

3 As part of PG&E’s provision of legal services, PG&E and Pacific  
4 Generation will share certain non-public information for the purpose of  
5 collaborating to pursue their mutual interests with regards to a variety of  
6 legal matters, including regulatory and legal filings and proceedings. The  
7 Legal and Regulatory Matters Agreement will set forth each party’s  
8 obligations to maintain the confidentiality of such information. It also will  
9 address the protection of attorney-client privileged material. Either party will  
10 have the right to withdraw from this agreement or withdraw a particular  
11 matter from the terms of this agreement, in its sole discretion by providing  
12 advance notice to the other party.

### 13 **6. Wildfire Indemnification Agreement (A. Williams)**

14 Under an intercompany Wildfire Indemnification Agreement proposed to  
15 be entered into at the closing of the Proposed Transaction, PG&E will agree  
16 to indemnify Pacific Generation for losses incurred by Pacific Generation  
17 arising from wildfires caused or alleged to be caused by PG&E or Pacific  
18 Generation assets. Pursuant to the agreement, PG&E will indemnify Pacific  
19 Generation for losses from third-party claims and for costs to repair or  
20 replace Pacific Generation’s assets damaged by certain wildfires. The  
21 agreement sets forth indemnification procedures and also provides for  
22 PG&E assuming the defense of third-party claims at its own expense. The  
23 agreement recognizes that Pacific Generation may be entitled to recover all  
24 or a portion of an indemnifiable loss from customers through rates or to  
25 receive insurance proceeds or distributions for all or a portion of an  
26 indemnifiable loss from other sources, including from the Wildfire Fund.  
27 Accordingly, the agreement requires Pacific Generation to use commercially  
28 reasonable efforts to seek such recovery to the extent available and, to  
29 avoid double recovery, to refund to PG&E any indemnification payments that  
30 are later recovered from such other sources. Relatedly, pursuant to the  
31 agreement PG&E is entitled to act on Pacific Generation’s behalf with  
32 respect to wildfire investigations by governmental authorities, and PG&E  
33 and Pacific Generation agree to reasonably cooperate in jointly submitting  
34 their wildfire mitigation plan. With respect to the Wildfire Fund, PG&E

1 expects that the administrator of the Wildfire Fund will designate Pacific  
2 Generation as an additional insured under its memorandum of coverage for  
3 PG&E. PG&E and Pacific Generation also agree to reasonably cooperate in  
4 connection with filing or submitting claims for payment from the Wildfire  
5 Fund.

6 **7. Fuel Procurement Agreement (A. Williams)**

7 PG&E will, on behalf of Pacific Generation, procure the fuel needed to  
8 power the gas-fired power plants that PG&E expects to transfer to Pacific  
9 Generation. PG&E will thus maintain responsibility for procuring the gas  
10 supply for these gas-fired power plants notwithstanding the formal transfer  
11 of asset ownership to Pacific Generation. PG&E will charge Pacific  
12 Generation for the fuel that it procures, together with associated  
13 transportation and storage charges, pursuant to this agreement. Such  
14 charges will be calculated on a usage basis, as outlined via a formula in  
15 Section 4.1 of the Agreement. The Fuel Procurement Agreement also  
16 allows PG&E to require Pacific Generation to be responsible for all or a  
17 portion of the cost of any collateral that is provided to fuel providers or  
18 otherwise in connection with PG&E's provision of services under the  
19 agreement.

20 **8. Benefits Agreement (A. Williams)**

21 Pacific Generation's operational needs will be met by existing PG&E  
22 employees under the terms of various Intercompany Agreements described  
23 in this Chapter 4. However, Pacific Generation will employ a limited number  
24 of its own employees (Pacific Generation Employees). PG&E, PG&E  
25 Corporation, and Pacific Generation will enter into a Benefits Agreement,  
26 pursuant to which PG&E and PG&E Corporation will provide certain  
27 employee benefits to Pacific Generation Employees. Such benefits will be  
28 provided only to the extent permitted by applicable laws and the terms of  
29 relevant PG&E and PG&E Corporation benefit plans. Under the terms of the  
30 Benefits Agreement, Pacific Generation will reimburse PG&E for the cost of  
31 providing those benefits to the Pacific Generation Employees. Benefits  
32 contemplated by this agreement include retirement programs, short- and  
33 long-term incentive programs, health coverage plans such as medical,

1 dental, and vision insurance, pensions, and life and disability insurance.  
2 Pacific Generation will be responsible for providing Pacific Generation  
3 Employees' salary, severance, vacation pay, and forms of leave such as  
4 sick pay or sick leave.

5 The provision of employee benefits under the Benefits Agreement is not  
6 intended to create any employment relationship between any Pacific  
7 Generation Employee and PG&E or PG&E Corporation, and Pacific  
8 Generation will exercise complete control over the terms and conditions of  
9 employment of each Pacific Generation Employee.

10 **9. Forecast Realization Adjustment Agreement (A. Williams)**

11 After the closing of the Proposed Transaction, Pacific Generation will  
12 collect the CAISO market revenues associated with its sale of output from  
13 the Generation Assets. CAISO market revenues collected by Pacific  
14 Generation will be accounted for in its Portfolio Allocation Balancing Account  
15 (PABA) and used to calculate its Power Charge Indifference Adjustment  
16 (PCIA) rate in the same manner as PG&E does today.

17 The Forecast Realization Adjustment Agreement will reduce short-term  
18 cash flow fluctuations for Pacific Generation and PG&E due to market  
19 forecast inaccuracies associated with Pacific Generation's CAISO market  
20 revenues and gas fuel costs, while providing a monthly true-up mechanism  
21 addressing deviation from forecasts in Pacific Generation's CAISO market  
22 revenues and gas fuel costs.

23 If the amount payable to Pacific Generation for its energy sales to  
24 CAISO in a month is lower than Pacific Generation's Energy Resource  
25 Recovery Account (ERRA) Forecast of CAISO sales revenue for such  
26 month, PG&E would make a payment of the difference to Pacific  
27 Generation. Likewise, if the amount payable by CAISO to Pacific  
28 Generation for market energy sales in a month is higher than Pacific  
29 Generation's ERRA Forecast of CAISO sales revenue for such month,  
30 Pacific Generation would pay PG&E the difference. Similarly, the Forecast  
31 Realization Adjustment Agreement will assess Pacific Generation's actual  
32 gas fuel costs. If the amount spent by Pacific Generation on actual gas fuel  
33 costs in a month exceeds the ERRA Forecast of gas fuel costs, PG&E  
34 would make a payment of the difference to Pacific Generation. Likewise, if



1 the amount spent by Pacific Generation on actual gas fuel costs in a month  
2 is less than the ERRA Forecast of gas fuel costs, Pacific Generation would  
3 pay PG&E the difference. All payments made and received by each party  
4 pursuant to this agreement will be recorded in such party's PABA, New  
5 System Generation Balancing Account (NSGBA), or other applicable  
6 memorandum or balancing account, as the case may be, in accordance with  
7 applicable Law.

8 While forecast-to-actual-market-revenue variance would be subject to  
9 true-up by Pacific Generation in the following year absent the Forecast  
10 Realization Adjustment Agreement, this variability could result in substantial  
11 short-term cash flow fluctuations for Pacific Generation. The Forecast  
12 Realization Adjustment Agreement would give Pacific Generation greater  
13 stability in its annual revenues and would also benefit PG&E by allowing  
14 PG&E to retain the natural hedging effect of CAISO sales on its exposure to  
15 market prices through CAISO purchases to serve load. Today, PG&E  
16 makes both sales to CAISO and purchases from CAISO, and the Forecast  
17 Realization Adjustment Agreement would allow PG&E to maintain the net  
18 effect of this position. The Forecast Realization Adjustment Agreement  
19 does not affect ultimate recoverability of the underlying costs from  
20 customers, and Pacific Generation will be subject to ERRA Compliance  
21 review for its generation assets just as PG&E is today.

22 **C. System Reliability and the Transaction's Consistency With Section 362**  
23 **(A. Williams)**

24 PG&E and Pacific Generation expect the Proposed Transaction to have no  
25 negative effects on system reliability, and therefore believe that the transaction  
26 is consistent with California Public Utilities Code (Pub. Util. Code) Section 362.<sup>3</sup>

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<sup>3</sup> Section 362(a) of the California Pub. Util. Code requires the Commission:

"...ensure that facilities needed to maintain the reliability of the electric supply remain available and operational, consistent with maintaining open competition and avoiding an overconcentration of market power."

Section 362(b) requires the Commission ensure that:

"...facilities located in the state that have been disposed of in proceedings pursuant to Section 851 are operated by the person or corporations who own or control them in a manner that ensures their availability to maintain the reliability of the electric supply system."

1 As explained above, the Intercompany Agreements between PG&E and Pacific  
2 Generation will maintain the operation, maintenance, dispatching, and  
3 scheduling of output of the transferred facilities in substantially the same manner  
4 as today. PG&E will continue to dispatch and schedule the electric generation  
5 output from Pacific Generation’s facilities as part of an integrated resource  
6 portfolio, based on least-cost dispatch principles. While Pacific Generation will  
7 own the facilities, they will continue to be operated by PG&E’s experienced  
8 personnel using the same processes and guidelines employed today. Pacific  
9 Generation’s facilities will continue to operate in a manner that makes them  
10 “availabl[e] to maintain the reliability of the electric supply system.”<sup>4</sup>

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<sup>4</sup> Cal. Pub. Util. Code § 362(b).

**PACIFIC GAS AND ELECTRIC COMPANY**  
**CHAPTER 4**  
**ATTACHMENT A**  
**OPERATIONS AND SERVICES AGREEMENT**

**ATTACHMENT A**

**Draft as of March 17, 2023**

**OPERATIONS AND SERVICES AGREEMENT**

**by and between**

**PACIFIC GAS AND ELECTRIC COMPANY**

**and**

**PACIFIC GENERATION LLC**

**[DATE]**

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## OPERATIONS AND SERVICES AGREEMENT

THIS OPERATIONS AND SERVICES AGREEMENT (this “Agreement”) is made and entered into as of [\_\_\_\_\_], by and between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (“PG&E”), and PACIFIC GENERATION LLC, a Delaware limited liability company (“PacGen”). Unless otherwise defined herein, capitalized terms used herein are defined in Section 1.1.

WHEREAS, concurrently herewith, at the closing of the transactions contemplated by that certain Separation Agreement between PacGen and PG&E dated as of [\_\_\_\_\_] (the “Separation Agreement”), among other things, PG&E is contributing to PacGen, and PacGen is accepting, all of PG&E’s right, title and interest in and to the Generation Assets, and PG&E is assigning and PacGen is assuming certain of PG&E’s obligations and liabilities related to such Generation Assets, all in accordance with the terms and conditions set forth in the Separation Agreement and the agreements contemplated thereby;

WHEREAS, in connection with such contribution and assignment and as part of the separation of the Generation Business from PG&E and the establishment of PacGen as a separate entity and regulated utility, PG&E agrees to provide services to PacGen as provided herein; and

WHEREAS, the services to be provided hereunder and pursuant to the other Intercompany Service Agreements, are all of the services necessary or appropriate to operate the business of PacGen, including, without limitation, corporate, billing and other administrative services, and services to operate and maintain the PacGen Assets (including, without limitation, the Generation Facilities), and PacGen and PG&E desire to enter into this Agreement and the other Intercompany Service Agreements to set forth the terms and conditions upon which PG&E shall provide such services.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I DEFINITIONS**

1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below.

“Agreement” has the meaning set forth in the preamble.

“Allocated Costs” means the costs of Cost Allocated Services.

“Allocation Pools” has the meaning set forth in Section 6.3(d) “Orders”.

“Assigned Costs” means the costs of Cost Assigned Services.

“Billing Services” has the meaning set forth in the Billing Services Agreement.



“Billing Services Agreement” means that certain Billing Services Agreement, dated as of the Commencement Date, by and between PG&E and PacGen.

“Books and Records” has the meaning set forth in Section 2.6 “Books and Records”.

“Business Day” means a day other than Saturday, Sunday or a day on which: (a) banks are required or permitted to be closed for business in the State of California, or (b) PG&E’s headquarters office is closed for business.

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

“CAISO Tariff” means the California Independent System Operator Corporation, Fifth Replacement FERC Electric Tariff (Open Access Transmission Tariff), as it may be amended, supplemented or replaced (in whole or in part) from time to time.

“CBAs” means, collectively, those collective bargaining agreements between PG&E and the unions representing any of PG&E’s employees that provide or will provide Services hereunder. A list of such CBAs will be provided by PG&E to PacGen from time to time at PacGen’s request.

“Commencement Date” means [●]<sup>1</sup>.

“Commercially Reasonable Efforts” means efforts by a Party to perform its obligations under this Agreement or any other Intercompany Service Agreement that do not require the performing Party to expend any funds other than expenditures which are customary and reasonable in transactions of the kind and nature contemplated by this Agreement in order for the performing Party to satisfy its obligations hereunder.

“Confidential Information” means, with respect to a Party, all proprietary or confidential information and data of such Party, including Trade Secrets, that is received by the other Party and is not generally known by or readily ascertainable by or available to, on a legal or authorized basis, the general public, and that the receiving Party would normally consider and treat as confidential if the information were its own.

“Contracts” has the meaning set forth in Section 6.3(d) “Orders”.

“Cost Allocated Services” means those Services a portion of the costs of which are allocated to (a) PacGen or (b) Power Generation in respect of the PacGen Assets, in either case as provided in the GRC applicable to the then-current Rate Case Cycle. By way of illustration, pursuant to the GRC applicable on the Commencement Date, Cost Allocated Services are Services that simultaneously benefit Power Generation in respect of the Generation Assets and some or all of PG&E’s other operating functions, but which are not directly identifiable with any particular operating functions.

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<sup>1</sup> NTD: to be the “Closing Date” under the Separation Agreement, which is the date of the contribution of the Generation Assets.

“Cost Assigned Services” means those Services the costs of which are directly assigned to (a) PacGen or (b) Power Generation in respect of the PacGen Assets, in either case as provided in the GRC applicable to the then-current Rate Case Cycle. By way of illustration, pursuant to the GRC applicable on the Commencement Date, Cost Assigned Services are Services that (x) benefit and are directly identifiable with Power Generation in respect of the Generation Assets; or (y) simultaneously benefit and are directly identifiable with Power Generation in respect of the Generation Assets and one or more other operating functions of PG&E.

“CPUC” means the California Public Utilities Commission, or its successor entity.

“Direct Costs” has the meaning set forth in Section 6.2(d) “Orders”.

“Emergency” shall have the meaning set forth in the Generation Facility Agreement.

“Emergency Situation” means, with respect to the business of PacGen, any abnormal condition or situation that in the reasonable judgment of the board of managers of PacGen, adversely affects, or potentially may adversely affect, the integrity of the electric or other systems of PacGen, or the safety of workers or the public, or the property or facilities of others.

“Environmental Law” means any Law relating to or imposing liability or standards of conduct with respect to the protection of human health, safety, the environment or natural resources (including ambient air, soil, surface water, groundwater, wetlands, land or subsurface strata, flora and fauna and other natural resources), including Laws relating to (a) emissions, discharges, releases or threatened releases of Hazardous Substances into the environment; (b) manufacture, generation, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances; and (c) exposure to Hazardous Substances or conditions.

“Environmental Permit” means licenses, permits and approvals (and renewals or replacements of the same) arising under Environmental Law.

“ERRS” means PacGen’s enterprise records retention schedule, as the same may be amended from time to time.

“Executive(s)” has the meaning set forth in Section 12.6(b) “Management Negotiations”.

“FERC” means the Federal Energy Regulatory Commission, or its successor entity.

“FERC Uniform System of Accounts” means the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Jurisdiction of the Federal Power Act prescribed by FERC, and codified at 18 C.F.R. Part 101, as the same may amended from time to time.

“Force Majeure” means any occurrence beyond the reasonable control of the Party claiming Force Majeure that causes, in whole or in part, the Party to be delayed in performing or unable to perform its obligations. Such an occurrence may include fires, floods, severe weather, earthquakes or other acts of God, explosion, civil disorder, strike, lockout or other labor trouble, material shortages of utilities, facilities, labor, fuel, materials or equipment, delay in transportation, breakdown or accident, riot, war, epidemic or pandemic (including the COVID-19 pandemic), any Law or any actions or inactions by any Governmental Authority.

“Fuel Procurement Agreement” means that certain Fuel Procurement Agreement, dated as of the Commencement Date, by and between PacGen and PG&E.

“Generation Assets” has the meaning set forth in the Separation Agreement.

“Generation Business” means PacGen’s business of the generation or emission of electricity from owned assets regulated by the CPUC on the basis of cost, including hydroelectric, natural gas-fired and solar generation facilities and the storage of electricity in battery and other energy storage systems, as conducted by PG&E immediately prior to the Commencement Date, and as conducted or permitted to be conducted by PacGen from and after the Commencement Date.

“Generation Facilities” means the electric generation facilities and energy storage systems owned by PacGen from time to time. The Generation Facilities as of the Commencement Date are set forth on Schedule [D], which will be updated from time to time by PacGen, and such updated schedule will be provided by PacGen to PG&E.

“Generation Facility Agreement” means that certain Generation Facility Operations, Scheduling and Dispatch Agreement, dated as of the Commencement Date, by and between PG&E and PacGen.

“Good Utility Practice” has the meaning set forth in the CAISO Tariff or, in the event that no operative CAISO Tariff is in effect, the meaning set forth in the most recent operative CAISO Tariff. As of the Commencement Date, the meaning is set forth in Appendix A (Master Definition Supplement) of the California Independent System Operator Corporation, Fifth Replacement FERC Electric Tariff (Open Access Transmission Tariff), as it may be amended, supplemented or replaced (in whole or in part) from time to time.

“Governmental Authority” means any Federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority.

“GRC” has the meaning set forth in Section 6.1 “Compliance with General Rate Case”.

“Hazardous Substances” means, collectively, (a) any chemical, material or substance that is listed or regulated under applicable Laws as a “hazardous” or “toxic” substance or waste, or as a “contaminant” or “pollutant” or words of similar import, (b) any petroleum or petroleum products, flammable materials, explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, and transformers or other equipment that contain polychlorinated biphenyls or per- and polyfluoroalkyl substances, and (c) any other chemical or other material or substance, exposure to which is prohibited, limited or regulated by any Law.

“Indemnified Party” has the meaning set forth in Section 8.4 “Procedure”.

“Indemnifying Party” has the meaning set forth in Section 8.4 “Procedure”.

“Independent Engineer” means the engineering firm that is mutually acceptable to the Parties and is retained by the Parties to serve as the independent engineer. The Independent Engineer must be nationally recognized as an expert in the electric industry.

“Initial Negotiation End Date” has the meaning set forth in Section 12.6(b) “Management Negotiations”.

“Intercompany Service Agreements” means, collectively, all of the contracts and agreements between PG&E and PacGen, whether now existing or entered into following the Commencement Date, providing for the provision of services by PG&E in its capacity as a contractor (and not in any other capacity, including as the operator of the PG&E System or as the transferor of the Generation Assets and assignor of the Generation Assets, as counterparty to the Separation Agreement, or as an equity holder of PacGen). As of the Commencement Date, the Intercompany Service Agreements consist of the following agreements by and between PG&E and PacGen dated as of the Commencement Date: this Agreement, the Billing Services Agreement, the Generation Facility Agreement and the Fuel Procurement Agreement. For the avoidance of doubt, the following agreements are being entered into between the Parties as of the Commencement Date, which are not Intercompany Service Agreements: a Forecast Realization Adjustment Agreement, a Wildfire Indemnification Agreement, a Legal and Regulatory Matters Agreement, a Benefits Agreement and Interconnection Agreements relating to Generation Facilities .

“Late Payment Rate” means PG&E’s authorized cost of long-term debt as approved by the CPUC in the most recent cost of capital proceeding.

“Law” means any statute, law, treaty, rule, regulation, applicable regulatory guidance document, ordinance, code, permit, license condition, agency agreement, 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 Commencement Date, or which become effective after the Commencement Date, or any binding interpretation of the foregoing.

“Losses” has the meaning set forth in Section 8.1 “Indemnification by PG&E”.

“Manager” has the meaning set forth in Section 12.6(b) “Management Negotiations”.

“MAT” has the meaning set forth in Section 6.3(d) “Orders”.

“Monthly Payment Date” has the meaning set forth in Section 6.5 “Payment Terms”.

“MWC” has the meaning set forth in Section 6.3(d) “Orders”.

“Notice of Claim” has the meaning set forth in Section 8.4 “Notice of Claim”.

“Overhead” has the meaning set forth in Section 6.3(d) “Orders”.

“PacGen” has the meaning set forth in the preamble.

“PacGen Assets” means all of the assets, properties, rights and interests of PacGen, including, for so long as the same are owned by PacGen, the Generation Assets and the Generation Facilities.

“PacGen Party” has the meaning set forth in Section 8.1 “Indemnification of PacGen by PG&E”.

“Party” means PG&E or PacGen individually, as the context requires; and “Parties” means both collectively.

“PCCs” has the meaning set forth in Section 6.3(d) “Orders”.

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization or any Governmental Authority.

“PG&E” has the meaning set forth in the preamble.

“PG&E Corporation” means PG&E Corporation, a California corporation.

“PG&E Party” means PG&E Corporation, each of its direct or indirect subsidiaries (other than PacGen) and each of their respective officers, directors, employees, attorneys, agents and successors and assigns.

“PG&E Personnel” has the meaning set forth in Section 2.3 “PG&E Personnel”.

“PG&E System” means the electric transmission and distribution system and associated facilities and equipment owned by PG&E.

“Power Generation” means the Power Generation functional area within PG&E, as that term has been used in the GRC.

“Procedures” has the meaning set forth in Section 12.6(c) “Mediation and Arbitration”.

“Rate Case Cycle” has the meaning set forth in Section 6.1 “Compliance with General Rate Case”.

“Recovered Losses” has the meaning set forth in Section 8.5(a) “Determination of Losses”.

“Referral Date” has the meaning set forth in Section 12.6(b) “Management Negotiations”.

“Remittance Claim” has the meaning set forth in Section 12.6(a), “Intent of the Parties”.

“Representative” means, with respect to either Party, any agent, employee, subcontractor or other representative of such Party, excluding the other Party.

“Reserved Owner Matters” means (a) the supervision and management of PG&E as PacGen’s contractor, servicer and/or agent under this Agreement and the other Intercompany Service Agreements, (b) those responsibilities, liabilities or other obligations of PacGen that must be performed by the owner of a Generation Facility under applicable Law, and which does not

permit such performance by PG&E, whether by virtue of its ownership interest in PacGen, or otherwise, or permit the delegation by contract or to an agent, (c) all matters relating to the board of managers of PacGen, (d) all matters otherwise reserved by the organizational documents of PacGen or applicable Law to the board of managers of PacGen and that may not be delegated thereunder, of which PacGen will provide notice to PG&E, and (e) the other services, tasks, duties, liabilities, responsibilities, and other obligations of PacGen as determined by PacGen from time to time with notice thereof provided to PG&E.

“Separation Agreement” has the meaning set forth in the recitals.

“Services” means the services necessary or appropriate to operate the business of PacGen and to operate and maintain the PacGen Assets, including, without limitation, the Generation Facilities, which services shall include, without limitation, operation, maintenance and other Cost Assigned Services, examples of which are set forth on Exhibit A hereto, and corporate, administrative and other Cost Allocated Services, examples of which are set forth on Exhibit B hereto, as each may be amended, modified or supplemented from time to time, Billing Services and the services that become “Services” hereunder after the date hereof pursuant to Section 2.1(c) “Additional Services”.

“Services Costs” means the costs of the Services, including, without limitation, the costs of materials, contracts and labor incurred in the provision of the Services. Services Costs shall include Allocated Costs and Assigned Costs.

“Services Term” means the period commencing on the Commencement Date and ending (i) with respect to Services provided or to be provided with respect to a Generation Facility, on the date of the divestiture, sale, transfer, disposition or decommissioning of such Generation Facility, and (ii) with respect to the provision of Services generally to PacGen pursuant to this Agreement and the other Intercompany Services Agreements, on the date of the divestiture, sale, transfer, disposition or decommissioning of the last Generation Facility.

“Standard Activity Price” has the meaning set forth in Section 6.3(d) “Orders”.

“Third Party Claim” means all claims or threatened claims, civil, criminal, administrative, or investigative actions or proceedings, demands, charges, fines, penalties, actions, causes of action or other proceedings asserted against a party hereto and brought by any person or entity (including a Governmental Authority) that is not a Party. For the avoidance of doubt, any costs disallowed or determined to be non-recoverable by the CPUC shall not be treated as Third Party Claims.

“Trade Secrets” means, with respect to a Party, information of such Party, including a formula, pattern, compilation, program, device, technique or process, which (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use and (b) is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

“Unit” means each of the generating units comprising each of the Generation Facilities, together with such generating unit’s related structures and support equipment.



“Wildfire Indemnification Agreement” means that certain Wildfire Indemnification Agreement, dated as of the Commencement Date, by and between PG&E and PacGen.

1.2. Interpretation. If there exists a conflict, variation or inconsistency between the Exhibits and Schedules of this Agreement and the terms and conditions of this Agreement, the latter will control and be given priority. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (c) reference to any gender includes all genders;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; *provided, however*, that if the approval of a Party is required for any such amendment or modification pursuant to this Agreement, any other Intercompany Service Agreement, or any other agreement or contract between PacGen, on the one hand, and PG&E or PG&E Corporation on the other hand, references to the applicable document, instrument or agreement means only such document, instrument or agreement that has received such Party’s approval;
- (e) reference to any Article, Section, Schedule or Exhibit means such Article, Section, Schedule or Exhibit to this Agreement, and references in any Article, Section, Schedule, Exhibit or definition to any clause means such clause of such Article, Section, Schedule, Exhibit or definition. Schedules and Exhibits attached hereto are deemed incorporated by reference herein;
- (f) “hereunder”, “hereof”, “hereto” and words of similar import are references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;
- (g) “including” (and with correlative meaning “include”) means “including without limitation”;
- (h) the word “or” shall be used in the inclusive sense of “and/or” and not exclusive;
- (i) reference to a 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 time and ending at 12:00:00 midnight Pacific time; *provided* that a day may be 23 or 25 hours on those days on which daylight savings begins and ends;
- (j) when an action is required to be completed on a Business Day, such action must be completed prior to 5:00 p.m. Pacific time on such day, and actions occurring after 5:00 p.m. will be deemed to have occurred on the following Business Day;

(k) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”;

(l) reference to any Law (including statutes and ordinances) means such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder;

(m) reference to “\$” and dollars shall be deemed to refer to United States currency; and

(n) reference to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable.

## **ARTICLE II PG&E SERVICES**

### 2.1. Services.

(a) Engagement of PG&E as Service Provider. PacGen hereby engages PG&E to provide the Services during the Services Term, and PG&E hereby accepts such engagement and agrees to perform the Services, all in accordance with the terms and conditions and subject to the limitations set forth in this Agreement and the other Intercompany Service Agreements.

(b) Provision of Services. From and after the Commencement Date, PG&E will provide the Services at and under the direction and instruction of PacGen, on the terms and conditions as set forth herein and in the other Intercompany Service Agreements. The services to be provided by PG&E to PacGen hereunder and under the Intercompany Service Agreements are intended by the Parties to consist of all services necessary or appropriate for the operations of PacGen, including those services that PG&E employees perform at, for and to the Generation Assets and for PG&E’s generation business at the Commencement Date, and such other services as are or become necessary or appropriate for the operation of PacGen’s business and operations, and the operation of the Generation Facilities, as the same may change from time to time during the Services Term. Notwithstanding the foregoing, or any other provision of this Agreement or any other Intercompany Service Agreement, PG&E shall not perform, and PacGen does not engage or appoint PG&E to perform, the Reserved Owner Matters.

(c) Additional Services. From time to time, PacGen or PG&E may determine that it may be necessary or desirable for PG&E to provide to PacGen certain additional services not already being provided as of such time. In the event of such a determination by either of PG&E or PacGen:

(i) If PG&E determines, in its sole discretion, that the provision of such additional service is necessary to fulfill PG&E’s obligations to operate, maintain or otherwise provide Services to and for the Generation Assets pursuant to this Agreement or another Intercompany Service Agreement, then such additional service will become a service, and PG&E will provide the same as a Service hereunder or a service pursuant to an Intercompany Service Agreement.



(ii) If PG&E determines, in its sole discretion, that the provision of such additional service is not necessary to fulfill PG&E's obligations to operate, maintain or otherwise provide Services to and for the Generation Assets, if mutually agreed by PG&E and PacGen, then PG&E will provide such service, and such service shall become a Service hereunder or a service pursuant to an Intercompany Service Agreement.

(iii) The Services Costs incurred by PG&E in connection with the provision of any additional Service to PacGen will be directly assigned to PacGen as if such costs were Assigned Costs in accordance with the provisions of Article VI "Compensation and Payment", until such time as the CPUC approves a new GRC pursuant to which such Services Costs are determined to be assignable or allocable to PacGen utilizing the CPUC-approved cost assignment and allocation methodology described therein, at which time such new Service shall become a Cost Allocated Service or a Cost Assigned Service, as the case may be. For the avoidance of doubt, PacGen shall bear the costs of any new Service provided by PG&E, notwithstanding that such costs may not be recoverable in rates under the GRC applicable to the then-current Rate Case Cycle during which such Service is added.

2.2. Intercompany Service Agreements. The Parties are entering into other Intercompany Service Agreements as of the Commencement Date, may enter into additional or different Intercompany Service Agreements following the Commencement Date, and may amend or modify any of such agreements pursuant to the terms hereof and thereof. Except for the Generation Facility Agreement, the other Intercompany Service Agreements are entered into and will be entered into pursuant to the provision of Services under this Agreement. Except as set forth in this Section 2.2 "Intercompany Service Agreements", the terms of this Agreement shall govern each other Intercompany Service Agreement; *provided*, that where such other Intercompany Service Agreement specifically provides that its terms, or any of them, overrides or takes precedence over specific terms of this Agreement, the differing or overriding terms of such other Intercompany Service Agreement shall prevail; *provided further*, that any such specified differing or overriding terms agreed upon following the Commencement Date must be approved by the PacGen board of managers. Section 2.1(a) "Engagement of PG&E as Service Provider" shall not be applicable to the Generation Facility Agreement.

2.3. PG&E Personnel. PG&E shall select and assign its personnel in connection with the provision of the Services in its sole discretion, and PacGen shall have no right to require that PG&E perform the Services with specifically identified employees. PG&E shall be solely responsible for the recruitment, hiring and termination of any such employees. PG&E employees assigned by PG&E to perform PG&E's obligations under this Agreement and the other Intercompany Service Agreements (collectively, "PG&E Personnel") will be under the exclusive direction, control and supervision of PG&E and will remain the employees of PG&E. Subject to the CBAs, PG&E will have the sole right to determine the tasks and activities to be carried out by its employees, will be solely responsible for, and possess sole authority over, all matters relating to such employees' working hours, schedules, working conditions, rates of compensation and all other terms and conditions of their employment (including termination of employment). PacGen acknowledges that the terms and conditions of employment of substantial numbers of the personnel provided and/or made available to PacGen by PG&E under this Agreement and the other Intercompany Service Agreements are governed by the CBAs, and neither PG&E nor any employee of PG&E will be required by the terms hereof or of any other Intercompany Service

Agreement to take any action in violation of the CBAs. The Parties intend that they will not be considered joint employers of any PG&E employees.

2.4. Responsibility for Workplace Health and Safety. In accordance with PG&E's customary practices, PG&E will be responsible for (a) the workplace health and safety of PG&E Personnel, including (i) taking those precautions (such as providing personal protective equipment) that PG&E determines in its sole discretion should be taken to provide a safe workplace for PG&E Personnel, and (ii) providing general and specific training to PG&E Personnel; and (b) complying with the CBAs and all applicable Laws relating to workplace health and safety.

2.5. Subcontracts. Subject to and in accordance with the terms of the CBAs, PG&E may, without the consent of PacGen, enter into subcontracts to perform PG&E's obligations under Section 2.3 "PG&E Personnel" or Section 2.1 "Services", or under any of the other Intercompany Service Agreements. PG&E will have the sole right to determine the tasks and activities to be carried out by its third party contractors, and exercise all authority with respect to the engagement and supervision of and terms of service with third parties, including assignment, compensation, and termination of such third parties. Any such subcontracting by PG&E will not relieve PG&E of any of its duties or obligations under this Agreement or under any of the other Intercompany Service Agreements. The costs of any such subcontracts shall be directly assigned to and borne by PacGen in accordance with the terms and conditions of Article VI "Compensation and Payment".

2.6. Procurement. PG&E will be responsible for procuring and arranging for delivery to the appropriate PacGen facility or such other location as determined to be appropriate by PG&E, all items determined to be necessary or desirable for the operation of the Generation Business under this Agreement and the other Intercompany Service Agreements including, without limitation, supplies, materials, and equipment. PacGen will pay, or will reimburse PG&E for all out of pocket costs incurred by PG&E, for such items, except as expressly provided otherwise in the Fuel Procurement Agreement or another Intercompany Service Agreement. For the avoidance of doubt, PG&E will be compensated for the provision of procurement services as "Services" under this Agreement and the other Intercompany Service Agreements, and this Section 2.6 "Procurement" addresses the obligation of PacGen to pay for, or reimburse PG&E for, the out of pocket costs of the items procured (including delivery, taxes, and similar fees and charges).

2.7. Books and Records.

(a) PG&E shall maintain accurate and complete books, records and accounts relating to the performance of the Services (collectively, the "Books and Records"), including all operating data and operating logs maintained pursuant to Section 3.5 "Operating Logs and Records", and as necessary to verify the incurring and payment of all capital and operating expenditures and PG&E's performance of Services pursuant to this Agreement and the other Intercompany Service Agreements. All Books and Records shall be in a format sufficient to permit the verification referred to in the preceding sentence. PG&E shall keep such Books and Records in a manner that enables them to be separated (or replicated) from PG&E's own corporate books and records of account, and that readily enables the statement of PacGen's assets, liabilities and cash flows separate from PG&E without undue burden, expense or delay. PG&E will not treat PacGen assets, liabilities or cash flows as income, assets or liabilities of PG&E for any purpose,

and PG&E will maintain its books, records and financial statements in a manner consistent with ownership of PacGen's revenues by PacGen.

(b) Throughout the Services Term and for a period following the end of the Services Term equal to the period for which PG&E is required to retain documents pursuant to ERRS or as required by applicable Law, PacGen or a Representative of PacGen shall have the right, upon reasonable prior notice and during normal business hours, to reasonably access the Books and Records that PG&E is required to maintain pursuant to this Section 2.7 "Books and Records"; *provided, however*, that nothing in this Agreement shall require either Party to take any action or provide any access if doing so would (i) reasonably be likely to jeopardize the attorney-client privilege or other legal privilege, or (ii) contravene any applicable Law, fiduciary duty or binding agreement (it being understood that PG&E shall cooperate in any reasonable efforts and requests for waivers that would enable otherwise required disclosure to PacGen to occur without so jeopardizing privilege or contravening such Law, duty or agreement).

(c) PG&E shall maintain all Books and Records for the period defined in ERRS following the creation thereof or as required by applicable Law. In the event of a termination of this Agreement, PG&E will deliver all Books and Records, or copies thereof, to PacGen.

2.8. Standards for Performance. PG&E will perform its obligations hereunder and under the Intercompany Service Agreements and provide, or cause to be provided, the Services for and to the PacGen Assets and for the Generation Business in accordance with Law and, (a) with respect to Services that PG&E also provides to its own lines of business, in a manner that, at a minimum, is consistent with the manner in which PG&E provides such Services to its own lines of business, and (b) with respect to Services provided for and to the PacGen Assets, including the Generation Facilities, in accordance with Good Utility Practice. PG&E will cause any subcontractor under any subcontract entered into pursuant to Section 2.5 "Subcontracts" to perform the subcontractor's obligations under such subcontract in a manner that, at a minimum, is consistent with PG&E's performance obligations under this Section 2.8 "Standards for Performance of the Services". All Services shall be provided on a strictly "as is" basis, with no representations or warranties (express or implied) whatsoever. Subject to Article XI "Confidentiality" and applicable Law, PG&E Personnel may consult with, and seek advice from, other PG&E employees to assist in the performance of PG&E's obligations under this Agreement and under the other Intercompany Service Agreements.

2.9. Third-Party Consents. The Parties intend for PG&E to have all necessary rights to provide the Services under any third-party contracts pursuant to which any services, actions or work were provided or performed prior to the Separation. To the extent any such rights necessary and material to the Generation Business have not been obtained on or prior to the Commencement Date, the Parties will each use their Commercially Reasonable Efforts to obtain such required consents or amendments from such third parties. If, despite such efforts, the Parties are unable to obtain such a consent or amendment, then PG&E and PacGen will cooperate to identify and implement reasonable alternative arrangements for the affected Services to be provided by PG&E to PacGen, whether in PG&E's capacity as an operator or as PacGen's agent, and the Parties will use their Commercially Reasonable Efforts for such third-party contracts to reflect appropriate rights for each of the Parties upon the expiration, replacement, renewal or other amendment of the same. All costs incurred in connection with such third-party consents, amendments, other

agreements or arrangements (x) will be borne by PG&E if entered into or effective on or prior to the Commencement Date, or (y) will be borne by PacGen (unless PG&E declines reimbursement) if effective following the Commencement Date.

2.10. Licenses and Permits. PG&E and PacGen shall each use Commercially Reasonable Efforts to obtain, maintain and comply with all permits necessary or appropriate to perform its respective obligations under this Agreement and the other Intercompany Service Agreements.

2.11. Agreements. PG&E's performance of any of its obligations hereunder and under the other Intercompany Service Agreements will not be deemed to make PG&E a party to any agreements entered into between PacGen and any third Person, or to impose any obligations on PG&E under any such agreements or replacements thereof (other than obligations of PG&E to PacGen pursuant to the terms of this Agreement and the other Intercompany Service Agreements).

### **ARTICLE III GENERATION FACILITY SUPPORT SERVICES**

3.1. Generation Facility Support Services. This Article 3 is intended to provide for specific Services that PG&E will provide at, for and with respect to the Generation Facilities, and is not in limitation of the Services to be provided to PacGen generally pursuant to this Agreement and the other Intercompany Service Agreements or of the other terms of this Agreement applicable to the Generation Facilities.

3.2. Goods and Materials. PG&E will be responsible for procuring and arranging for delivery to the Generation Facilities all items required for the operation and maintenance of the Generation Facilities in accordance with the Generation Facility Agreement, the Fuel Procurement Agreement and Section 2.6 "Procurement", including, without limitation (a) an inventory of spare parts, (b) all goods and materials, including spare parts, tools, equipment, consumables and supplies, (c) all chemicals and lubricants, and (d) vehicles.

3.3. Hazardous Substances and Waste Management. PacGen will be identified to any Governmental Authority as the party responsible for the generation, treatment, storage and disposal of all wastes (including waste Hazardous Substances) generated by or used in the operation or maintenance of the Generation Facilities (and, therefore, PacGen will be designated as the "generator" on all manifests relating to all such wastes), *provided, however*, that PG&E will be solely responsible for timely arranging for, by contract or otherwise (a) the on-site management of all hazardous substances and wastes (including waste Hazardous Substances) generated by or used in the operation or maintenance of the Generation Facilities; and (b) the offsite transportation, treatment or disposal of all wastes (including sewage and waste Hazardous Substances) generated or used at the Generation Facilities after the Commencement Date that PG&E has determined, in its reasonable discretion, should not be treated or disposed of on-site under any Environmental Law; *provided further*, that PG&E Personnel will perform services relating to the on-site management of hazardous substances and wastes (including waste Hazardous Substances) generated by or used in the operation or maintenance of the Generation Facilities in accordance with customary practice at the Generation Facilities and Section 2.8 "Standards for Performance of the Services".

3.4. Environmental Laws, Licenses and Permits. PG&E shall be responsible for obtaining and maintaining in effect, and complying with, all Environmental Permits (and renewals or replacements of the same) applicable to the Generation Facilities, including those relating to boiler operation, air emissions, wastewater discharges, storage and handling of Hazardous Substances, underground or aboveground storage tanks, water and sewer use and treatment, chemical and other waste (including waste Hazardous Substances) and noise; *provided* that PacGen shall bear ultimate responsibility for complying with all Environmental Law. All such permits, licenses and approvals relating to Hazardous Substances will be in the name of PacGen. Without limitation to PG&E's obligations under the Separation Agreement, including Sections 7.1 and 8.2 thereof, which is provided by PG&E in its capacity as a transferor and former owner of the Generation Assets, PacGen will be solely liable for, and will retain sole responsibility for complying with and/or responding to, any claim, suit, demand or judgment relating to an alleged nuisance, whether common-law or statutory, at or arising out of the operation or maintenance of the Generation Facilities by PG&E in its capacity as a service provider to PacGen hereunder and under the other Intercompany Service Agreements.

3.5. Operating Logs and Records. PG&E will be responsible for preparing and maintaining all operating logs, records and reports, including all supporting documentation, documenting the operation and maintenance of the Generation Facilities, including documents relating to the use and storage of Hazardous Substances on-site at the Generation Facilities.

3.6. Generation Facilities Condition at End of Service Term. At the end of the Services Term with respect to any Generation Facility, PG&E will remove its personnel from such Generation Facility, unless PacGen and PG&E agree to the contrary, and PG&E will have no liability to PacGen for the condition of such Generation Facility, except for damage to the such Generation Facility caused by PG&E's intentional misconduct. Any liability of PG&E to PacGen under this Section 3.6 "Generation Facilities Condition at End of Services Term" is subject to the limitations on PG&E's liability set forth in Article IX "Liabilities of the Parties".

#### **ARTICLE IV COOPERATION**

4.1. General. From and after the Commencement Date, PacGen will, subject to the terms of this Agreement, have custody and control over each of the PacGen Assets, the Generation Facilities and each Unit thereof. Except as otherwise provided herein and in the other Intercompany Service Agreements, all Services provided for and to the PacGen Assets and for the Generation Business, including without limitation the operation and maintenance of the Generation Facilities, will be performed by PG&E under the general direction of PacGen.

4.2. PacGen Cooperation. PacGen will cooperate with PG&E promptly as reasonably requested by PG&E in order for PG&E to perform its duties, responsibilities and obligations under this Agreement and the other Intercompany Service Agreements, including taking all reasonable actions necessary to comply with applicable Laws and to obtain any necessary or desirable approvals from applicable Governmental Authorities, and executing and delivering documents, certificates or instruments necessary or appropriate for the performance of PG&E's duties, responsibilities and obligations under this Agreement and the other Intercompany Service Agreements.



4.3. Access. PacGen shall grant PG&E full access to PacGen's facilities, properties, and Books and Records in order for PG&E to provide the Services pursuant to this Agreement and the other Intercompany Service Agreements.

4.4. Noncompliance and Dispute Resolution Procedures. If noncompliance or performance issues or disputes arise in connection with PG&E's performance of the Services, such issues or disputes will be reported and escalated in accordance with PG&E's written reporting, escalation and resolution policies and procedures, including PG&E's self-reporting obligations, applicable to noncompliance and performance issues (as the same may be amended from time to time), including, without limitation, PG&E's Corrective Action Program, as if such issues or disputes pertained to PG&E's own lines of business.

## **ARTICLE V PG&E'S AUTHORITY**

5.1. Relationship of the Parties; Limitation on PG&E's Authority. PG&E has been retained by PacGen as an independent contractor to perform the Services, at and under the direction and instruction of PacGen on the terms and conditions as set forth herein and in the other Intercompany Service Agreements. PG&E will not, without first receiving the written approval of PacGen, and will have no duty to, undertake any of the following actions relating to the Generation Assets:

(a) Other Actions. Take or agree to take any action or actions that are not reasonably required in performing the Services; *provided, however*, that PG&E may take such action or actions pursuant to Section 3.2 of the Generation Facility Agreement.

(b) Lawsuits and Settlements. Except (a) as required or permitted by the Billing Services Agreement or (b) provided in Section 8.4 "Procedure", (i) settle, compromise, assign, pledge, transfer, release or consent to the compromise, assignment, pledge, transfer or release of, any claim, suit, debt, demand or judgment against or due by PacGen; or (ii) submit any such claim, dispute or controversy to arbitration or judicial process, or stipulate in respect thereof to a judgment, or consent to the same.

(c) Other Transactions on Behalf of PacGen. Except for such action or actions permitted by Section 3.2 of the Generation Facility Agreement, engage in any other transaction on behalf of PacGen not permitted under this Agreement, any other Intercompany Service Agreement or any other agreement between PG&E and PacGen.

## **ARTICLE VI COMPENSATION AND PAYMENT**

As compensation to PG&E for the costs PG&E incurs in the performance of PG&E's obligations hereunder and for providing the Services, PacGen will pay PG&E in the manner and at the times specified in this Article VI "Compensation and Payment".

6.1. Compliance with General Rate Case. All compensation payable by PacGen to PG&E in respect of Assigned Costs and Allocated Costs, and the methodology by which Assigned Costs are assigned and Allocated Costs are allocated, in each case by PG&E to PacGen, will be

consistent with and implement the General Rate Case (“GRC”) applicable to the period beginning with a test year and ending following the last attrition year prior to the approval of the subsequent GRC (each such period, a “Rate Case Cycle”) during which the corresponding Cost Assigned Services or Cost Allocated Services were provided, subject to modification by the CPUC. In the event of any conflict between (a) this Agreement, (b) the GRC applicable to the then-current Rate Case Cycle, and (c) any subsequent decision or modification of the applicable GRC by the CPUC, first the applicable GRC and then, if any, the latest decision or modification by the CPUC shall control. For the avoidance of doubt, the cost assignment and allocation methodology in PG&E’s 2023 GRC pertaining to the Generation Assets shall apply to PacGen during the period beginning at the Commencement Date until such time as the CPUC approves a different cost assignment and allocation methodology in a GRC jointly filed by PG&E and PacGen. It is the intention of the Parties that all amounts charged by PG&E to PacGen in respect of Assigned Costs and Allocated Costs hereunder shall equal the amounts of Assigned Costs and Allocated Costs assigned or allocated, as the case may be, to PacGen or to Power Generation in respect of the PacGen Assets, in either case in connection with the provision of the corresponding Cost Assigned Services or Cost Allocated Services, as applicable, calculated in accordance with the GRC applicable to the then-current Rate Case Cycle. The Parties will cooperate to include in the first GRC jointly filed by the Parties with the CPUC, forecasts, assignment and/or allocation methodologies and revenue requests in respect of the costs of any Services not charged or allocated to Power Generation in respect of the Generation Assets under the GRC in effect on the Commencement Date.

#### 6.2. Direct Assignment of Services Costs.

(a) Subject to Section 6.1 “Compliance with General Rate Case”, Assigned Costs will be directly assigned to (i) Power Generation in respect of the PacGen Assets or (ii) PacGen, in either case in accordance with the CPUC-approved direct assignment methodology set forth in the then-applicable GRC and subject to modification by the CPUC.

(b) Services Costs which are not rate-recoverable pursuant the GRC applicable to the then-current Rate Case Cycle but which (i) benefit and are directly identifiable with PacGen, or (ii) simultaneously benefit both PacGen and PG&E and are specifically identifiable with one or more operating functions of PG&E such that such costs can be apportioned between PacGen and PG&E based on specific operating data or other reasonable apportionment methodology, in either case will be directly assigned to PacGen; *provided* that, with respect to clause (ii), only the portion of such Services Costs apportioned to PacGen will be directly assigned to PacGen.

(c) Services Costs reasonably incurred by PG&E for repairs due to breakdowns, casualty, in response to an Emergency Situation, in response to an Emergency pursuant to Section 3.2 of the Generation Facility Agreement or to comply with applicable Law or regulatory requirements, will be directly assigned to PacGen, regardless of whether such Services Costs have been approved by PacGen; *provided* that, if PacGen disputes whether PG&E’s decision to expend funds or to take any action pursuant to Section 3.2 of the Generation Facility Agreement is or was appropriate, PacGen will be entitled to challenge the propriety of such expenditure or action (and whether such costs and expenses are properly reimbursable by PacGen) by submitting such dispute to the Independent Engineer pursuant to Section 12.6 (c) “Independent Engineer”.

(d) Services Costs of additional Services added pursuant to Section 2.1(c) “Additional Services” will be directly assigned to PacGen until such time as the CPUC approves in a new GRC or otherwise the direct assignment or allocation of such Services Costs to PacGen utilizing the CPUC-approved cost assignment or allocation methodologies described therein, at which time such new Service shall become an Cost Allocated Service or a Cost Assigned Service, as the case may be.

### 6.3. Orders.

(a) Assigned Costs will be tracked and recorded in Orders specific to PacGen in substantially the same manner and methodology as employed by PG&E immediately prior to the Commencement Date to track costs incurred in the provision of equivalent services to its various operating functions. Each Order will be created to record Assigned Costs associated with a particular Cost Assigned Service, project, process or type of work performed by PG&E for the benefit of PacGen as part of its provision of Services under this Agreement or the another Intercompany Service Agreement. Orders may be designated as either (i) “standing” for ongoing Services, processes or work streams, (ii) or as “specific” for discrete, project-based Services, processes or work streams. Each Order will include designations representing (x) a broad Major Work Category (“MWC”) and (y) if applicable, a narrower Maintenance Activity Type (“MAT”) subcategory of the applicable MWC, into which the Services, project, process or other workstream to be performed under such Order should be categorized.

(b) Each Order will designate a regulatory category representing the FERC account(s) where the Assigned Costs recorded to the Order will be assigned for purposes of regulatory reporting.

(c) The Assigned Costs recorded to each Order will include, as applicable, (i) employee salaries and related expenses, materials, and Contracts (“Direct Costs”) and (ii) overhead costs including without limitation benefits, payroll taxes, paid time off, indirect labor, operations management and support, building services, IT devices, fleet and minor materials (“Overhead”).

(d) Labor and employee-related costs are determined by one of several Provider Cost Centers (“PCCs”) within PG&E, which will assign such costs to each Order, as applicable, based on a predetermined hourly labor rate (a “Standard Activity Price”) applicable to each type of work performed in connection with such Order. With respect to each type of work performed in connection with an Order, an amount will be charged to such Order for each employee who performs such work equal to (i) the Standard Activity Price for such work, multiplied by (ii) the number of hours such employee performed such work.

(e) Costs incurred in connection with the hiring of third parties for the provision of Services (“Contracts”), in connection with the Services provided pursuant to the applicable Order, will be directly assigned to such Order.

(f) Costs associated with Overhead are collected in cost type-specific “Allocation Pools” of PG&E, each of which is assigned an allocation rate, expressed as a percentage. Overhead Costs in a particular Allocation Pool will be assigned to some or all Orders, depending on whether such Allocation Pool is enterprise-wide or specific to a line of business



within PG&E, in an amount equal to the product of (i) the applicable allocation rate, multiplied by (ii) the aggregate amount of all or a portion of the other Assigned Costs charged to such Order.

(g) Following completion of the Services pursuant to the applicable Order, the Assigned Costs charged to such Order shall be settled to specific accounts established in accordance with the FERC Uniform System of Accounts. Assigned Costs incurred by PG&E for Services provided to PacGen and charged to Orders specific to PacGen will be charged to PacGen in accordance with Section 6.5 “Payment Terms”.

6.4. Allocation of Allocated Costs. Subject to Section 6.1 “Compliance with General Rate Case”, Allocated Costs will be allocated to (i) Power Generation in respect of the PacGen Assets or (ii) PacGen, in either case in accordance with the CPUC-approved allocation methodology set forth in the then-applicable GRC and subject to modification by the CPUC.

(a) Allocated Costs incurred by PG&E for the provision of Cost Allocated Services will be allocated among each of PG&E’s operating functions based on the relative labor expense incurred in the provision of such Services according to the O&M Labor Factors described in the GRC applicable to the then-current Rate Case Cycle during which such Services are provided, as set forth on Exhibit [C]; *provided* that the bases for such allocations are subject to modification by the CPUC, and will at all times be consistent with the then-applicable GRC and other applicable CPUC decisions.

(b) Allocated Costs that are allocated to Power Generation will be further allocated between PG&E and PacGen according to the Unbundled Cost Categories described in the GRC applicable to the then-current Rate Case Cycle during which such Services are provided, as set forth on Exhibit [C].

(c) Services Costs which are not rate-recoverable pursuant to the GRC applicable to the then-current Rate Case Cycle but which simultaneously benefit PacGen and PG&E and are not specifically identifiable with one or more operating functions of PG&E will be allocated between PG&E and PacGen.

6.5. Payment Terms.

(a) PG&E will invoice PacGen on or before the fifteenth (15<sup>th</sup>) calendar day following each calendar month of the Services Term, in a format acceptable to PacGen, in arrears, for all amounts due PG&E under this Agreement.

(b) If PG&E submits an invoice to PacGen in accordance with Section 6.5(a), payment of all undisputed amounts owed shall be due by the later of the twenty-fifth (25<sup>th</sup>) day of the month or ten (10) calendar days after receipt of invoice (“Monthly Payment Date”). If the Monthly Payment Date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. PG&E may bill on an estimated cost basis and, to the extent such amount is directly assigned to PG&E in accordance with Section 6.2 “Direct Assignment of Assigned Costs” or allocated to PG&E in accordance with Section 6.4 “Allocation of Allocated Costs”, such estimate will be reconciled to actual recorded costs in subsequent billings. PG&E may charge interest (at the Late Payment Rate) on any undisputed amounts owed to PG&E hereunder that remain unpaid for 60 days beyond the Monthly Payment Date.

6.6. PacGen Budget. Except for costs assigned to PacGen pursuant to Section 6.2(c), the aggregate combined amount of all Assigned Costs and all Allocated Costs charged by PG&E to PacGen during any fiscal year shall not exceed PacGen's approved annual budget with respect to such fiscal year, without the prior written consent of PacGen.

6.7. Right to Audit. Upon not less than 30 days' prior written notice to PG&E, PacGen will have the right to audit PG&E's books, records and accounts and all supporting documentation relating to the performance of Services by PG&E under this Agreement and the other Intercompany Service Agreements during the 12 months prior to the notice, including any payments by PacGen to PG&E therefor. The cost of any such audit will be borne solely by PacGen.

## **ARTICLE VII INSURANCE**

7.1. PG&E-Obtained Insurance. In furtherance of PG&E's obligations to provide Services hereunder, except as provided in Section 7.2 "PacGen Insurance", during the Services Term PG&E will, to the extent commercially practicable, ensure that PacGen and the PacGen Assets are covered under PG&E's insurance policies pursuant to the terms and limits applicable to PG&E and its own assets ("PG&E-Obtained Insurance"). In the event PG&E is unable to obtain such coverage for PacGen and/or the PacGen Assets, PG&E shall secure and maintain for the benefit of PacGen and/or the PacGen Assets (as applicable) insurance in such amounts and covering such risks as is consistent with Good Utility Practice. The costs of premiums, deductibles and other out of pocket costs incurred by PG&E in connection with obtaining PG&E-Obtained Insurance shall be an Allocated Cost allocated to PacGen in accordance with historical practice and the GRC applicable to the then-current Rate Case Cycle during which any such costs are incurred and subject to modification by the CPUC.

7.2. PacGen Insurance. PacGen will secure and maintain in effect during the Services Term directors' and officers' liability (or similar) insurance for PacGen's directors, officers and other customarily covered Persons, with such limits and other terms as are consistent with Good Utility Practice. The costs of premiums, deductibles and other out of pocket costs incurred in connection with obtaining such insurance shall be directly charged to PacGen in accordance with Section 6.2 "Direct Assignment of Services Costs".

## **ARTICLE VIII INDEMNIFICATION**

8.1. Indemnification of PacGen by PG&E. PG&E shall indemnify PacGen and its respective officers, directors, employees and agents (each, including PacGen, a "PacGen Party") against, and shall hold each of them harmless from, any and all damages, claims, debts, actions, assessments, judgments, losses, liabilities, fines, fees, penalties and expense (including reasonable expenses of investigation and reasonable attorneys' fees and expenses in connection with any action, suit or proceeding) (collectively, "Losses") incurred or suffered by a PacGen Party, which arise out of or relate to a Third Party Claim against a PacGen Party, in connection with, resulting from or arising out of:

(a) any intentional misconduct of PG&E or its subcontractors, agents or employees or others under PG&E's control (including allegations of death or bodily injury or damage to property, to the extent arising out of such misconduct); or

(b) the knowing and material non-compliance with applicable Law by PG&E or its subcontractors, agents or employees or others under PG&E's control.

8.2. Indemnification of PG&E by PacGen. PacGen shall indemnify PG&E and its respective officers, directors, employees and agents (each, including PG&E, a "PG&E Party") against, and shall hold each of them harmless from, any and all Losses incurred or suffered by a PG&E Party, which arise out of or relate to a Third Party Claim against a PG&E Party, in connection with, resulting from or arising out of this Agreement or any other Intercompany Service Agreement, the performance of the Parties of their obligations hereunder or thereunder, or PacGen's ownership of the Generation Facilities (except for any Losses for which PacGen is entitled to indemnification from PG&E pursuant to Section 8.1 "Indemnification of PacGen by PG&E").

8.3. [Reserved].

8.4. Procedure. All claims for indemnification by a party entitled to indemnification (the "Indemnified Party") pursuant to this Article VII shall be made in accordance with the provisions of this Section 8.4 "Procedure". Whenever any claim shall arise for indemnification hereunder, the Indemnified Party shall promptly provide written notice of such claim to the other party (the "Indemnifying Party"). In connection with any claim giving rise to indemnity hereunder resulting from or arising out of any action by a Person who is not a party to this Agreement, the Indemnifying Party, at its sole cost and expense and upon written notice to the Indemnified Party, may at its option assume the defense of any such action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall be entitled to participate in the defense of any such action, with its counsel and at its own cost and expense. If the Indemnifying Party does not assume the defense of any such action, the Indemnified Party may, but shall not be obligated to, defend against such action in such manner as it may deem appropriate, including settling such action, after giving notice of it to the Indemnifying Party, on such terms as the Indemnified Party may deem appropriate and no action taken by the Indemnified Party in accordance with such defense and settlement shall relieve the Indemnifying Party of its indemnification obligations herein provided with respect to any damages resulting therefrom. The Indemnifying Party shall not settle any action without the Indemnified Party's prior written consent, which consent shall not be unreasonably withheld or delayed (it being understood that it is reasonable to withhold such consent if, among other things, the settlement or the entry of a judgment (A) lacks a complete release of the Indemnified Party for all liability with respect thereto or (B) imposes any liability or obligation on the Indemnified Party).

8.5. Determination of Losses.

(a) If, in respect of any Loss of an Indemnified Party subject to indemnification pursuant to this Article VIII, the Indemnified Party (i) recovers, or reasonably expects to recover, all or a portion of such Loss through rates or (ii) receives, or reasonably expects to receive, insurance proceeds for all or a portion of such Loss, then the amount of the Loss that the

Indemnified Party may claim pursuant to this Article VIII shall be reduced by the net amount of such amounts recovered in rates or insurance proceeds (the “Recovered Losses”).

(b) In the event that an amount representing Recovered Losses is actually received by an Indemnified Party subsequent to receipt by such Indemnified Party of any indemnification payment by the Indemnifying Party in respect of the claims to which such Recovered Losses relate, the Indemnified Party shall promptly refund the Indemnifying Party an amount equal to the Recovered Losses (or if less, in the amount of applicable indemnification payments previously made to the Indemnified Party by the Indemnifying Party).

(c) For the avoidance of doubt, as between any Indemnitor and any insurer that provides insurance coverage to or for the benefit of any Indemnitee, the insurer’s obligation to defend the Third Party Claim and/or pay the Loss shall be primary and the Indemnitor’s obligation to defend the Third Party Claim and/or pay the Loss shall be secondary.

8.6. Relationship to Other Agreements. Nothing in this Article VIII “Indemnification” shall modify or supersede any of the terms of the separate Wildfire Indemnification Agreement between the Parties. In the event of a conflict between the terms of this Agreement and the Wildfire Indemnification Agreement, the Wildfire Indemnification Agreement shall prevail. To the extent PacGen is entitled to indemnification from PG&E for an Indemnifiable Loss (as such term is defined in the Wildfire Indemnification Agreement), the indemnification set forth in the Wildfire Indemnification Agreement shall be the sole and exclusive source of indemnification by PG&E for such Indemnifiable Losses, and PacGen shall not be entitled to recover any such Indemnifiable Losses under this Agreement.

## **ARTICLE IX LIABILITIES OF THE PARTIES**

9.1. Limitation of Liability Generally. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT, THE OTHER INTERCOMPANY SERVICE AGREEMENTS OR ANY OTHER AGREEMENT BETWEEN THE PARTIES TO THE CONTRARY, NEITHER PARTY NOR ANY OF ITS RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, AGENTS, SUBCONTRACTORS, VENDORS OR EMPLOYEES WILL BE LIABLE HEREUNDER OR THEREUNDER FOR ANY PUNITIVE, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE, INCLUDING LOSS OF USE, REVENUES, INCOME OR PROFITS, COST OF CAPITAL, BUSINESS INTERRUPTION, LOSS OF GOODWILL OR INCREASED OPERATING COSTS, REGARDLESS OF (A) WHETHER SUCH LOSSES OR DAMAGES WERE FORESEEABLE, AND (B) WHETHER OR NOT THE LIABLE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. EACH PARTY FURTHER AGREES THAT THE WAIVERS AND DISCLAIMERS OF LIABILITY, INDEMNITIES, RELEASES FROM LIABILITY AND LIMITATIONS ON LIABILITY EXPRESSED IN THIS AGREEMENT WILL APPLY AT ALL TIMES, WHETHER IN CONTRACT, EQUITY, TORT OR OTHERWISE, REGARDLESS OF THE FAULT, NEGLIGENCE (IN WHOLE OR IN PART), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF THE PARTY INDEMNIFIED, RELEASED OR WHOSE LIABILITIES ARE LIMITED, AND WILL EXTEND TO THE OFFICERS, DIRECTORS,

MANAGERS, AGENTS, SUBCONTRACTORS, VENDORS AND EMPLOYEES OF SUCH PARTY.

9.2. Limitation of Liability of PG&E. Notwithstanding any provision in this Agreement to the contrary, except for PG&E's intentional misconduct, indemnification obligations pursuant to Section 8.1 and except with respect to Remittance Claims, PG&E's total aggregate liability to PacGen arising out of or in connection with PG&E's performance under, or otherwise in respect of, this Agreement and the other Intercompany Service Agreements will be limited to [ ] in aggregate for all claims arising under this Agreement and the other Intercompany Service Agreements, and PacGen will release and hold harmless PG&E from any liability in excess thereof. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT IN THE CASE OF PG&E'S INTENTIONAL MISCONDUCT, PACGEN, FOR ITSELF AND ON BEHALF OF THE PACGEN PARTIES, DOES HEREBY RELEASE, HOLD HARMLESS AND FOREVER DISCHARGE EACH PG&E PARTY FROM ANY AND ALL CLAIMS, DEMANDS, LIABILITIES (INCLUDING FINES AND CIVIL PENALTIES) OR CAUSES OF ACTION AT LAW OR IN EQUITY (INCLUDING ANY ACTIONS ARISING UNDER ENVIRONMENTAL LAW), DESTRUCTION, LOSS OR DAMAGE OF ANY KIND OR CHARACTER, WHETHER KNOWN OR UNKNOWN, HIDDEN OR CONCEALED, TO THE PERSON OR PROPERTY OF ANY PACGEN PARTY RESULTING FROM OR ARISING OUT OF ANY HAZARDOUS SUBSTANCE AT, ON, UNDER, IN OR ABOUT A GENERATION FACILITY SITE, (X) EXCEPT AS TO PG&E'S OBLIGATIONS UNDER SECTION 8.1 "INDEMNIFICATION OF PACGEN BY PG&E" AS A SERVICE PROVIDER AND CONTRACTOR TO PACGEN AND (Y) EXCEPT AS TO PG&E'S OBLIGATIONS UNDER THE SEPARATION AGREEMENT, INCLUDING SECTIONS 7.1 AND 8.2 THEREOF. PACGEN HEREBY WAIVES ANY AND ALL RIGHTS AND BENEFITS THAT IT NOW HAS, OR IN THE FUTURE MAY HAVE CONFERRED UPON IT BY VIRTUE OF THE PROVISIONS OF SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA (OR ANY OTHER STATUTE OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT), WHICH PROVIDES AS FOLLOWS:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

**IN CONNECTION HEREWITH, PACGEN HEREBY AGREES, REPRESENTS AND WARRANTS THAT IT REALIZES AND ACKNOWLEDGES THAT FACTUAL MATTERS NOW UNKNOWN TO IT MAY HAVE GIVEN OR MAY HEREAFTER GIVE RISE TO CLAIMS THAT ARE PRESENTLY UNKNOWN, UNANTICIPATED AND UNSUSPECTED, AND IT FURTHER AGREES, REPRESENTS AND WARRANTS THAT THIS RELEASE HAS BEEN NEGOTIATED AND AGREED UPON IN LIGHT OF THAT REALIZATION AND IT NEVERTHELESS HEREBY INTENDS TO RELEASE EACH PG&E PARTY FROM THE CLAIMS, DEMANDS AND LIABILITIES DESCRIBED IN THIS SECTION 9.2 "LIMITATION OF LIABILITY OF PG&E".**



PacGen's Initials \_\_\_\_\_

PG&E's Initials \_\_\_\_\_

9.3. No Warranties or Guarantees. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT AND THE OTHER INTERCOMPANY SERVICE AGREEMENTS, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, OF ANY KIND OR NATURE WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT AND THE OTHER INTERCOMPANY SERVICE AGREEMENTS, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. BY ACCEPTING ITS DUTIES HEREUNDER, PG&E MAKES NO REPRESENTATION, WARRANTY OR GUARANTY, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE WITH RESPECT TO THE CONDITION OF THE GENERATION FACILITIES OR ANY PORTION THEREOF, AND PG&E WILL HAVE NO LIABILITY OR RESPONSIBILITY HEREUNDER OF ANY KIND OR NATURE FOR ANY PATENT OR LATENT DEFECT OR EQUIPMENT MALFUNCTION OF THE GENERATION FACILITIES OR ANY PORTION THEREOF. NOTHING IN THIS AGREEMENT WILL BE CONSTRUED IN DEROGATION OF THE "AS IS, WHERE IS" PURCHASE OF THE GENERATION FACILITIES PURSUANT TO THE SEPARATION AGREEMENT, OR ANY OTHER PROVISION OF THE SEPARATION AGREEMENT. IN THE EVENT OF A CONFLICT BETWEEN ANY PROVISION OF THIS AGREEMENT AND ANY PROVISION OF THE SEPARATION AGREEMENT, THE SEPARATION AGREEMENT WILL CONTROL.

## **ARTICLE X OTHER RIGHTS**

10.1. Documents. Subject to Section 10.2 "Property", all materials and documents prepared or developed by PG&E or its employees, representatives or contractors after the Commencement Date directly relating to the operation and maintenance of the PacGen Assets or the performance of Services hereunder by PG&E (other than information concerning PG&E's employees), including all manuals, data, designs, drawings, plans, specifications, reports and accounts, will become the property of PacGen when prepared; *provided* that PG&E may retain and use copies of all such materials and documents prepared by PG&E. All such materials and documents, together with any materials and documents furnished to PG&E or to its contractors by PacGen, will be delivered to PacGen the end of the Services Term or upon any other termination of this Agreement and final payment; *provided* that PG&E may retain and use copies of all such materials and documents prepared by PG&E. Copies of all such materials and documents retained by PG&E will be subject to Article XI "Confidentiality".

10.2. Property. Except as expressly set forth in the Separation Agreement, this Agreement or any other Intercompany Service Agreement, all property (tangible or intangible), including all intellectual property rights, improvements and Confidential Information, disclosed or provided by PG&E or its Representatives to PacGen or its Representatives pursuant to this Agreement or any other Intercompany Service Agreement, will remain the exclusive property of PG&E.

10.3. IP Cross License. PG&E and PacGen each hereby grant to each other a non-exclusive, worldwide, fully paid-up, non-assignable license, without the right to sublicense (except as may be necessary to subcontract the provision of Services in accordance with Section 2.5 “Subcontracts”), solely during the Services Term, to use, reproduce, modify, create derivative works of, perform, display, transmit and otherwise exploit the intellectual property of the other, as applicable, in connection with receiving or providing the Services, as applicable.

## **ARTICLE XI CONFIDENTIALITY**

11.1. Generally. Each Party (and its officers, employees, counsel, representatives and agents) will, using the same degree of care as that Party takes to preserve and safeguard its own Confidential Information, maintain in confidence and not disclose to third Persons any Confidential Information of the other Party. Each Party (a) shall only use the Confidential Information of the other Party in the course of performance of such Party’s obligations hereunder or under another Intercompany Service Agreement, and (b) shall not disclose the Confidential Information of the other Party to any Person other than (i) if and to the extent required by Law, court order, subpoena or other lawful order of a Governmental Authority with jurisdiction; (ii) with the prior written consent of the other Party; (iii) in accordance with Section 11.2 “Regulatory Agencies”; or (iv) to its officers, employees, contractors, counsel, representatives and agents who have a need to know such information in connection with the performance or enforcement of this Agreement and who have agreed to be bound by this Article XI “Confidentiality”; *provided, however,* that prior to making any such disclosure pursuant to the foregoing clause (i), such Party will notify the other Party in writing for the purpose of allowing such Party to participate in determining the form and content of the disclosure or to seek to protect the confidentiality of the information proposed to be disclosed.

11.2. Regulatory Agencies. Either Party may provide Confidential Information to (a) any Governmental Authority with jurisdiction as necessary to comply with applicable Law, or (b) the CPUC as may be necessary or desirable in furtherance of either party’s interests in a proceeding before the CPUC. If available and customary, the disclosing Party will seek confidential treatment for the Confidential Information provided to any Governmental Authority and the disclosing Party will notify the other Party as far in advance as is reasonably practicable of its intention to release to any Governmental Authority any Confidential Information.

## **ARTICLE XII MISCELLANEOUS**

12.1. Notices. All notices, requests, consents and other communications under this Agreement must be in writing and shall be deemed to have been duly given and effective (a) immediately (or, if not delivered before 5:00 p.m. San Francisco, California time on a Business Day, the next Business Day) if delivered by electronic mail (with confirmation of transmission) and if a hard copy is delivered by overnight delivery service the next Business Day, (b) on the date of delivery if by hand delivery (with confirmation of receipt) (or, if not delivered on a Business Day, the next Business Day) or (c) on the first Business Day following the date of dispatch (or, if not sent on a Business Day, the next Business Day after the date of dispatch) if sent by overnight service with a nationally recognized overnight delivery service (all fees prepaid). All notices shall

be delivered to the following addresses, or such other addresses as may hereafter be designated in writing by a party to the other party:

Notices to PG&E:

Pacific Gas and Electric Company  
300 Lakeside Drive  
Oakland, CA 94612  
Attention: [●]  
Email: [●]

Notices to PacGen:

Pacific Generation LLC  
300 Lakeside Drive, 25<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: [*President of the Company*]  
E-mail: [●]

12.2. Successors and Assigns; Amendments. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective.

12.3. Severability; Interpretation. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, each of PacGen and PG&E confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Person. The captions used in this Agreement and in the Exhibits hereto are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

12.4. Complete Agreement. This Agreement (including the Exhibits to this Agreement) and the other Intercompany Service Agreements contain the complete agreement between the Parties and supersede any prior understandings, agreements, representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.



12.5. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA (WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF) AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

12.6. Dispute Resolution.

(a) 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 other Intercompany Service Agreement is the dispute resolution procedure set forth in this Section 12.6 "Dispute Resolution". Notwithstanding the preceding sentence, (i) to the extent any claim arising out of or relating to this Agreement or any other Intercompany Service Agreement is for the remittance to PacGen of funds collected on behalf of PacGen by PG&E pursuant to an Intercompany Service Agreement (a "Remittance Claim") (which funds shall be held in trust by PG&E for the benefit of PacGen pending such remittance), PacGen may seek legal and equitable relief for remittance of such funds and other appropriate relief related thereto, and (ii) either Party hereto may seek injunctive relief with respect to this Agreement or the other Intercompany Services Agreements or other provisional judicial remedy if such action is necessary to prevent irreparable harm, in which case (except with respect to Remittance Claims) both parties hereto nonetheless shall continue to pursue resolution of the dispute by means of the procedures set forth below in this Section 12.6 "Dispute Resolution".

(b) Management Negotiations.

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

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

(iii) Except to the limited extent of disclosure necessary to prove compliance or noncompliance with the required procedures set forth in this Section 12.6 "Dispute Resolution", all communication and writing exchanged between the Parties in connection with

these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process between the Parties.

(iv) If the matter is not resolved within forty-five (45) calendar days of the Referral Date, or if the Party receiving the written request to meet, pursuant to Section 12.6(c)(i), refuses or does not meet within the ten (10) Business Day period specified in Section 12.6(c)(i), either Party may initiate mediation of the controversy or claim according to the terms of the following Section 12.6(d).

(c) Independent Engineer. If a dispute or claim arising out of or relating to Section 2.1 “Services”, Section 2.3 “PG&E Personnel”, Section 2.8 “Standards for Performance of the Services” or Section 3.2 of the Generation Facility Agreement cannot be so resolved by negotiation as set forth in Section 12.6(b) “Management Negotiations” above, the Parties will attempt in good faith to resolve any such dispute or claim by promptly submitting the dispute or claim to the Independent Engineer for resolution; *provided* that if the Parties mutually agree that, due to the type or nature of the dispute or claim at issue, the opinion of an Independent Engineer would have no bearing on the resolution of such claim or dispute, this Section 12.6(c) “Independent Engineer” shall not apply. Either Party may refer a dispute to the Independent Engineer by giving notice to the other Party within 30 days after obtaining knowledge of the event or circumstance in dispute. The notice will include a statement of the matter in controversy. The Independent Engineer will determine the time, place, rules and procedures it believes are necessary to resolve the dispute. The Independent Engineer will report its determination to the Parties in writing within 30 days after the date the dispute is submitted to the Independent Engineer for resolution. Either Party may challenge the determination of the Independent Engineer by initiating binding arbitration pursuant to Section 12.6(e) “Arbitration Procedures”, and pending resolution of the dispute pursuant to Section 12.6(e) “Arbitration Procedures”, the determination by the Independent Engineer under this Section 12.6(c) “Independent Engineer” will be binding upon the Parties. The Parties will each pay an equal share of the fees and expenses of the Independent Engineer. The Independent Engineer will not be replaced unless: (i) the Person then appointed as the Independent Engineer hereunder resigns; or (ii) both Parties agree to replace the Independent Engineer with another Person.

(d) Mediation and Arbitration. If the dispute cannot be so resolved by negotiation as set forth in Section 12.6(b) “Management Negotiations” or Section 12.6(b) “Independent Engineer” above, it shall be resolved at the request of either Party through a two-step dispute resolution process administered by JAMS. As the first step the Parties agree to mediate any controversy before a mediator from JAMS, pursuant to the applicable JAMS commercial mediation rules, in San Francisco, California. Either Party may begin mediation by serving a written demand for mediation. The mediator shall not have the authority to require, and neither Party may be compelled to engage in, any form of discovery prior to or in connection with the mediation. If within sixty (60) calendar days after service of a written demand for mediation, the mediation does not result in resolution of the dispute, then the controversy shall be settled by arbitration conducted by a retired judge or justice from JAMS conducted in San Francisco, California, administered by and in accordance with the applicable JAMS commercial arbitration rules (“Arbitration”). The period commencing from the date of the written demand for mediation until the appointment of a mediator shall be included within the sixty (60) day mediation period. Any mediator(s) and arbitrator(s) shall have no affiliation with, financial or other interest in, or

prior employment with either Party and shall be knowledgeable in the field of the dispute. Either Party may initiate arbitration by filing with JAMS a notice of intent to arbitrate within sixty (60) calendar days of service of the written demand for mediation.

(e) Arbitration Procedures.

(i) At the request of a Party, the arbitrator shall have the discretion to order depositions of witnesses to the extent the arbitrator deems such discovery relevant and appropriate. Depositions shall be limited to a maximum of three (3) per Party and shall be held within thirty (30) calendar days of the making of a request. Additional depositions may be scheduled only with the permission of the arbitrator, and for good cause shown. Each deposition shall be limited to a maximum of six (6) hours duration unless otherwise permitted by the arbitrator for good cause shown. All objections are reserved for the arbitration hearing except for objections based on privilege and proprietary and confidential information. The arbitrator shall also have discretion to order the Parties to exchange relevant documents. The arbitrator shall also have discretion to order the Parties to answer interrogatories, upon good cause shown.

(ii) Each of the Parties shall submit to the arbitrator, in accordance with a schedule set by the arbitrator, offers in the form of the award it considers the arbitrator should make. If the arbitrator requires the Parties to submit more than one such offer, the arbitrator shall designate a deadline by which time the Parties shall submit their last and best offer. In such proceedings the arbitrator shall be limited to awarding only one of the two “last and best” offers submitted, and shall not determine an alternative or compromise remedy.

(iii) The arbitrator shall have no authority to award punitive or exemplary damages or any other damages other than direct and actual damages and the other damages contemplated by this Agreement, subject to the limitations set forth in Article IX “Liabilities of the Parties”.

(iv) The arbitrator’s award shall be made within nine (9) 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 San Francisco County Superior Court may enter judgment upon any award rendered by the arbitrator. The Parties are aware of the decision in *Advanced Micro Devices, Inc. v. Intel Corp.*, 9 Cal. 4th 362 (1994), and, except as modified by this Agreement, intend to limit the power of the arbitrator to that of a Superior Court judge enforcing California law. The prevailing Party in this dispute resolution process is entitled to recover its costs and reasonable attorneys’ fees.

(v) The arbitrator shall have the authority to grant dispositive motions prior to the commencement of or following the completion of discovery if the arbitrator concludes that there is no material issue of fact pending before the arbitrator.

(vi) Except as may be required by applicable Law or as necessary to obtain judicial enforcement as contemplated by clause (iv), neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

12.7. No Third Party Beneficiaries; Independent Parties.

(a) No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person that is not a party hereto any rights or remedies under or by reason of this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor give any third Persons any right of subrogation or action against any Party.

(b) Independent Parties. The relationship of the Parties is that of independent parties and not as agents of each other (except as expressly provided herein or in another agreement between the Parties) or as joint venturers or partners. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership, or impose a trust or partnership duty, obligation or liability on or with regard to any of the Parties. Each Party shall be individually responsible for its own duties and obligations under this Agreement, and shall maintain sole and exclusive control over its respective personnel and operations. Neither Party shall be under the control of or shall be deemed to control the other Party. Except as expressly provided in this Agreement or another agreement between the Parties, neither Party shall have a right or power to bind the other Party without its express written consent.

12.8. No Waiver. It is understood and agreed that no delay, waiver or omission by either Party to exercise any right or power arising from any breach or default by either Party with respect to any of the terms, provisions or covenants of this Agreement will be construed to be a waiver by either Party of any subsequent breach or default of the same or other terms, provisions or covenants on the part of either Party.

12.9. Cumulative Remedies. All rights and remedies of the Parties under this Agreement and the other Intercompany Service Agreements shall be cumulative and the exercise of one or more right or remedies shall not preclude the exercise of any other right or remedy available under this Agreement, the other Intercompany Service Agreements or applicable Law.

12.10. Survival. Notwithstanding any provisions herein to the contrary, the obligations set forth in Article VII "Insurance", Article VIII "Indemnification" and Article IX "Liabilities of the Parties", the limitations on liabilities set forth in Article IX "Liabilities of the Parties" and the provisions of Article XI "Confidentiality" will survive in full force the termination of this Agreement or the expiration of the Services Term.

12.11. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

12.12. Force Majeure. If either Party because of Force Majeure is delayed in performing or unable to perform its obligations under this Agreement, that Party will be excused from whatever performance is affected by the Force Majeure to the extent so affected, except as to payment obligations of PacGen to PG&E as provided in Article VI (which will continue unaffected, despite any Force Majeure); *provided* that:

(a) the non-performing Party, as soon as reasonably practicable, and in any case within 24 hours, after the non-performing Party obtains knowledge of the commencement of the Force Majeure, gives the other Party written notice describing the particulars of the Force Majeure;

(b) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

(c) the non-performing Party uses Commercially Reasonable Efforts to remedy its inability to perform;

(d) if PG&E is the affected Party, PG&E will have the right to apportion its efforts and personnel between services rendered to PG&E and to the affected Services in a manner that it determines in good faith to be equitable during the period of such Force Majeure;

(e) when the non-performing Party is able to resume performance of its obligations under this Agreement, that Party will immediately give the other Party written notice to that effect; and

(f) this Section 12.12 “Force Majeure” will not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes will be at the sole discretion of the Party subject to such matter.

12.13. Consent to Jurisdiction. EACH OF PG&E AND PACGEN CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA FOR ADJUDICATION OF A PRELIMINARY INJUNCTION OR OTHER PROVISIONAL JUDICIAL REMEDY OR OF A REMITTANCE CLAIM AS PROVIDED IN SECTION 12.6 “DISPUTE RESOLUTION”. EACH OF PG&E AND PACGEN ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. IF NOT A RESIDENT OF THE STATE OF CALIFORNIA, PACGEN MUST APPOINT AND MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA.

\* \* \* \* \*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written

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

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GENERATION LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:

*[Signature Page – Operations and Services Agreement]*

## **EXHIBIT A**

### **CERTAIN COST ASSIGNED SERVICES**

1. Operations and maintenance (O&M), and repair of hydroelectric, natural gas fired and solar generating facilities, and battery storage facilities.
2. Condition assessment of generation equipment and infrastructure, asset management, facility safety, and corrective actions management.
3. Water planning and management.
4. Engineering, technical training, documentation and records management, and generation security.
5. Project management, outage management, inspection, and contract management.
6. Facility construction.
7. Portfolio strategy and management, regulatory planning, and business and financial planning.
8. Hydro licensing, hydro license compliance management, recreation management, and regulatory permit acquisition and compliance.
9. Land and land rights acquisition, land disposition, land rights management, real property management, vegetation management, timber resources management, land surveying, Land Conservation Commitment implementation and compliance, and land use permit acquisition and compliance.
10. Corporate real estate and strategy and support.
11. Environmental remediation, hazardous materials management, water quality and air quality management, biological and cultural resources management, and environmental permit acquisition and compliance.
12. Aviation and transportation support.
13. Supply chain and materials support.
14. Information Technology (IT) systems and support.
15. Cyber security support.
16. Electric system protection.
17. Other support functions of PG&E with dedicated groups servicing Power Generation.
18. Planning, development and/or acquisition of new Generation Facilities and related services.
19. Energy policy and procurement and related services.

**EXHIBIT B**

**CERTAIN COST ALLOCATED SERVICES**

1. Human resources.
2. Finance – including cash management and other treasury services and insurance
3. Corporate affairs.
4. Corporate communications.
5. Safety and risk.
6. Information technology (IT).
7. Legal.
8. Compliance and ethics.



**EXHIBIT C**

**O&M Labor Factors and Unbundled Cost Categories**  
(see attached)

Operations and Maintenance (O&M) Labor Factors by UCC

| Line                       | Unbundled Cost Category (UCC)   | Years 2020-2024              |               |
|----------------------------|---|------------------------------|---------------|
|                            |   | 2020 Recorded Adjusted Labor |               |
|                            |   | (\$000)                      | %             |
| <b>Electric Department</b> |   |                              |               |
| 1                          | <b>EG - Power Generation - GRC</b>                                    | <b>367,750,506</b>           | <b>21.40%</b> |
| 2                          | EG - Fossil Facilities (Incl Gateway, Colusa & Humboldt for 2014 GRC) | 12,094,040                   | 0.70%         |
| 3                          | EG - Fossil Transmission  | 1,214,183                    | 0.07%         |
| 4                          | EG - Other Generation Solar   | 735,359                      | 0.04%         |
| 5                          | EG - Other Gen  | -                            | 0.00%         |
| 6                          | EG - Hydro Facilities (Incl Helms & Hydro Renewables Facilities)      | 83,423,903                   | 4.85%         |
| 7                          | EG - Hydro Transmission (Incl Helms & Hydro Renewables Transmission)  | 2,165,232                    | 0.13%         |
| 8                          | EG - Diablo Canyon Nuclear Generation Facilities                      | 238,635,264                  | 13.89%        |
| 9                          | EG - Diablo Canyon Nuclear Transmission                               | 1,143,981                    | 0.07%         |
| 10                         | EG - Electric Procurement (incl. QF & Other Power Payment Admin)      | 28,338,545                   | 1.65%         |
| 11                         | EG - Market Redesign Technology Update - MRTU                         | -                            | 0.00%         |
| 12                         | <b>EG - Power Generation - Non-GRC</b>                                | -                            | <b>0.00%</b>  |
| 13                         | EG - Humboldt Unit 3 SAFSTOR Costs (Expense)                          | -                            | 0.00%         |
| 14                         | <b>ET - Network Transmission</b>                                      | <b>163,475,701</b>           | <b>9.51%</b>  |
| 15                         | ET - High Voltage Network Facilities                                  | 59,191,812                   | 3.44%         |
| 16                         | ET - Low Voltage Network Facilities                                   | 104,283,889                  | 6.07%         |
| 17                         | <b>ET - Other Transmission</b>  | <b>1,219,000</b>             | <b>0.07%</b>  |
| 18                         | ET - Partnership Agreement Generation-Ties                            | -                            | 0.00%         |
| 19                         | ET - Third-Party Generation-Ties                                      | 1,219,000                    | 0.07%         |
| 20                         | <b>ED - Electric Distribution</b>                                     | <b>666,340,622</b>           | <b>38.77%</b> |
| 21                         | ED - Wires & Services   | 622,796,299                  | 36.24%        |
| 22                         | ED - Transmission-Level Direct Connects                               | 654,069                      | 0.04%         |
| 23                         | ED - Public Purpose Program Administration                            | 42,890,254                   | 2.50%         |
| 24                         | ED - SmartMeter Electric (Incl AMI)                                   | -                            | 0.00%         |
| 25                         | <b>Total</b>  | <b>1,198,785,829</b>         | <b>69.75%</b> |
| 26                         |   |                              |               |
| 27                         |   |                              |               |
| 28                         | <b>Gas Department</b>   |                              |               |
| 29                         | <b>GT - Gas Transmission and Storage</b>                              | <b>167,792,610</b>           | <b>9.76%</b>  |
| 30                         | GT - Gathering  | 1,175,644                    | 0.07%         |
| 31                         | GS - Storage Services - All (all allocated out)                       | -                            | 0.00%         |
| 32                         | GS - Storage Services - McDonald Island                               | 16,126,274                   | 0.94%         |
| 33                         | GS - Storage Services - Los Medanos/Pleasant Creek                    | -                            | 0.00%         |
| 34                         | GS - Storage Services - Gill Ranch                                    | -                            | 0.00%         |
| 35                         | GT - Local Transmission   | 129,071,750                  | 7.51%         |
| 36                         | GT - Transmission: Northern Path – Line 401                           | 1,039,897                    | 0.06%         |
| 37                         | GT - Transmission: Northern Path – Line 400                           | 3,071,725                    | 0.18%         |
| 38                         | GT - Transmission: Northern Path – Line 2                             | 164,124                      | 0.01%         |
| 39                         | GT - Transmission: Southern Path – Line 300 North Milpitas to Panoche | 3,238,830                    | 0.19%         |
| 40                         | GT - Transmission: Southern Path – Line 300 South Topock to Panoche   | 11,964,658                   | 0.70%         |
| 41                         | GT - Transmission: Bay Area Loop                                      | 1,939,708                    | 0.11%         |
| 42                         | GT - Customer Access Charge (CAC)                                     | -                            | 0.00%         |
| 43                         | <b>GD - Gas Distribution</b>  | <b>352,052,423</b>           | <b>20.48%</b> |
| 44                         | GD - Pipes and Services   | 336,738,483                  | 19.59%        |
| 45                         | GD - Gas Procurement  | 2,038,358                    | 0.12%         |
| 46                         | GD - Public Purpose Program Administration                            | 13,275,583                   | 0.77%         |
| 47                         | GD - SmartMeter Gas (Incl AMI)  | -                            | 0.00%         |
| 48                         | <b>Total</b>  | <b>519,845,033</b>           | <b>30.25%</b> |
| 49                         |   |                              |               |
| 50                         |   |                              |               |
| 51                         | <b>PG&amp;E Total O&amp;M Labor</b>                                   | <b>1,718,630,862</b>         |               |
| 52                         |   |                              |               |
| 53                         | <b>GRC Total O&amp;M Labor</b>  | <b>1,386,143,551</b>         | <b>80.65%</b> |
| 54                         |   |                              |               |
| 55                         | <b>GT&amp;S Total O&amp;M Labor</b>                                   | <b>167,792,610</b>           | <b>9.76%</b>  |
| 56                         |   |                              |               |
| 57                         | <b>GT&amp;S+GRC</b>   | <b>1,553,936,161</b>         | <b>90.42%</b> |

**EXHIBIT D**

**GENERATION FACILITIES**

| <b>Facility Type / Area</b>             | <b>Project Name</b>             |
|---|---------------------------------|
| Hydroelectric / Shasta Area             | Hat Creek                       |
|   | Pit #1                          |
|   | Pit #3, #4, #5                  |
|   | McCloud Pit                     |
|   | Battle Creek                    |
|   | Kilarc-Cow Creek                |
| Hydroelectric / DeSabra Area            | DeSabra-Centerville             |
|   | Miocene                         |
|   | Hamilton Branch                 |
|   | Upper North Fork Feather River  |
|   | Rock Creek-Cresta               |
|   | Bucks Creek                     |
|   | Poe                             |
| Potter Valley                           |                                 |
| Hydroelectric/Drum Area                 | Drum Spaulding                  |
| Hydroelectric / Motherlode Area         | Mokelumne River                 |
|   | Spring Gap-Stanislaus           |
|   | Phoenix                         |
| Hydroelectric / Kings-Crane Valley Area | Crane Valley                    |
|   | Kerckhoff                       |
|   | Haas-King                       |
|   | Balch                           |
| Hydroelectric / Helms Area              | Helms                           |
| Natural Gas                             | Colusa Generating Station       |
|   | Gateway Generating Station      |
|   | Humboldt Bay Generating Station |
| PV Solar                                | Vaca Dixon Solar Station        |
|   | Five Points Solar Station       |
|   | Stroud Solar Station            |
|   | Westside Solar Station          |
|   | Huron Solar Station             |
|   | Cantua Solar Station            |
|   | Giffen Solar Station            |
|   | Gates Solar Station             |
|   | West Gate Solar Station         |
|   | Guernsey Solar Station          |
| AT&T Park Solar Arrays                  |                                 |
| Battery                                 | Elkhorn Battery Storage         |

**PACIFIC GAS AND ELECTRIC COMPANY**  
**CHAPTER 4**  
**ATTACHMENT B**  
**GENERATION FACILITY OPERATIONS, SCHEDULING AND**  
**DISPATCH AGREEMENT**

**ATTACHMENT B**

**Draft as of March 17, 2023**

**GENERATION FACILITY OPERATIONS, SCHEDULING AND DISPATCH  
AGREEMENT**

**by and between**

**PACIFIC GAS AND ELECTRIC COMPANY**

**and**

**PACIFIC GENERATION LLC**

**[DATE]**

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**GENERATION FACILITY OPERATIONS, SCHEDULING AND DISPATCH  
AGREEMENT**

THIS GENERATION FACILITY OPERATIONS, SCHEDULING AND DISPATCH AGREEMENT (this “Agreement”) is made and entered into as of [●], by and between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (“PG&E”), and PACIFIC GENERATION LLC, a Delaware limited liability company (“PacGen”). Unless otherwise defined herein, capitalized terms used herein are defined in Section 1.1.

WHEREAS, concurrently herewith, at the closing of the transactions contemplated by that certain Separation Agreement between PacGen and PG&E dated as of [●] (the “Separation Agreement”), among other things, PG&E is contributing to PacGen, and PacGen is accepting, all of PG&E’s right, title and interest in and to the Generation Assets, and PG&E is assigning and PacGen is assuming certain of PG&E’s obligations and liabilities related to such Generation Assets, all in accordance with the terms and conditions set forth in the Separation Agreement and the agreements contemplated thereby;

WHEREAS, in connection with such contribution and assignment and as part of the separation of the Generation Business from PG&E and the establishment of PacGen as a separate entity and regulated utility, PG&E agrees to provide services to PacGen; and

WHEREAS, PG&E will provide all of the services necessary to operate, maintain, schedule and dispatch the Generation Facilities, and PacGen and PG&E desire to enter into this Agreement to set forth the terms and conditions upon which PG&E shall provide such services.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

**ARTICLE I  
DEFINITIONS**

1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below.

“Agreement” has the meaning set forth in the preamble.

“Arbitration” has the meaning set forth in Section 8.5(d).

“Business Day” means a day other than Saturday, Sunday or a day on which: (a) banks are required or permitted to be closed for business in the State of California, or (b) PG&E’s headquarters office is closed for business.

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

“CAISO Tariff” means the California Independent System Operator Corporation, Fifth Replacement FERC Electric Tariff (Open Access Transmission Tariff), as it may be amended, supplemented or replaced (in whole or in part) from time to time.

“Commencement Date” means [●].

“Commercially Reasonable Efforts” means efforts by a Party to perform its obligations under this Agreement that do not require the performing Party to expend any funds other than expenditures which are customary and reasonable in transactions of the kind and nature contemplated by this Agreement in order for the performing Party to satisfy its obligations hereunder.

“CPUC” means the California Public Utilities Commission, or its successor entity.

“Emergency” means any event or circumstance arising in the course of the operation and maintenance of a Generation Facility or any Unit thereof that (a) requires prompt action, and (b) in the opinion of PG&E could be expected to (i) endanger the health or safety of any person at or in the vicinity of the site of such Generation Facility, (ii) have an adverse effect on such Generation Facility, any Unit thereof, or any other material property at, on, or in the vicinity of such Generation Facility, or (iii) have an adverse effect on PG&E System Integrity.

“Emergency Services” has the meaning set forth in Section 3.2(b).

“Executive(s)” has the meaning set forth in Section 8.5(b).

“FERC” means the Federal Energy Regulatory Commission, or its successor entity.

“FERC’s Standards of Conduct” means 18 C.F.R. Part 358, as amended from time to time.

“Force Majeure” means any occurrence beyond the reasonable control of the Party claiming Force Majeure that causes, in whole or in part, the Party to be delayed in performing or unable to perform its obligations. Such an occurrence may include fires, floods, severe weather, earthquakes or other acts of God, explosion, civil disorder, strike, lockout or other labor trouble, material shortages of utilities, facilities, labor, fuel, materials or equipment, delay in transportation, breakdown or accident, riot, war, epidemic or pandemic (including the COVID-19 pandemic), any Law or any actions or inactions by any Governmental Authority.

“Generation Assets” has the meaning set forth in the Separation Agreement.

“Generation Business” means PacGen’s business of the generation or emission of electricity from owned assets regulated by the CPUC on the basis of cost, including hydroelectric, natural gas-fired and solar generation facilities and the storage of electricity in battery and other energy storage systems as conducted by PG&E immediately prior to the Commencement Date, and as conducted or permitted to be conducted by PacGen from and after the Commencement Date.

“Generation Facilities” means all of the electric generation facilities and energy storage systems owned by PacGen from time to time.



“Generation Facility Services” has the meaning set forth in Section 2.1(a).

“Good Utility Practice” has the meaning set forth in the CAISO Tariff or, in the event that no operative CAISO Tariff is in effect, the meaning set forth in the most recent operative CAISO Tariff.

“Governmental Authority” means any Federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority or quasi-governmental authority (including, for the avoidance of doubt, CAISO).

“Independent Engineer” means the engineering firm that is mutually acceptable to the Parties and is retained by the Parties to serve as the independent engineer. The Independent Engineer must be nationally recognized as an expert in the electric industry.

“Initial Negotiation End Date” has the meaning set forth in Section 8.5(b).

“Law” means any statute, law, treaty, rule, regulation, applicable regulatory guidance document, ordinance, code, permit, license condition, agency agreement, 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 Commencement Date, or which become effective after the Commencement Date, or any binding interpretation of the foregoing.

“Manager” has the meaning set forth in Section 8.5(b).

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

“PacGen” has the meaning set forth in the preamble.

“Party” means PG&E or PacGen individually, as the context requires; and “Parties” means both collectively.

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization or any Governmental Authority.

“PG&E” has the meaning set forth in the preamble.

“PG&E System” means the electric transmission and distribution system and associated facilities and equipment owned by PG&E.

“PG&E System Integrity” means the state of operation of the PG&E System in a manner that is reasonably determined by PG&E or the CAISO to minimize the risk of injury to persons and/or property and enables PG&E to (i) provide adequate and reliable electric service to customers purchasing power and related services from the PG&E System, and (ii) operate and maintain the PG&E System in a manner so as to have no material adverse effect on any other interconnected transmission system or systems.

“Referral Date” has the meaning set forth in Section 8.5(b).

“Scheduling Coordinator” means an entity certified by 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” in Section 4.5 of the CAISO Tariff, as amended from time to time.

“Separation Agreement” has the meaning set forth in the recitals.

“Services Term” means the period commencing on the Commencement Date and ending (i) with respect to Generation Facility Services provided or to be provided with respect to a Generation Facility, on the date of the divestiture, sale, transfer, disposition or decommissioning of such Generation Facility, and (ii) with respect to the provision of Generation Facility Services generally to PacGen pursuant to this Agreement, on the date of the divestiture, sale, transfer, disposition or decommissioning of the last Generation Facility.

“Unit” means each of the generating units comprising each of the Generation Facilities, together with such generating unit’s related structures and support equipment.

“WECC” means the Western Electricity Coordinating Council, or its successor agency.

1.2. Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (c) reference to any gender includes all genders;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; *provided, however*, that if the approval of a Party is required for any such amendment or modification pursuant to this Agreement, references to the applicable document, instrument or agreement means only such document, instrument or agreement that has received such Party’s approval;
- (e) reference to any Article or Section means such Article or Section of this Agreement, and references in any Article, Section or definition to any clause means such clause of such Article, Section or definition;
- (f) “hereunder”, “hereof”, “hereto” and words of similar import are references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;
- (g) “including” (and with correlative meaning “include”) means “including without limitation”;

(h) the word “or” shall be used in the inclusive sense of “and/or” and not exclusive;

(i) reference to a 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 time and ending at 12:00:00 midnight Pacific time; *provided* that a day may be 23 or 25 hours on those days on which daylight savings begins and ends;

(j) when an action is required to be completed on a Business Day, such action must be completed prior to 5:00 p.m. Pacific time on such day, and actions occurring after 5:00 p.m. will be deemed to have occurred on the following Business Day;

(k) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”;

(l) reference to any Law (including statutes and ordinances) means such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder;

(m) reference to “\$” and dollars shall be deemed to refer to United States currency; and

(n) reference to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable.

## **ARTICLE II AUTHORIZATION**

2.1. Delegation of Authority. Subject to the limitations of PG&E’s authority set forth in this Agreement, including the performance standards set forth in Article IV:

(a) Authority to Perform the Generation Facility Services. PacGen hereby delegates to PG&E the authority to (i) operate, maintain, schedule, and dispatch the Generation Facilities (as further described in Section 3.1 below, the “Generation Facility Services”) during the Services Term and (ii) incur expenses and expend funds on behalf of PacGen in the performance of the Generation Facility Services during the Services Term.

(b) Agency. PacGen hereby appoints PG&E as its agent for purposes of performing the Generation Facility Services during the Services Term and authorizes PG&E to enter into, amend or supplement agreements on behalf of PacGen in connection with the performance of the Generation Facility Services during the Services Term.

2.2. Appointment as Scheduling Coordinator.

(a) PacGen hereby appoints PG&E, and PG&E accepts such appointment, to act as the Scheduling Coordinator for the Generation Facilities during the Services Term.

(b) During the Services Term, PG&E shall be entitled to exercise all rights and obligations on behalf of PacGen that are included in the responsibilities of the Scheduling Coordinator under the CAISO Tariff, including reviewing CAISO accounts related to the Generation Facilities and discussing and/or resolving disputes related thereto with CAISO.

(c) PacGen shall take all actions and execute and deliver to PG&E all documents necessary to authorize or designate PG&E as PacGen's Scheduling Coordinator, and PG&E shall take all actions and execute and deliver to PacGen or CAISO all documents necessary to become and act as PacGen's Scheduling Coordinator.

(d) During the Services Term, PacGen shall not authorize or designate any Person to act as Scheduling Coordinator other than PG&E, nor shall PacGen perform, for its own benefit, the duties of Scheduling Coordinator.

### **ARTICLE III SERVICES**

3.1. Scope. The Generation Facility Services to be performed by PG&E shall include all necessary activities for the operation, maintenance, scheduling and dispatch of the Generation Facilities. Without limitation to the foregoing, the Generation Facility Services shall include:

(a) all services performed by a Scheduling Coordinator, including as set forth in this Agreement;

(b) the procurement of all fuel and energy necessary for the operation of the Generation Facilities, including purchase of energy required to charge batteries, pump water for storage, or facilitate the operation of other energy storage systems.

(c) the maintenance of the Generation Facilities;

(d) bidding, scheduling and dispatching the Generation Facilities as part of PG&E's integrated resource portfolio and consistent with PG&E's dispatch principles;

(e) the operation of the Generation Facilities and the planning, scheduling and declaration of outages with respect to the Generation Facilities, including planned, unplanned and forced outages;

(f) contracting for and performing, as agent for PacGen, all contracts and agreements necessary for the operation, maintenance, scheduling and dispatch of the Generation Facilities; and

(g) entering into on behalf of PacGen agreements for the purchase and sale of energy, capacity, ancillary services, and renewable energy credits or similar products, in each case associated with the Generation Facilities.

3.2. Right of PG&E to Respond to Emergency. If an Emergency occurs:

(a) PG&E will, as soon as reasonably practicable after it becomes aware, notify PacGen of such Emergency;

(b) PG&E may take such prompt action as PG&E deems reasonably necessary to prevent or minimize any actual or threatened damage, injury, outage or loss or to commence repair of any actual damage, injury, outage or loss, whether or not such action would otherwise be outside the scope of PG&E's express authority under this Agreement and which action may deviate from the manner in which PG&E provides Generation Facility Services in the absence of such Emergency, as reasonably determined to be necessary by PG&E in its sole discretion (such action, "Emergency Services"); and

(c) PacGen will cooperate with PG&E to facilitate such Emergency Services, in an effort to safely and expediently remedy the Emergency. PG&E and PacGen will develop a response strategy, including the appointment of an emergency response team.

#### **ARTICLE IV PERFORMANCE STANDARDS**

4.1. Performance Standards. PG&E shall perform the Generation Facility Services in compliance with all applicable (i) Laws, (ii) operating policies, criteria, rules, guidelines, tariffs and protocols of FERC and CAISO, (iii) WECC scheduling practices, and (iv) NERC requirements; and consistent with Good Utility Practice.

#### **ARTICLE V SEPARATION OF FUNCTIONS**

5.1. FERC's Standards of Conduct. PG&E is required to maintain the separation of its transmission and merchant functions pursuant to FERC's Standards of Conduct. The Parties acknowledge that (i) the Generation Facility Services provided under this Agreement include the performance by PG&E on behalf of PacGen of certain merchant functions covered under FERC's Standards of Conduct, and (ii) this Agreement is between PacGen and PG&E in PG&E's capacity as provider of the Generation Facility Services as distinct from the function of PG&E as a transmission owner or gas local distribution company. Accordingly, the Parties further acknowledge that they have no rights against each other or obligations to each other under this Agreement with respect to any relationship between the Parties in which PG&E is acting in its capacity as owner or provider of electrical interconnection, distribution or transmission service, or as a gas local distribution company.

#### **ARTICLE VI FORCE MAJEURE**

6.1. Force Majeure. If either Party because of Force Majeure is delayed in performing or unable to perform its obligations under this Agreement, that Party will be excused from whatever performance is affected by the Force Majeure to the extent so affected, except as to payment obligations of PacGen to PG&E as provided in Section 7.1 (which will continue unaffected, despite any Force Majeure); provided that:

(a) the non-performing Party, as soon as reasonably practicable, and in any case within 24 hours, after the non-performing Party obtains knowledge of the commencement of the Force Majeure, gives the other Party written notice describing the particulars of the Force Majeure;

(b) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

(c) the non-performing Party uses Commercially Reasonable Efforts to remedy its inability to perform;

(d) if PG&E is the affected Party, PG&E will have the right to apportion its efforts and personnel between services rendered to PG&E and to the affected Generation Facility Services in a manner that it determines in good faith to be equitable during the period of such Force Majeure;

(e) when the non-performing Party is able to resume performance of its obligations under this Agreement, that Party will immediately give the other Party written notice to that effect; and

(f) this Article VI “Force Majeure” will not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes will be at the sole discretion of the Party subject to such matter.

## **ARTICLE VII COSTS**

7.1. Costs. PG&E will perform the Generation Facility Services at cost. As such all direct unaffiliated third-party costs and shares of PG&E’s internal costs shall be allocated consistent with CPUC or FERC cost of service principles, as the case may be.

## **ARTICLE VIII MISCELLANEOUS**

8.1. Notices. All notices, requests, consents and other communications under this Agreement must be in writing and shall be deemed to have been duly given and effective (a) immediately (or, if not delivered before 5:00 p.m. San Francisco, California time on a Business Day, the next Business Day) if delivered by electronic mail (with confirmation of transmission) and if a hard copy is delivered by overnight delivery service the next Business Day, (b) on the date of delivery if by hand delivery (with confirmation of receipt) (or, if not delivered on a Business Day, the next Business Day) or (c) on the first Business Day following the date of dispatch (or, if not sent on a Business Day, the next Business Day after the date of dispatch) if sent by overnight service with a nationally recognized overnight delivery service (all fees prepaid). All notices shall be delivered to the following addresses, or such other addresses as may hereafter be designated in writing by a party to the other party:

Notices to PG&E:

Pacific Gas and Electric Company  
300 Lakeside Drive  
Oakland, CA 94612  
Attention: [●]  
Email: [●]

Notices to PacGen:

Pacific Generation LLC  
300 Lakeside Drive, 25<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: [*President of the Company*]  
E-mail: [●]

8.2. Successors and Assigns; Amendments. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective.

8.3. Severability; Interpretation. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, each of PacGen and PG&E confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Person. The captions used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

8.4. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA (WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF) AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

8.5. Dispute Resolution.

(a) 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 is the dispute resolution procedure set forth in this Section 8.5. Notwithstanding the preceding sentence, either Party hereto



may seek injunctive relief with respect to this Agreement or other provisional judicial remedy if such action is necessary to prevent irreparable harm, in which case both parties hereto nonetheless shall continue to pursue resolution of the dispute by means of the procedures set forth below in this Section 8.5.

(b) Management Negotiations.

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

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

(iii) Except to the limited extent of disclosure necessary to prove compliance or noncompliance with the required procedures set forth in this Section 8.5, all communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process between the Parties.

(iv) If the matter is not resolved within forty-five (45) calendar days of the Referral Date, or if the Party receiving the written request to meet, pursuant to Section 8.5(b)(i), refuses or does not meet within the ten (10) Business Day period specified in Section 8.5(b)(i), either Party may initiate mediation of the controversy or claim according to the terms of the following Section 8.5(d).

(c) Independent Engineer. If a dispute or claim arising out of or relating to Article III or Article IV cannot be so resolved by negotiation as set forth in Section 8.5(b) above, the Parties will attempt in good faith to resolve any such dispute or claim by promptly submitting the dispute or claim to the Independent Engineer for resolution; provided that if the Parties mutually agree that, due to the type or nature of the dispute or claim at issue, the opinion of an Independent Engineer would have no bearing on the resolution of such claim or dispute, this Section 8.5(c) shall not apply. Either Party may refer a dispute to the Independent Engineer by giving notice to the other Party within 30 days after obtaining knowledge of the event or circumstance in dispute. The notice will include a statement of the matter in controversy. The



Independent Engineer will determine the time, place, rules and procedures it believes are necessary to resolve the dispute. The Independent Engineer will report its determination to the Parties in writing within 30 days after the date the dispute is submitted to the Independent Engineer for resolution. Either Party may challenge the determination of the Independent Engineer by initiating binding arbitration pursuant to Section 8.5(e), and pending resolution of the dispute pursuant to Section 8.5(e), the determination by the Independent Engineer under this Section 8.5(c) will be binding upon the Parties. The Parties will each pay an equal share of the fees and expenses of the Independent Engineer. The Independent Engineer will not be replaced unless: (i) the Person then appointed as the Independent Engineer hereunder resigns; or (ii) both Parties agree to replace the Independent Engineer with another Person.

(d) Mediation and Arbitration. If the dispute cannot be so resolved by negotiation as set forth in Section 8.5(b) or Section 8.5(c) above, it shall be resolved at the request of either Party through a two-step dispute resolution process administered by JAMS. As the first step the Parties agree to mediate any controversy before a mediator from JAMS, pursuant to the applicable JAMS commercial mediation rules, in San Francisco, California. Either Party may begin mediation by serving a written demand for mediation. The mediator shall not have the authority to require, and neither Party may be compelled to engage in, any form of discovery prior to or in connection with the mediation. If within sixty (60) calendar days after service of a written demand for mediation, the mediation does not result in resolution of the dispute, then the controversy shall be settled by arbitration conducted by a retired judge or justice from JAMS conducted in San Francisco, California, administered by and in accordance with the applicable JAMS commercial arbitration rules (“Arbitration”). The period commencing from the date of the written demand for mediation until the appointment of a mediator shall be included within the sixty (60) day mediation period. Any mediator(s) and arbitrator(s) shall have no affiliation with, financial or other interest in, or prior employment with either Party and shall be knowledgeable in the field of the dispute. Either Party may initiate arbitration by filing with JAMS a notice of intent to arbitrate within sixty (60) calendar days of service of the written demand for mediation.

(e) Arbitration Procedures.

(i) At the request of a Party, the arbitrator shall have the discretion to order depositions of witnesses to the extent the arbitrator deems such discovery relevant and appropriate. Depositions shall be limited to a maximum of three (3) per Party and shall be held within thirty (30) calendar days of the making of a request. Additional depositions may be scheduled only with the permission of the arbitrator, and for good cause shown. Each deposition shall be limited to a maximum of six (6) hours duration unless otherwise permitted by the arbitrator for good cause shown. All objections are reserved for the arbitration hearing except for objections based on privilege and proprietary and confidential information. The arbitrator shall also have discretion to order the Parties to exchange relevant documents. The arbitrator shall also have discretion to order the Parties to answer interrogatories, upon good cause shown.

(ii) Each of the Parties shall submit to the arbitrator, in accordance with a schedule set by the arbitrator, offers in the form of the award it considers the arbitrator should make. If the arbitrator requires the Parties to submit more than one such offer, the arbitrator shall designate a deadline by which time the Parties shall submit their last and best offer. In such

proceedings the arbitrator shall be limited to awarding only one of the two “last and best” offers submitted, and shall not determine an alternative or compromise remedy.

(iii) The arbitrator shall have no authority to award punitive or exemplary damages or any other damages other than direct and actual damages and the other damages contemplated by this Agreement, subject to the limitations otherwise agreed by the Parties.

(iv) The arbitrator’s award shall be made within nine (9) 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 San Francisco County Superior Court may enter judgment upon any award rendered by the arbitrator. The Parties are aware of the decision in *Advanced Micro Devices, Inc. v. Intel Corp.*, 9 Cal. 4th 362 (1994), and, except as modified by this Agreement, intend to limit the power of the arbitrator to that of a Superior Court judge enforcing California law. The prevailing Party in this dispute resolution process is entitled to recover its costs and reasonable attorneys’ fees.

(v) The arbitrator shall have the authority to grant dispositive motions prior to the commencement of or following the completion of discovery if the arbitrator concludes that there is no material issue of fact pending before the arbitrator.

(vi) Except as may be required by applicable Law or as necessary to obtain judicial enforcement as contemplated by clause (iv), neither Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

#### 8.6. No Third Party Beneficiaries; Independent Parties.

(a) No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person that is not a party hereto any rights or remedies under or by reason of this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor give any third Persons any right of subrogation or action against any Party.

(b) Independent Parties. The relationship of the Parties is that of independent parties and not as agents of each other (except as expressly provided herein) or as joint venturers or partners. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership, or impose a trust or partnership duty, obligation or liability on or with regard to any of the Parties. Each Party shall be individually responsible for its own duties and obligations under this Agreement, and shall maintain sole and exclusive control over its respective personnel and operations. Neither Party shall be under the control of or shall be deemed to control the other Party. Except as expressly provided in this Agreement, neither Party shall have a right or power to bind the other Party without its express written consent.

8.7. No Waiver. It is understood and agreed that no delay, waiver or omission by either Party to exercise any right or power arising from any breach or default by either Party with

respect to any of the terms, provisions or covenants of this Agreement will be construed to be a waiver by either Party of any subsequent breach or default of the same or other terms, provisions or covenants on the part of either Party.

8.8. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative and the exercise of one or more right or remedies shall not preclude the exercise of any other right or remedy available under this Agreement or applicable Law.

8.9. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

8.10. Consent to Jurisdiction. EACH OF PG&E AND PACGEN CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA FOR ADJUDICATION OF A PRELIMINARY INJUNCTION OR OTHER PROVISIONAL JUDICIAL REMEDY AS PROVIDED IN SECTION 8.5. EACH OF PG&E AND PACGEN ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. IF NOT A RESIDENT OF THE STATE OF CALIFORNIA, PACGEN MUST APPOINT AND MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA.

\* \* \* \* \*

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first above written

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

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GENERATION LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GAS AND ELECTRIC COMPANY**  
**CHAPTER 4**  
**ATTACHMENT C**  
**INTERCONNECTION AGREEMENTS**

**Appendix V**

**STANDARD LARGE GENERATOR INTERCONNECTION AGREEMENT**

**[INTERCONNECTION CUSTOMER]**

**[PARTICIPATING TO]**

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

THIS STANDARD LARGE GENERATOR INTERCONNECTION AGREEMENT ("LGIA") is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and among \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State/Commonwealth of \_\_\_\_\_ ("Interconnection Customer" with a Large Generating Facility), \_\_\_\_\_, a corporation organized and existing under the laws of the State of California ("Participating TO"), and California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California ("CAISO"). Interconnection Customer, Participating TO, and CAISO each may be referred to as a "Party" or collectively as the "Parties."

**RECITALS**

**WHEREAS**, CAISO exercises Operational Control over the CAISO Controlled Grid; and

**WHEREAS**, the Participating TO owns, operates, and maintains the Participating TO's Transmission System; and

**WHEREAS**, Interconnection Customer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this LGIA; and

**WHEREAS**, Interconnection Customer, Participating TO, and CAISO have agreed to enter into this LGIA for the purpose of interconnecting the Large Generating Facility with the Participating TO's Transmission System;

**NOW, THEREFORE**, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this LGIA, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used.

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**Article 1. Definitions**

**Adverse System Impact** shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of the electric system.

**Affected System** shall mean an electric system other than the CAISO Controlled Grid that may be affected by the proposed interconnection, including the Participating TO's electric system that is not part of the CAISO Controlled Grid.

**Affiliate** shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Applicable Reliability Council** shall mean the Western Electricity Coordinating Council or its successor.

**Applicable Reliability Standards** shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Balancing Authority Area of the Participating TO's Transmission System to which the Generating Facility is directly connected, including requirements adopted pursuant to Section 215 of the Federal Power Act.

**Balancing Authority** shall mean the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.

**Balancing Authority Area** shall mean the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

**Base Case** shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies.

**Breach** shall mean the failure of a Party to perform or observe any material term or condition of this LGIA.

**Breaching Party** shall mean a Party that is in Breach of this LGIA.

**Business Day** shall mean Monday through Friday, excluding federal holidays and the day after Thanksgiving Day.

**Calendar Day** shall mean any day including Saturday, Sunday or a federal holiday.

**Commercial Operation** shall mean the status of an Electric Generating Unit at a Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

**Commercial Operation Date of an Electric Generating Unit** shall mean the date on which the Electric Generating Unit at the Generating Facility commences Commercial Operation as agreed to by the applicable Participating TO and the Interconnection Customer pursuant to Appendix E to

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this LGIA.

**Confidential Information** shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, subject to Article 22.1.2.

**Default** shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of this LGIA.

**Distribution System** shall mean those non-CAISO-controlled transmission and distribution facilities owned by the Participating TO.

**Distribution Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Distribution System. Distribution Upgrades do not include Interconnection Facilities.

**Effective Date** shall mean the date on which this LGIA becomes effective upon execution by the Parties subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC.

**Electric Generating Unit** shall mean an individual electric generator and its associated plant and apparatus whose electrical output is capable of being separately identified and metered.

**Emergency Condition** shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the CAISO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the CAISO Controlled Grid or the electric systems of others to which the CAISO Controlled Grid is directly connected; (3) that, in the case of the Participating TO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Participating TO's Transmission System, Participating TO's Interconnection Facilities, Distribution System, or the electric systems of others to which the Participating TO's electric system is directly connected; or (4) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided, that Interconnection Customer is not obligated by this LGIA to possess black start capability.

**Environmental Law** shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

**Federal Power Act** shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq.

**FERC** shall mean the Federal Energy Regulatory Commission or its successor.

**Force Majeure** shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

**Generating Facility** shall mean the Interconnection Customer's Electric Generating Unit(s) used for the production of electricity identified in the Interconnection Customer's Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.



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**Generating Facility Capacity** shall mean the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.

**Good Utility Practice** shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** shall mean any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, CAISO, Participating TO, or any Affiliate thereof.

**Hazardous Substances** shall mean any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

**Initial Synchronization Date** shall mean the date upon which an Electric Generating Unit is initially synchronized and upon which Trial Operation begins.

**In-Service Date** shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Participating TO's Interconnection Facilities to obtain back feed power.

**Interconnection Customer's Interconnection Facilities** shall mean all facilities and equipment, as identified in Appendix A of this LGIA, that are located between the Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Participating TO's Transmission System. Interconnection Customer's Interconnection Facilities are sole use facilities.

**Interconnection Facilities** shall mean the Participating TO's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Participating TO's Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Interconnection Facilities Study** shall mean the study conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), or a third party consultant for the Interconnection Customer to determine a list of facilities (including the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades), the cost of those facilities, and the time required to interconnect the Generating Facility with the Participating TO's

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Transmission System.

**Interconnection Facilities Study Agreement** shall mean the agreement between the Interconnection Customer and the CAISO for conducting the Interconnection Facilities Study.

**Interconnection Feasibility Study** shall mean the preliminary evaluation conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), or a third party consultant for the Interconnection Customer of the system impact and cost of interconnecting the Generating Facility to the Participating TO's Transmission System.

**Interconnection Handbook** shall mean a handbook, developed by the Participating TO and posted on the Participating TO's web site or otherwise made available by the Participating TO, describing technical and operational requirements for wholesale generators and loads connected to the Participating TO's portion of the CAISO Controlled Grid, as such handbook may be modified or superseded from time to time. Participating TO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and Applicable Reliability Standards. In the event of a conflict between the terms of this LGIA and the terms of the Participating TO's Interconnection Handbook, the terms in this LGIA shall apply.

**Interconnection Request** shall mean a request, in the form of Appendix 1 to the Standard Large Generator Interconnection Procedures, in accordance with the CAISO Tariff.

**Interconnection Service** shall mean the service provided by the Participating TO and CAISO associated with interconnecting the Interconnection Customer's Generating Facility to the Participating TO's Transmission System and enabling the CAISO Controlled Grid to receive electric energy and capacity from the Generating Facility at the Point of Interconnection, pursuant to the terms of this LGIA, the Participating TO's Transmission Owner Tariff, and the CAISO Tariff.

**Interconnection Study** shall mean any of the following studies: the Interconnection Feasibility Study, the Interconnection System Impact Study, and the Interconnection Facilities Study conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), or a third party consultant for the Interconnection Customer pursuant to the Standard Large Generator Interconnection Procedures.

**Interconnection System Impact Study** shall mean the engineering study conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), or a third party consultant for the Interconnection Customer that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if the Generating Facility were interconnected without project modifications or system modifications, focusing on the Adverse System Impacts identified in the Interconnection Feasibility Study, or to study potential impacts, including but not limited to those identified in the Scoping Meeting as described in the Standard Large Generator Interconnection Procedures.

**IRS** shall mean the Internal Revenue Service.

**CAISO Controlled Grid** shall mean the system of transmission lines and associated facilities of the parties to the Transmission Control Agreement that have been placed under the CAISO's Operational Control.

**CAISO Tariff** shall mean the CAISO's tariff, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

**Large Generating Facility** shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

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**Loss** shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

**Material Modification** shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.

**Metering Equipment** shall mean all metering equipment installed or to be installed for measuring the output of the Generating Facility pursuant to this LGIA at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

**NERC** shall mean the North American Electric Reliability Corporation or its successor organization.

**Net Scheduled Generating Unit** shall mean an Electric Generating Unit identified in a Net Scheduled PGA operated as a single unit such that the energy bid or self-schedule with the CAISO is the net value of the aggregate electrical net output of the Electric Generating Unit and the self-provided load.

**Net Scheduled PGA** shall mean a Net Scheduled Participating Generator Agreement specifying the special provisions for the operating relationship between a Net Scheduled Generating Unit and the CAISO, a pro forma version of which is set forth in Appendix B.3 of the CAISO Tariff.

**Network Upgrades** shall be Participating TO's Delivery Network Upgrades and Participating TO's Reliability Network Upgrades.

**Operational Control** shall mean the rights of the CAISO under the Transmission Control Agreement and the CAISO Tariff to direct the parties to the Transmission Control Agreement how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting applicable reliability criteria.

**Participating TO's Delivery Network Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, other than Reliability Network Upgrades, identified in the Interconnection Studies, as identified in Appendix A, to relieve constraints on the CAISO Controlled Grid.

**Participating TO's Interconnection Facilities** shall mean all facilities and equipment owned, controlled or operated by the Participating TO from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to this LGIA, including any modifications, additions or upgrades to such facilities and equipment. Participating TO's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Participating TO's Reliability Network Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, identified in the Interconnection Studies, as identified in Appendix A, necessary to interconnect the Large Generating Facility safely and reliably to the Participating TO's Transmission System, which would not have been necessary but for the interconnection of the Large Generating Facility, including additions, modifications, and upgrades necessary to remedy short circuit or stability problems resulting from the interconnection of the Large Generating Facility to the Participating TO's Transmission System. Participating TO's Reliability Network Upgrades also include, consistent with Applicable Reliability Council practice, the Participating

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TO's facilities necessary to mitigate any adverse impact the Large Generating Facility's interconnection may have on a path's Applicable Reliability Council rating.

**Participating TO's Transmission System** shall mean the facilities owned and operated by the Participating TO and that have been placed under the CAISO's Operational Control, which facilities form part of the CAISO Controlled Grid.

**Party or Parties** shall mean the Participating TO, CAISO, Interconnection Customer or the applicable combination of the above.

**Point of Change of Ownership** shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Customer's Interconnection Facilities connect to the Participating TO's Interconnection Facilities.

**Point of Interconnection** shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Facilities connect to the Participating TO's Transmission System.

**Reasonable Efforts** shall mean, with respect to an action required to be attempted or taken by a Party under this LGIA, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Scoping Meeting** shall mean the meeting among representatives of the Interconnection Customer, the Participating TO(s), other Affected Systems, and the CAISO conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

**Stand Alone Network Upgrades** shall mean Network Upgrades that the Interconnection Customer may construct without affecting day-to-day operations of the CAISO Controlled Grid or Affected Systems during their construction. The Participating TO, the CAISO, and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to this LGIA.

**Standard Large Generator Interconnection Procedures (LGIP)** shall mean the CAISO protocol that sets forth the interconnection procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that is included in CAISO Tariff Appendix U.

**System Protection Facilities** shall mean the equipment, including necessary protection signal communications equipment, that protects (1) the Participating TO's Transmission System, Participating TO's Interconnection Facilities, CAISO Controlled Grid, and Affected Systems from faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the CAISO Controlled Grid, Participating TO's Interconnection Facilities, and Affected Systems or on other delivery systems or other generating systems to which the CAISO Controlled Grid is directly connected.

**Transmission Control Agreement** shall mean CAISO FERC Electric Tariff No. 7.

**Trial Operation** shall mean the period during which the Interconnection Customer is engaged in on-site test operations and commissioning of an Electric Generating Unit prior to Commercial Operation.

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**Article 2. Effective Date and Term**

- 2.1 Effective Date.** This LGIA shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC. The CAISO and Participating TO shall promptly file this LGIA with FERC upon execution in accordance with Article 3.1, if required.
- 2.2 Term of Agreement.** Subject to the provisions of Article 2.3, this LGIA shall remain in effect for a period of \_\_\_\_ years from the Effective Date (Term Specified in Individual Agreements to be ten (10) years or such other longer period as the Interconnection Customer may request) and shall be automatically renewed for each successive one-year period thereafter.
- 2.3 Termination Procedures.**
- 2.3.1 Written Notice.** This LGIA may be terminated by the Interconnection Customer after giving the CAISO and the Participating TO ninety (90) Calendar Days advance written notice, or by the CAISO and the Participating TO notifying FERC after the Generating Facility permanently ceases Commercial Operation.
- 2.3.2 Default.** A Party may terminate this LGIA in accordance with Article 17.
- 2.3.3 Suspension of Work.** This LGIA may be deemed terminated in accordance with Article 5.16.
- 2.3.4** Notwithstanding Articles 2.3.1, 2.3.2, and 2.3.3, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this LGIA, which notice has been accepted for filing by FERC.
- 2.4 Termination Costs.** If this LGIA terminates pursuant to Article 2.3 above, the Interconnection Customer shall pay all costs incurred or irrevocably committed to be incurred in association with the Interconnection Customer's interconnection (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) and other expenses, including any Network Upgrades and Distribution Upgrades for which the Participating TO or CAISO has incurred expenses or has irrevocably committed to incur expenses and has not been reimbursed by the Interconnection Customer, as of the date of the other Parties' receipt of the notice of termination, subject to the limitations set forth in this Article 2.4. Nothing in this Article 2.4 shall limit the Parties' rights under Article 17.
- 2.4.1** Notwithstanding the foregoing, in the event of termination by a Party, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. With respect to any portion of the Participating TO's Interconnection Facilities that have not yet been constructed or installed, the Participating TO shall to the extent possible and with the Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event the Interconnection Customer elects not to authorize such cancellation, the Interconnection Customer shall assume all payment obligations with respect to such materials, equipment, and contracts, and the Participating TO shall deliver such material and equipment, and, if necessary, assign such contracts, to the Interconnection Customer as soon as practicable, at the Interconnection Customer's expense. To the extent that the Interconnection Customer has already paid the Participating TO for any or all such costs of materials or equipment not taken by the Interconnection Customer, the Participating TO shall promptly refund such amounts to the Interconnection Customer, less any costs, including penalties, incurred by the Participating TO to cancel any pending orders of or return such materials, equipment, or contracts.



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- 2.4.2** The Participating TO may, at its option, retain any portion of such materials, equipment, or facilities that the Interconnection Customer chooses not to accept delivery of, in which case the Participating TO shall be responsible for all costs associated with procuring such materials, equipment, or facilities.
- 2.4.3** With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.
- 2.5** **Disconnection.** Upon termination of this LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Participating TO's Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this LGIA or such non-terminating Party otherwise is responsible for these costs under this LGIA.
- 2.6** **Survival.** This LGIA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this LGIA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this LGIA was in effect; and to permit each Party to have access to the lands of the other Parties pursuant to this LGIA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

**Article 3. Regulatory Filings and CAISO Tariff Compliance**

- 3.1** **Filing.** The Participating TO and the CAISO shall file this LGIA (and any amendment hereto) with the appropriate Governmental Authority(ies), if required. The Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Article 22. If the Interconnection Customer has executed this LGIA, or any amendment thereto, the Interconnection Customer shall reasonably cooperate with the Participating TO and CAISO with respect to such filing and to provide any information reasonably requested by the Participating TO or CAISO needed to comply with applicable regulatory requirements.
- 3.2** **Agreement Subject to CAISO Tariff.** The Interconnection Customer will comply with all applicable provisions of the CAISO Tariff, including the LGIP.
- 3.3** **Relationship Between this LGIA and the CAISO Tariff.** With regard to rights and obligations between the Participating TO and the Interconnection Customer, if and to the extent a matter is specifically addressed by a provision of this LGIA (including any appendices, schedules or other attachments to this LGIA), the provisions of this LGIA shall govern. If and to the extent a provision of this LGIA is inconsistent with the CAISO Tariff and dictates rights and obligations between the CAISO and the Participating TO or the CAISO and the Interconnection Customer, the CAISO Tariff shall govern.
- 3.4** **Relationship Between this LGIA and the Net Scheduled PGA.** With regard to the rights and obligations of a Net Scheduled Generating Unit that has entered into a Net Scheduled PGA with the CAISO and has entered into this LGIA, if and to the extent a matter is specifically addressed by a provision of the Net Scheduled PGA that is inconsistent with this LGIA, the terms of the Net Scheduled PGA shall govern.

#### **Article 4. Scope of Service**

**4.1 Interconnection Service.** Interconnection Service allows the Interconnection Customer to connect the Large Generating Facility to the Participating TO's Transmission System and be eligible to deliver the Large Generating Facility's output using the available capacity of the CAISO Controlled Grid. To the extent the Interconnection Customer wants to receive Interconnection Service, the Participating TO shall construct facilities identified in Appendices A and C that the Participating TO is responsible to construct.

Interconnection Service does not necessarily provide the Interconnection Customer with the capability to physically deliver the output of its Large Generating Facility to any particular load on the CAISO Controlled Grid without incurring congestion costs. In the event of transmission constraints on the CAISO Controlled Grid, the Interconnection Customer's Large Generating Facility shall be subject to the applicable congestion management procedures in the CAISO Tariff in the same manner as all other resources.

**4.2 Provision of Service.** The Participating TO and the CAISO shall provide Interconnection Service for the Large Generating Facility.

**4.3 Performance Standards.** Each Party shall perform all of its obligations under this LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this LGIA for its compliance therewith. If such Party is the CAISO or Participating TO, then that Party shall amend the LGIA and submit the amendment to FERC for approval.

**4.4 No Transmission Service.** The execution of this LGIA does not constitute a request for, nor the provision of, any transmission service under the CAISO Tariff, and does not convey any right to deliver electricity to any specific customer or point of delivery.

**4.5 Interconnection Customer Provided Services.** The services provided by Interconnection Customer under this LGIA are set forth in Article 9.6 and Article 13.5.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.

#### **Appendix 5. Facilities, Engineering Procurement, and Construction**

Interconnection Facilities, Network Upgrades, and Distribution Upgrades shall be studied, designed, and constructed pursuant to Good Utility Practice. Such studies, design and construction shall be based on the assumed accuracy and completeness of all technical information received by the Participating TO and the CAISO from the Interconnection Customer associated with interconnecting the Large Generating Facility.

**5.1 Options.** Unless otherwise mutually agreed among the Parties, the Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either Standard Option or Alternate Option set forth below for completion of the Participating TO's Interconnection Facilities and Network Upgrades as set forth in Appendix A, Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and such dates and selected option shall be set forth in Appendix B, Milestones.

**5.1.1 Standard Option.** The Participating TO shall design, procure, and construct the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, using Reasonable Efforts to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the dates set forth in Appendix B, Milestones. The Participating TO shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction

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procedures, its labor agreements, and Applicable Laws and Regulations. In the event the Participating TO reasonably expects that it will not be able to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the specified dates, the Participating TO shall promptly provide written notice to the Interconnection Customer and the CAISO and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

- 5.1.2 Alternate Option.** If the dates designated by the Interconnection Customer are acceptable to the Participating TO, the Participating TO shall so notify the Interconnection Customer within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities by the designated dates.

If the Participating TO subsequently fails to complete the Participating TO's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; the Participating TO shall pay the Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by the Interconnection Customer shall be extended day for day for each day that the CAISO refuses to grant clearances to install equipment.

- 5.1.3 Option to Build.** If the dates designated by the Interconnection Customer are not acceptable to the Participating TO, the Participating TO shall so notify the Interconnection Customer within thirty (30) Calendar Days, and unless the Parties agree otherwise, the Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades. If the Interconnection Customer elects to exercise its option to assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, it shall so notify the Participating TO within thirty (30) Calendar Days of receipt of the Participating TO's notification that the designated dates are not acceptable to the Participating TO. The Participating TO, CAISO, and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Appendix A to this LGIA. Except for Stand Alone Network Upgrades, the Interconnection Customer shall have no right to construct Network Upgrades under this option.

- 5.1.4 Negotiated Option.** If the Interconnection Customer elects not to exercise its option under Article 5.1.3, Option to Build, the Interconnection Customer shall so notify the Participating TO within thirty (30) Calendar Days of receipt of the Participating TO's notification that the designated dates are not acceptable to the Participating TO, and the Parties shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades by the Interconnection Customer) pursuant to which the Participating TO is responsible for the design, procurement and construction of the Participating TO's Interconnection Facilities and Network Upgrades. If the Parties are unable to reach agreement on such terms and conditions, the Participating TO shall assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Network Upgrades pursuant to Article 5.1.1, Standard Option.

- 5.2 General Conditions Applicable to Option to Build.** If the Interconnection Customer assumes responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades,

- (1) the Interconnection Customer shall engineer, procure equipment, and construct the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications



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provided in advance by the Participating TO;

- (2) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law to which the Participating TO would be subject in the engineering, procurement or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;
- (3) the Participating TO shall review, and the Interconnection Customer shall obtain the Participating TO's approval of, the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, which approval shall not be unreasonably withheld, and the CAISO may, at its option, review the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;
- (4) prior to commencement of construction, the Interconnection Customer shall provide to the Participating TO, with a copy to the CAISO for informational purposes, a schedule for construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from the Participating TO;
- (5) at any time during construction, the Participating TO shall have the right to gain unrestricted access to the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;
- (6) at any time during construction, should any phase of the engineering, equipment procurement, or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by the Participating TO, the Interconnection Customer shall be obligated to remedy deficiencies in that portion of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;
- (7) the Interconnection Customer shall indemnify the CAISO and Participating TO for claims arising from the Interconnection Customer's construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;
- (8) The Interconnection Customer shall transfer control of the Participating TO's Interconnection Facilities to the Participating TO and shall transfer Operational Control of Stand Alone Network Upgrades to the CAISO;
- (9) Unless the Parties otherwise agree, the Interconnection Customer shall transfer ownership of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO. As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, the Interconnection Customer shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO, which invoice shall set forth such costs in sufficient detail to enable the Participating TO to reflect the proper costs of such facilities in its transmission rate base and to identify the investment upon which refunds will be provided;

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- (10) the Participating TO shall accept for operation and maintenance the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2; and
- (11) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of the "Option to Build" conditions set forth in Appendix C. Interconnection Customer shall deliver to the Participating TO "as-built" drawings, information, and any other documents that are reasonably required by the Participating TO to assure that the Interconnection Facilities and Stand-Alone Network Upgrades are built to the standards and specifications required by the Participating TO.

**5.3 Liquidated Damages.** The actual damages to the Interconnection Customer, in the event the Participating TO's Interconnection Facilities or Network Upgrades are not completed by the dates designated by the Interconnection Customer and accepted by the Participating TO pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Interconnection Customer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by the Participating TO to the Interconnection Customer in the event that the Participating TO does not complete any portion of the Participating TO's Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to ½ of 1 percent per day of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades, in the aggregate, for which the Participating TO has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades for which the Participating TO has assumed responsibility to design, procure, and construct. The foregoing payments will be made by the Participating TO to the Interconnection Customer as just compensation for the damages caused to the Interconnection Customer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this LGIA. Liquidated damages, when the Parties agree to them, are the exclusive remedy for the Participating TO's failure to meet its schedule.

No liquidated damages shall be paid to the Interconnection Customer if: (1) the Interconnection Customer is not ready to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for the Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit on the specified dates, unless the Interconnection Customer would have been able to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit, but for the Participating TO's delay; (2) the Participating TO's failure to meet the specified dates is the result of the action or inaction of the Interconnection Customer or any other interconnection customer who has entered into an interconnection agreement with the CAISO and/or Participating TO, action or inaction by the CAISO, or any cause beyond the Participating TO's reasonable control or reasonable ability to cure; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.

In no event shall the CAISO have any responsibility or liability to the Interconnection Customer for liquidated damages pursuant to the provisions of this Article 5.3.

**5.4 Power System Stabilizers.** The Interconnection Customer shall procure, install, maintain and operate Power System Stabilizers in accordance with the guidelines and procedures established by the Applicable Reliability Council and in accordance with the provisions of Section 4.6.5.1 of the CAISO Tariff. The CAISO reserves the right to establish reasonable minimum acceptable

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settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and restore the Power System Stabilizers to operation as soon as possible. The CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected as a result of improperly tuned Power System Stabilizers. The requirements of this Article 5.4 shall not apply to wind generators of the induction type.

- 5.5 Equipment Procurement.** If responsibility for construction of the Participating TO's Interconnection Facilities or Network Upgrades is to be borne by the Participating TO, then the Participating TO shall commence design of the Participating TO's Interconnection Facilities or Network Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:
- 5.5.1** The CAISO, in coordination with the applicable Participating TO(s), has completed the Interconnection Facilities Study pursuant to the Interconnection Facilities Study Agreement;
- 5.5.2** The Participating TO has received written authorization to proceed with design and procurement from the Interconnection Customer by the date specified in Appendix B, Milestones; and
- 5.5.3** The Interconnection Customer has provided security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.
- 5.6 Construction Commencement.** The Participating TO shall commence construction of the Participating TO's Interconnection Facilities and Network Upgrades for which it is responsible as soon as practicable after the following additional conditions are satisfied:
- 5.6.1** Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;
- 5.6.2** Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Participating TO's Interconnection Facilities and Network Upgrades;
- 5.6.3** The Participating TO has received written authorization to proceed with construction from the Interconnection Customer by the date specified in Appendix B, Milestones; and
- 5.6.4** The Interconnection Customer has provided payment and security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.
- 5.7 Work Progress.** The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Any Party may, at any time, request a progress report from another Party. If, at any time, the Interconnection Customer determines that the completion of the Participating TO's Interconnection Facilities will not be required until after the specified In-Service Date, the Interconnection Customer will provide written notice to the Participating TO and CAISO of such later date upon which the completion of the Participating TO's Interconnection Facilities will be required.
- 5.8 Information Exchange.** As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Interconnection Customer's Interconnection Facilities and Participating TO's Interconnection Facilities and compatibility of the Interconnection Facilities with the Participating TO's Transmission System, and shall work diligently and in good faith to make any necessary design changes.

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- 5.9 Limited Operation.** If any of the Participating TO's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Electric Generating Unit, the Participating TO and/or CAISO, as applicable, shall, upon the request and at the expense of the Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Electric Generating Unit and the Interconnection Customer's Interconnection Facilities may operate prior to the completion of the Participating TO's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this LGIA. The Participating TO and CAISO shall permit Interconnection Customer to operate the Electric Generating Unit and the Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.
- 5.10 Interconnection Customer's Interconnection Facilities.** The Interconnection Customer shall, at its expense, design, procure, construct, own and install the Interconnection Customer's Interconnection Facilities, as set forth in Appendix A.
- 5.10.1 Large Generating Facility and Interconnection Customer's Interconnection Facilities Specifications.** The Interconnection Customer shall submit initial specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. The Participating TO and the CAISO shall review such specifications pursuant to this LGIA and the LGIP to ensure that the Interconnection Customer's Interconnection Facilities and Large Generating Facility are compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the Participating TO and the CAISO and comment on such specifications within thirty (30) Calendar Days of the Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.
- 5.10.2 Participating TO's and CAISO's Review.** The Participating TO's and the CAISO's review of the Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall make such changes to the Interconnection Customer's Interconnection Facilities as may reasonably be required by the Participating TO or the CAISO, in accordance with Good Utility Practice, to ensure that the Interconnection Customer's Interconnection Facilities are compatible with the technical specifications, Operational Control, and safety requirements of the Participating TO or the CAISO.
- 5.10.3 Interconnection Customer's Interconnection Facilities Construction.** The Interconnection Customer's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Interconnection Customer shall deliver to the Participating TO and CAISO "as-built" drawings, information and documents for the Interconnection Customer's Interconnection Facilities and the Electric Generating Unit(s), such as: a one-line diagram, a site plan showing the Large Generating Facility and the Interconnection Customer's Interconnection Facilities, plan and elevation drawings showing the layout of the Interconnection Customer's Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Interconnection Customer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the Interconnection Customer's Interconnection Facilities, and the impedances (determined by factory tests) for the associated step-up transformers and the Electric Generating Units. The Interconnection Customer shall provide the Participating TO and the CAISO specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable. Any

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deviations from the relay settings, machine specifications, and other specifications originally submitted by the Interconnection Customer shall be assessed by the Participating TO and the CAISO pursuant to the appropriate provisions of this LGIA and the LGIP.

**5.10.4 Interconnection Customer to Meet Requirements of the Participating TO's Interconnection Handbook.** The Interconnection Customer shall comply with the Participating TO's Interconnection Handbook.

**5.11 Participating TO's Interconnection Facilities Construction.** The Participating TO's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Participating TO shall deliver to the Interconnection Customer and the CAISO the following "as-built" drawings, information and documents for the Participating TO's Interconnection Facilities [include appropriate drawings and relay diagrams].

The Participating TO will obtain control for operating and maintenance purposes of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities. Pursuant to Article 5.2, the CAISO will obtain Operational Control of the Stand Alone Network Upgrades prior to the Commercial Operation Date.

**5.12 Access Rights.** Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Participating TO's Transmission System; (ii) operate and maintain the Large Generating Facility, the Interconnection Facilities and the Participating TO's Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this LGIA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

**5.13 Lands of Other Property Owners.** If any part of the Participating TO's Interconnection Facilities and/or Network Upgrades are to be installed on property owned by persons other than the Interconnection Customer or Participating TO, the Participating TO shall at the Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its Affiliates, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Participating TO's Interconnection Facilities and/or Network Upgrades upon such property.

**5.14 Permits.** Participating TO and Interconnection Customer shall cooperate with each other in good faith in obtaining all permits, licenses and authorization that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, the Participating TO shall provide permitting assistance to the Interconnection Customer comparable to that provided to the Participating TO's own, or an Affiliate's generation.

**5.15 Early Construction of Base Case Facilities.** The Interconnection Customer may request the Participating TO to construct, and the Participating TO shall construct, using Reasonable Efforts to accommodate Interconnection Customer's In-Service Date, all or any portion of any Network Upgrades required for Interconnection Customer to be interconnected to the Participating TO's



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Transmission System which are included in the Base Case of the Interconnection Studies for the Interconnection Customer, and which also are required to be constructed for another interconnection customer, but where such construction is not scheduled to be completed in time to achieve Interconnection Customer's In-Service Date.

**5.16 Suspension.** The Interconnection Customer may request to suspend at any time all work associated with the construction and installation of the Participating TO's Interconnection Facilities, Network Upgrades, and/or Distribution Upgrades required under this LGIA . Interconnection Customers seeking to suspend construction will provide the CAISO and Participating TO a request for assessment pursuant to Section 4.4.6 of the LGIP, a modification assessment deposit, and an anticipated end date of the suspension. Interconnection Customers may request a suspension for the maximum amount of time in lieu of providing an anticipated end date. The CAISO and Participating TO will approve suspension requests where:

- (a) the Participating TO's electrical system and the CAISO Controlled Grid shall be left in a safe and reliable condition in accordance with Good Utility Practice and the Participating TO's safety and reliability criteria and the CAISO's Applicable Reliability Standards; and
- (b) the CAISO and Participating TO determine the suspension will not result in a Material Modification.

During suspension, the Interconnection Customer may request to extend or shorten their suspension period, consistent with the maximum period provided in this Article. The CAISO and Participating TO will approve such requests where they meet criteria (a) and (b), above. Requests to extend or shorten extensions will require a new modification assessment request and deposit. The Interconnection Customer shall be responsible for all reasonable and necessary costs for suspension for which the Participating TO (i) has incurred pursuant to this LGIA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Participating TO's electric system during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which the Participating TO cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, the Participating TO shall obtain Interconnection Customer's authorization to do so.

The Participating TO shall invoice the Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work required under this LGIA pursuant to this Article 5.16, and has not requested the Participating TO to recommence the work or has not itself recommenced work required under this LGIA on or before the expiration of three (3) years following commencement of such suspension, this LGIA shall be deemed terminated. The three-year period shall begin on the date the Interconnection Customer provides in its request, if approved. Ninety (90) days before the anticipated end date of the suspension, the Participating TO and the CAISO will tender an amended draft LGIA with new construction milestones. The Parties agree to negotiate the amended draft LGIA in good faith such that it can be executed by the end of the suspension.

**5.17 Taxes.**

**5.17.1 Interconnection Customer Payments Not Taxable.** The Parties intend that all payments or property transfers made by the Interconnection Customer to the Participating TO for the installation of the Participating TO's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as a refundable advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

**5.17.2 Representations and Covenants.** In accordance with IRS Notice 2001-82 and IRS Notice 88-129, the Interconnection Customer represents and covenants that (i) ownership of the electricity generated at the Large Generating Facility will pass to another party prior to the transmission of the electricity on the CAISO Controlled Grid, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to the Participating TO for the Participating TO's Interconnection Facilities will be capitalized by the Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Participating TO's Interconnection Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, "de minimis amount" means no more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At the Participating TO's request, the Interconnection Customer shall provide the Participating TO with a report from an independent engineer confirming its representation in clause (iii), above. The Participating TO represents and covenants that the cost of the Participating TO's Interconnection Facilities paid for by the Interconnection Customer without the possibility of refund or credit will have no net effect on the base upon which rates are determined.

**5.17.3 Indemnification for the Cost Consequence of Current Tax Liability Imposed Upon the Participating TO.** Notwithstanding Article 5.17.1, the Interconnection Customer shall protect, indemnify and hold harmless the Participating TO from the cost consequences of any current tax liability imposed against the Participating TO as the result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by the Participating TO.

The Participating TO shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges the Interconnection Customer under this LGIA unless (i) the Participating TO has determined, in good faith, that the payments or property transfers made by the Interconnection Customer to the Participating TO should be reported as income subject to taxation or (ii) any Governmental Authority directs the Participating TO to report payments or property as income subject to taxation; provided, however, that the Participating TO may require the Interconnection Customer to provide security for Interconnection Facilities, in a form reasonably acceptable to the Participating TO (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. The Interconnection Customer shall reimburse the Participating TO for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from the Participating TO of the amount due, including detail about how the amount was calculated.

The indemnification obligation shall terminate at the earlier of (1) the expiration of the ten year testing period and the applicable statute of limitation, as it may be extended by the Participating TO upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

**5.17.4 Tax Gross-Up Amount.** The Interconnection Customer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that the Interconnection Customer will pay the Participating TO, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on the Participating TO ("Current Taxes") on the excess of (a) the gross income realized by the Participating TO as a result of payments or property transfers made by the Interconnection

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Customer to the Participating TO under this LGIA (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the Participating TO to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on the Participating TO's composite federal and state tax rates at the time the payments or property transfers are received and the Participating TO will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Participating TO's anticipated tax depreciation deductions as a result of such payments or property transfers by the Participating TO's current weighted average cost of capital. Thus, the formula for calculating the Interconnection Customer's liability to the Participating TO pursuant to this Article 5.17.4 can be expressed as follows:  $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value of Tax Depreciation})) / (1 - \text{Current Tax Rate})$ . Interconnection Customer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

**5.17.5 Private Letter Ruling or Change or Clarification of Law.** At the Interconnection Customer's request and expense, the Participating TO shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by the Interconnection Customer to the Participating TO under this LGIA are subject to federal income taxation. The Interconnection Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of the Interconnection Customer's knowledge. The Participating TO and Interconnection Customer shall cooperate in good faith with respect to the submission of such request, provided, however, the Interconnection Customer and the Participating TO explicitly acknowledge (and nothing herein is intended to alter) Participating TO's obligation under law to certify that the facts presented in the ruling request are true, correct and complete.

The Participating TO shall keep the Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes the Interconnection Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. The Participating TO shall allow the Interconnection Customer to attend all meetings with IRS officials about the request and shall permit the Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request.

**5.17.6 Subsequent Taxable Events.** If, within 10 years from the date on which the relevant Participating TO's Interconnection Facilities are placed in service, (i) the Interconnection Customer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this LGIA terminates and the Participating TO retains ownership of the Interconnection Facilities and Network Upgrades, the Interconnection Customer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on the Participating TO, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.

**5.17.7 Contests.** In the event any Governmental Authority determines that the Participating TO's receipt of payments or property constitutes income that is subject to taxation, the Participating TO shall notify the Interconnection Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by the Interconnection Customer and at the Interconnection Customer's sole expense, the Participating TO may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon the Interconnection Customer's written request and sole expense, the Participating TO may file a claim for refund with respect to any taxes paid under this Article 5.17,



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whether or not it has received such a determination. The Participating TO reserve the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but the Participating TO shall keep the Interconnection Customer informed, shall consider in good faith suggestions from the Interconnection Customer about the conduct of the contest, and shall reasonably permit the Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

The Interconnection Customer shall pay to the Participating TO on a periodic basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest, including any costs associated with obtaining the opinion of independent tax counsel described in this Article 5.17.7. The Participating TO may abandon any contest if the Interconnection Customer fails to provide payment to the Participating TO within thirty (30) Calendar Days of receiving such invoice.

At any time during the contest, the Participating TO may agree to a settlement either with the Interconnection Customer's consent or, if such consent is refused, after obtaining written advice from independent nationally-recognized tax counsel, selected by the Participating TO, but reasonably acceptable to the Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. The Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by the Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding paragraph. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. The Participating TO may also settle any tax controversy without receiving the Interconnection Customer's consent or any such written advice; however, any such settlement will relieve the Interconnection Customer from any obligation to indemnify the Participating TO for the tax at issue in the contest (unless the failure to obtain written advice is attributable to the Interconnection Customer's unreasonable refusal to the appointment of independent tax counsel).

**5.17.8 Refund.** In the event that (a) a private letter ruling is issued to the Participating TO which holds that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to the Participating TO in good faith that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not taxable to the Participating TO, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by the Interconnection Customer to the Participating TO are not subject to federal income tax, or (d) if the Participating TO receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by the Interconnection Customer to the Participating TO pursuant to this LGIA, the Participating TO shall promptly refund to the Interconnection Customer the following:

- (i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,
- (ii) interest on any amounts paid by the Interconnection Customer to the Participating TO for such taxes which the Participating TO did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date payment was made by the Interconnection Customer to the date the Participating TO refunds such payment to the Interconnection Customer, and
- (iii) with respect to any such taxes paid by the Participating TO, any refund or credit the Participating TO receives or to which it may be entitled from any Governmental Authority,

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interest (or that portion thereof attributable to the payment described in clause (i), above) owed to the Participating TO for such overpayment of taxes (including any reduction in interest otherwise payable by the Participating TO to any Governmental Authority resulting from an offset or credit); provided, however, that the Participating TO will remit such amount promptly to the Interconnection Customer only after and to the extent that the Participating TO has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Participating TO's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

**5.17.9 Taxes Other Than Income Taxes.** Upon the timely request by the Interconnection Customer, and at the Interconnection Customer's sole expense, the CAISO or Participating TO may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the CAISO or Participating TO for which the Interconnection Customer may be required to reimburse the CAISO or Participating TO under the terms of this LGIA. The Interconnection Customer shall pay to the Participating TO on a periodic basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. The Interconnection Customer, the CAISO, and the Participating TO shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by the Interconnection Customer to the CAISO or Participating TO for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, the Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Participating TO.

**5.18 Tax Status.** Each Party shall cooperate with the others to maintain the other Parties' tax status. Nothing in this LGIA is intended to adversely affect the CAISO's or any Participating TO's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

**5.19 Modification.**

**5.19.1 General.** The Interconnection Customer or the Participating TO may undertake modifications to its facilities, Section 25.1(c) and Section 25 of the CAISO Tariff if the Interconnection Customer has achieved its Commercial Operation Date, and subject to Section 4.4 of the LGIP if it has not. If a Party plans to undertake a modification that reasonably may be expected to affect the other Parties' facilities, that Party shall provide to the other Parties sufficient information regarding such modification so that the other Parties may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Parties at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

Notwithstanding Section 7.5 of Appendix DD, at any time after achieving its Commercial Operation Date, the Interconnection Customer may reduce the megawatt generating capacities of its Generating Facilities, subject to Section 25.1(c) of the CAISO Tariff. Section 7.5.11 of Appendix DD will still apply to such requests to reduce capacity.

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- 5.19.2 Standards.** Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this LGIA and Good Utility Practice.
- 5.19.3 Modification Costs.** The Interconnection Customer shall not be directly assigned the costs of any additions, modifications, or replacements that the Participating TO makes to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System to facilitate the interconnection of a third party to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System, or to provide transmission service to a third party under the CAISO Tariff. The Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

**Article 6. Testing and Inspection**

- 6.1 Pre-Commercial Operation Date Testing and Modifications.** Prior to the Commercial Operation Date, the Participating TO shall test the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades and the Interconnection Customer shall test the Large Generating Facility and the Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. The Interconnection Customer shall bear the cost of all such testing and modifications. The Interconnection Customer shall not commence initial parallel operation of an Electric Generating Unit with the Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit. The Interconnection Customer shall generate test energy at the Large Generating Facility only if it has arranged for the delivery of such test energy.
- 6.2 Post-Commercial Operation Date Testing and Modifications.** Each Party shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Participating TO's Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.
- 6.3 Right to Observe Testing.** Each Party shall notify the other Parties at least fourteen (14) days in advance of its performance of tests of its Interconnection Facilities or Generating Facility. The other Parties have the right, at their own expense, to observe such testing.
- 6.4 Right to Inspect.** Each Party shall have the right, but shall have no obligation to: (i) observe another Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of another Party's System Protection Facilities and other protective equipment; and (iii) review another Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be Confidential Information and treated pursuant to Article 22 of this LGIA.

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**Article 7. Metering**

- 7.1 General.** Each Party shall comply with the Applicable Reliability Council requirements. The Interconnection Customer and CAISO shall comply with the provisions of the CAISO Tariff regarding metering, including Section 10 of the CAISO Tariff. Unless otherwise agreed by the Participating TO and the Interconnection Customer, the Participating TO may install additional Metering Equipment at the Point of Interconnection prior to any operation of any Electric Generating Unit and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Large Generating Facility shall be measured at or, at the CAISO's or Participating TO's option for its respective Metering Equipment, compensated to, the Point of Interconnection. The CAISO shall provide metering quantities to the Interconnection Customer upon request in accordance with the CAISO Tariff by directly polling the CAISO's meter data acquisition system. The Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.
- 7.2 Check Meters.** The Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check the CAISO-pollled meters or the Participating TO's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this LGIA, except in the case that no other means are available on a temporary basis at the option of the CAISO or the Participating TO. The check meters shall be subject at all reasonable times to inspection and examination by the CAISO or Participating TO or their designees. The installation, operation and maintenance thereof shall be performed entirely by the Interconnection Customer in accordance with Good Utility Practice.
- 7.3 Participating TO Retail Metering.** The Participating TO may install retail revenue quality meters and associated equipment, pursuant to the Participating TO's applicable retail tariffs.

**Article 8. Communications**

- 8.1 Interconnection Customer Obligations.** The Interconnection Customer shall maintain satisfactory operating communications with the CAISO in accordance with the provisions of the CAISO Tariff and with the Participating TO's dispatcher or representative designated by the Participating TO. The Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. The Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to the CAISO and Participating TO as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by the CAISO and Participating TO. Any required maintenance of such communications equipment shall be performed by the Interconnection Customer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.
- 8.2 Remote Terminal Unit.** Prior to the Initial Synchronization Date of each Electric Generating Unit, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by the Interconnection Customer, or by the Participating TO at the Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by the CAISO and by the Participating TO through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1.

Telemetry to the CAISO shall be provided in accordance with the CAISO's technical standards for direct telemetry. For telemetry to the Participating TO, the communication protocol for the data

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circuit(s) shall be specified by the Participating TO. Instantaneous bi-directional real power and reactive power flow and any other required information must be telemetered directly to the location(s) specified by the Participating TO.

Each Party will promptly advise the other Parties if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by another Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

- 8.3 No Annexation.** Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

**Article 9. Operations**

- 9.1 General.** Each Party shall comply with the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

- 9.2 Balancing Authority Area Notification.** At least three months before Initial Synchronization Date, the Interconnection Customer shall notify the CAISO and Participating TO in writing of the Balancing Authority Area in which the Large Generating Facility intends to be located. If the Interconnection Customer intends to locate the Large Generating Facility in a Balancing Authority Area other than the Balancing Authority Area within whose electrically metered boundaries the Large Generating Facility is located, and if permitted to do so by the relevant transmission tariffs, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this LGIA, and remote Balancing Authority Area generator interchange agreements, if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Large Generating Facility in the other Balancing Authority Area.

- 9.3 CAISO and Participating TO Obligations.** The CAISO and Participating TO shall cause the Participating TO's Transmission System to be operated and controlled in a safe and reliable manner and in accordance with this LGIA. The Participating TO at the Interconnection Customer's expense shall cause the Participating TO's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this LGIA. The CAISO and Participating TO may provide operating instructions to the Interconnection Customer consistent with this LGIA and Participating TO and CAISO operating protocols and procedures as they may change from time to time. The Participating TO and CAISO will consider changes to their operating protocols and procedures proposed by the Interconnection Customer.

- 9.4 Interconnection Customer Obligations.** The Interconnection Customer shall at its own expense operate, maintain and control the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA. The Interconnection Customer shall operate the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of the Balancing Authority Area of which it is part, including such requirements as set forth in Appendix C, Interconnection Details, of this LGIA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. A Party may request that another Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this LGIA. The Interconnection Customer shall not commence Commercial Operation of an Electric Generating Unit with the Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit.



**9.5 Start-Up and Synchronization.** Consistent with the Parties' mutually acceptable procedures, the Interconnection Customer is responsible for the proper synchronization of each Electric Generating Unit to the CAISO Controlled Grid.

**9.6 Reactive Power.**

**9.6.1 Power Factor Design Criteria.** The Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the terminals of the Electric Generating Unit at a power factor within the range of 0.95 leading to 0.90 lagging, unless the CAISO has established different requirements that apply to all generators in the Balancing Authority Area on a comparable basis. Power factor design criteria for wind generators are provided in Appendix H of this LGIA.

For Asynchronous Generating Facilities submitting a written request to continue a re-study under Section 6.4 of Appendix U of the CAISO Tariff on or after September 21, 2016, the Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

**9.6.2 Voltage Schedules.** Once the Interconnection Customer has synchronized an Electric Generating Unit with the CAISO Controlled Grid, the CAISO or Participating TO shall require the Interconnection Customer to maintain a voltage schedule by operating the Electric Generating Unit to produce or absorb reactive power within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria). CAISO's voltage schedules shall treat all sources of reactive power in the Balancing Authority Area in an equitable and not unduly discriminatory manner. The Participating TO shall exercise Reasonable Efforts to provide the Interconnection Customer with such schedules at least one (1) day in advance, and the CAISO or Participating TO may make changes to such schedules as necessary to maintain the reliability of the CAISO Controlled Grid or the Participating TO's electric system. The Interconnection Customer shall operate the Electric Generating Unit to maintain the specified output voltage or power factor within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria), and as may be required by the CAISO to operate the Electric Generating Unit at a specific voltage schedule within the design limitations set forth in Article 9.6.1. If the Interconnection Customer is unable to maintain the specified voltage or power factor, it shall promptly notify the CAISO and the Participating TO.

**9.6.2.1 Governors and Regulators.** Whenever an Electric Generating Unit is operated in parallel with the CAISO Controlled Grid and the speed governors (if installed on the Electric Generating Unit pursuant to Good Utility Practice) and voltage regulators are capable of operation, the Interconnection Customer shall operate the Electric Generating Unit with its speed governors and voltage regulators in automatic operation. If the Electric Generating Unit's speed governors and voltage regulators are not capable of such automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and ensure that the Electric Generating Unit operates as specified in Article 9.6.2 through manual operation and that such Electric Generating Unit's reactive power production or absorption (measured in MVARs) are within the design capability of the Electric Generating Unit(s) and steady state stability limits. The Interconnection Customer shall restore the speed governors and voltage regulators to automatic operation as soon as possible. If the Large Generating Facility's speed governors and voltage regulators are improperly tuned or malfunctioning, the CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected. The Interconnection Customer shall not cause its

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Large Generating Facility to disconnect automatically or instantaneously from the CAISO Controlled Grid or trip any Electric Generating Unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Balancing Authority Area on a comparable basis.

**9.6.3 Payment for Reactive Power.** CAISO is required to pay the Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from an Electric Generating Unit when the CAISO requests the Interconnection Customer to operate its Electric Generating Unit outside the range specified in Article 9.6.1, provided that if the CAISO pays other generators for reactive power service within the specified range, it must also pay the Interconnection Customer. Payments shall be pursuant to Article 11.6 or such other agreement to which the CAISO and Interconnection Customer have otherwise agreed.

**9.7 Outages and Interruptions.**

**9.7.1 Outages.**

**9.7.1.1 Outage Authority and Coordination.** Each Party may in accordance with Good Utility Practice in coordination with the other Parties remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact another Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to all Parties. In all circumstances any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Parties of such removal.

**9.7.1.2 Outage Schedules.** The CAISO shall post scheduled outages of CAISO Controlled Grid facilities in accordance with the provisions of the CAISO Tariff. The Interconnection Customer shall submit its planned maintenance schedules for the Large Generating Facility to the CAISO in accordance with the CAISO Tariff. The Interconnection Customer shall update its planned maintenance schedules in accordance with the CAISO Tariff. The CAISO may request the Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the CAISO Controlled Grid in accordance with the CAISO Tariff. Such planned maintenance schedules and updates and changes to such schedules shall be provided by the Interconnection Customer to the Participating TO concurrently with their submittal to the CAISO. The CAISO shall compensate the Interconnection Customer for any additional direct costs that the Interconnection Customer incurs as a result of having to reschedule maintenance in accordance with the CAISO Tariff. The Interconnection Customer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, the Interconnection Customer had modified its schedule of maintenance activities.

**9.7.1.3 Outage Restoration.** If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects another Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Parties, to the extent such information is known, information on the nature of the Emergency Condition, if the outage is caused by an Emergency Condition, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage, if requested by a Party, which may be provided by e-mail or facsimile.

**9.7.2 Interruption of Service.** If required by Good Utility Practice to do so, the CAISO or the Participating TO may require the Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity could adversely affect the CAISO's or the Participating

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TO's ability to perform such activities as are necessary to safely and reliably operate and maintain the Participating TO's electric system or the CAISO Controlled Grid. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

- 9.7.2.1** The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;
- 9.7.2.2** Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the CAISO Controlled Grid, subject to any conditions specified in this LGIA;
- 9.7.2.3** When the interruption or reduction must be made under circumstances which do not allow for advance notice, the CAISO or Participating TO, as applicable, shall notify the Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification, if requested by the Interconnection Customer, as soon as practicable;
- 9.7.2.4** Except during the existence of an Emergency Condition, the CAISO or Participating TO shall notify the Interconnection Customer in advance regarding the timing of such interruption or reduction and further notify the Interconnection Customer of the expected duration. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Interconnection Customer, the CAISO, and the Participating TO;
- 9.7.2.5** The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Interconnection Facilities, the Participating TO's Transmission System, and the CAISO Controlled Grid to their normal operating state, consistent with system conditions and Good Utility Practice.
- 9.7.3 Under-Frequency and Over Frequency Conditions.** The CAISO Controlled Grid is designed to automatically activate a load-shed program as required by the Applicable Reliability Council in the event of an under-frequency system disturbance. The Interconnection Customer shall implement under-frequency and over-frequency protection set points for the Large Generating Facility as required by the Applicable Reliability Council to ensure "ride through" capability. Large Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the Participating TO and CAISO in accordance with Good Utility Practice. The term "ride through" as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the CAISO Controlled Grid during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice.
- 9.7.4 System Protection and Other Control Requirements.**
- 9.7.4.1 System Protection Facilities.** The Interconnection Customer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Participating TO shall install at the Interconnection Customer's expense any System Protection Facilities that may be required on the Participating TO's Interconnection Facilities or the Participating TO's Transmission System as a result of the interconnection of the Large Generating Facility and the Interconnection Customer's Interconnection Facilities.
- 9.7.4.2** The Participating TO's and Interconnection Customer's protection facilities shall be designed and coordinated with other systems in accordance with Applicable Reliability Council criteria and Good Utility Practice.



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- 9.7.4.3** The Participating TO and Interconnection Customer shall each be responsible for protection of its facilities consistent with Good Utility Practice.
- 9.7.4.4** The Participating TO's and Interconnection Customer's protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of the Interconnection Customer's Electric Generating Units.
- 9.7.4.5** The Participating TO and Interconnection Customer will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook.
- 9.7.4.6** Prior to the in-service date, and again prior to the Commercial Operation Date, the Participating TO and Interconnection Customer or their agents shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice, the standards and procedures of the Participating TO, including, if applicable, the requirements of the Participating TO's Interconnection Handbook, and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.
- 9.7.5 Requirements for Protection.** In compliance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook, the Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Participating TO's Transmission System not otherwise isolated by the Participating TO's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Participating TO's Transmission System. Such protective equipment shall include, without limitation, a disconnecting device with fault current-interrupting capability located between the Large Generating Facility and the Participating TO's Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. The Interconnection Customer shall be responsible for protection of the Large Generating Facility and the Interconnection Customer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. The Interconnection Customer shall be solely responsible to disconnect the Large Generating Facility and the Interconnection Customer's other equipment if conditions on the CAISO Controlled Grid could adversely affect the Large Generating Facility.
- 9.7.6 Power Quality.** Neither the Participating TO's nor the Interconnection Customer's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, any applicable superseding electric industry standard, or any alternative Applicable Reliability Council standard. In the event of a conflict between ANSI Standard C84.1-1989, any applicable superseding electric industry standard, or any alternative Applicable Reliability Council standard, the alternative Applicable Reliability Council standard shall control.
- 9.8 Switching and Tagging Rules.** Each Party shall provide the other Parties a copy of its switching and tagging rules that are applicable to the other Parties' activities. Such switching and tagging rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

**9.9 Use of Interconnection Facilities by Third Parties.**

**9.9.1 Purpose of Interconnection Facilities.** Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Participating TO's Transmission System and shall be used for no other purpose.

**9.9.2 Third Party Users.** If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Participating TO's Interconnection Facilities, or any part thereof, the Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between the Interconnection Customer and any third party users based upon the pro rata use of the Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

**9.10 Disturbance Analysis Data Exchange.** The Parties will cooperate with one another in the analysis of disturbances to either the Large Generating Facility or the CAISO Controlled Grid by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

**Article 10. Maintenance**

**10.1 Participating TO Obligations.** The Participating TO shall maintain the Participating TO's Transmission System and the Participating TO's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

**10.2 Interconnection Customer Obligations.** The Interconnection Customer shall maintain the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

**10.3 Coordination.** The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Interconnection Facilities.

**10.4 Secondary Systems.** The Participating TO and Interconnection Customer shall cooperate with the other Parties in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Parties. Each Party shall provide advance notice to the other Parties before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

**10.5 Operating and Maintenance Expenses.** Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, the Interconnection Customer shall be responsible for all

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reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing the Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of the Participating TO's Interconnection Facilities

**Article 11. Performance Obligation**

- 11.1 Interconnection Customer's Interconnection Facilities.** The Interconnection Customer shall design, procure, construct, install, own and/or control the Interconnection Customer's Interconnection Facilities described in Appendix A at its sole expense.
- 11.2 Participating TO's Interconnection Facilities.** The Participating TO shall design, procure, construct, install, own and/or control the Participating TO's Interconnection Facilities described in Appendix A at the sole expense of the Interconnection Customer. Unless the Participating TO elects to fund the capital for the Participating TO's Interconnection Facilities, they shall be solely funded by the Interconnection Customer.
- 11.3 Network Upgrades and Distribution Upgrades.** The Participating TO shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A. The Interconnection Customer shall be responsible for all costs related to Distribution Upgrades. Unless the Participating TO elects to fund the capital for the Distribution Upgrades and Network Upgrades, they shall be solely funded by the Interconnection Customer.
- 11.4 Transmission Credits.** No later than thirty (30) days prior to the Commercial Operation Date, the Interconnection Customer may make a one-time election by written notice to the CAISO and the Participating TO to (a) receive Congestion Revenue Rights as defined in and as available under the CAISO Tariff at the time of the election in accordance with the CAISO Tariff, in lieu of a refund of the cost of Network Upgrades in accordance with Article 11.4.1, and/or (b) declare all or a part of a refund of the cost of Network Upgrades entitled to the Interconnection Customer in accordance with Article 11.4.1.
- 11.4.1 Repayment of Amounts Advanced for Network Upgrades.** Upon the Commercial Operation Date, the Interconnection Customer shall be entitled to a repayment, equal to the total amount paid to the Participating TO for the cost of Network Upgrades. Such amount shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer pursuant to Article 5.17.8 or otherwise, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the Commercial Operation Date; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years from the Commercial Operation Date. Notwithstanding the foregoing, if this LGIA terminates within five (5) years from the Commercial Operation Date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination. Any repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a repayment of such payment. Interest shall continue to accrue on the repayment obligation so long as this LGIA is in effect. The Interconnection Customer may assign such repayment rights to any person.

If the Large Generating Facility fails to achieve commercial operation, but it or another Generating Facility is later constructed and makes use of the Network Upgrades, the Participating TO shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the Generating Facility, if different, is responsible for identifying the entity to which reimbursement must be made.

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- 11.4.2 Special Provisions for Affected Systems.** The Interconnection Customer shall enter into an agreement with the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid, as applicable, in accordance with the LGIP. Such agreement shall specify the terms governing payments to be made by the Interconnection Customer to the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid as well as the repayment by the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid. In no event shall the Participating TO be responsible for the repayment for any facilities that are not part of the Participating TO's Transmission System.
- 11.4.3** Notwithstanding any other provision of this LGIA, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, Congestion Revenue Rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements or transmission credits for transmission service that is not associated with the Large Generating Facility.
- 11.5 Provision of Security.** At least thirty (30) Calendar Days prior to the commencement of the procurement, installation, or construction of a discrete portion of a Participating TO's Interconnection Facilities, Network Upgrades, or Distribution Upgrades, the Interconnection Customer shall provide the Participating TO, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Participating TO and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1. Such security for payment shall be in an amount sufficient to cover the costs for constructing, procuring and installing the applicable portion of the Participating TO's Interconnection Facilities, Network Upgrades, or Distribution Upgrades. Such security shall be reduced on a dollar-for-dollar basis for payments made to the Participating TO for these purposes.
- In addition:
- 11.5.1** The guarantee must be made by an entity that meets the creditworthiness requirements of the Participating TO, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.
- 11.5.2** The letter of credit must be issued by a financial institution reasonably acceptable to the Participating TO and must specify a reasonable expiration date.
- 11.5.3** The surety bond must be issued by an insurer reasonably acceptable to the Participating TO and must specify a reasonable expiration date.
- 11.6 Interconnection Customer Compensation.** If the CAISO requests or directs the Interconnection Customer to provide a service pursuant to Articles 9.6.3 (Payment for Reactive Power) or 13.5.1 of this LGIA, the CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff.
- 11.6.1 Interconnection Customer Compensation for Actions During Emergency Condition.** The CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff for its provision of real and reactive power and other Emergency Condition services that the Interconnection Customer provides to support the CAISO Controlled Grid during an Emergency Condition in accordance with Article 11.6.

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**Article 12. Invoice**

- 12.1 General.** The Participating TO shall submit to the Interconnection Customer, on a monthly basis, invoices of amounts due pursuant to this LGIA for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this LGIA, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party. Notwithstanding the foregoing, any invoices between the CAISO and another Party shall be submitted and paid in accordance with the CAISO Tariff.
- 12.2 Final Invoice.** As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, the Participating TO shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and shall set forth such costs in sufficient detail to enable the Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. The Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice; or, in the event the actual costs of construction exceed the Interconnection Customer's actual payment for estimated costs, then the Interconnection Customer shall pay to the Participating TO any amount by which the actual costs of construction exceed the actual payment by the Interconnection Customer for estimated costs within thirty (30) Calendar Days of the issuance of such final construction invoice.
- 12.3 Payment.** Invoices shall be rendered to the Interconnection Customer at the address specified in Appendix F. The Interconnection Customer shall pay, or Participating TO shall refund, the amounts due within thirty (30) Calendar Days of the Interconnection Customer's receipt of the invoice. All payments shall be made in immediately available funds payable to the Interconnection Customer or Participating TO, or by wire transfer to a bank named and account designated by the invoicing Interconnection Customer or Participating TO. Payment of invoices by any Party will not constitute a waiver of any rights or claims any Party may have under this LGIA.
- 12.4 Disputes.** In the event of a billing dispute between the Interconnection Customer and the Participating TO, the Participating TO and the CAISO shall continue to provide Interconnection Service under this LGIA as long as the Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to the Participating TO or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Interconnection Customer fails to meet these two requirements for continuation of service, then the Participating TO may provide notice to the Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accordance with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(iii). Notwithstanding the foregoing, any billing dispute between the CAISO and another Party shall be resolved in accordance with the provisions of Article 27 of this LGIA.

**Article 13. Emergencies**

- 13.1 [Reserved]**
- 13.2 Obligations.** Each Party shall comply with the Emergency Condition procedures of the CAISO, NERC, the Applicable Reliability Council, Applicable Laws and Regulations, and any emergency procedures set forth in this LGIA.



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- 13.3 Notice.** The Participating TO or the CAISO shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects the Participating TO's Interconnection Facilities or Distribution System or the CAISO Controlled Grid, respectively, that may reasonably be expected to affect the Interconnection Customer's operation of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall notify the Participating TO and the CAISO promptly when it becomes aware of an Emergency Condition that affects the Large Generating Facility or the Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the CAISO Controlled Grid or the Participating TO's Interconnection Facilities. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of the Interconnection Customer's or Participating TO's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice, if requested by a Party, which may be provided by electronic mail or facsimile, or in the case of the CAISO may be publicly posted on the CAISO's internet web site.
- 13.4 Immediate Action.** Unless, in the Interconnection Customer's reasonable judgment, immediate action is required, the Interconnection Customer shall obtain the consent of the CAISO and the Participating TO, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or the Interconnection Customer's Interconnection Facilities in response to an Emergency Condition declared by the Participating TO or CAISO or in response to any other emergency condition.
- 13.5 CAISO and Participating TO Authority.**
- 13.5.1 General.** The CAISO and Participating TO may take whatever actions or inactions, including issuance of dispatch instructions, with regard to the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System they deem necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System, (iii) limit or prevent damage, and (iv) expedite restoration of service.

The Participating TO and the CAISO shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Participating TO or the CAISO may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing the Interconnection Customer to shut-down, start-up, increase or decrease the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.5.2; directing the Interconnection Customer to assist with black start (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall comply with all of the CAISO's Dispatch Instructions and Operating Instructions and Participating TO's dispatch instructions or Operating Instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

- 13.5.2 Reduction and Disconnection.** The Participating TO or the CAISO may reduce Interconnection Service or disconnect the Large Generating Facility or the Interconnection Customer's Interconnection Facilities when such reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of the CAISO pursuant to the CAISO Tariff. When the CAISO or Participating TO can schedule the reduction or disconnection in advance, the CAISO or Participating TO shall notify the Interconnection Customer of the reasons, timing and expected duration of the reduction or

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disconnection. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to the Interconnection Customer and the CAISO and Participating TO. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Interconnection Facilities, and the CAISO Controlled Grid to their normal operating state as soon as practicable consistent with Good Utility Practice.

- 13.6 Interconnection Customer Authority.** Consistent with Good Utility Practice, this LGIA, and the CAISO Tariff, the Interconnection Customer may take actions or inactions with regard to the Large Generating Facility or the Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the CAISO Controlled Grid and the Participating TO's Interconnection Facilities. The CAISO and Participating TO shall use Reasonable Efforts to assist Interconnection Customer in such actions.
- 13.7 Limited Liability.** Except as otherwise provided in Article 11.6.1 of this LGIA, no Party shall be liable to any other Party for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

**Article 14. Regulatory Requirements**

**14.1 Regulatory Requirements.** Each Party's obligations under this LGIA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this LGIA shall require the Interconnection Customer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978, or the Energy Policy Act of 2005.

**14.2 Governing Law.**

- 14.2.1** The validity, interpretation and performance of this LGIA and each of its provisions shall be governed by the laws of the state where the Point of Interconnection is located, without regard to its conflicts of law principles.
- 14.2.2** This LGIA is subject to all Applicable Laws and Regulations.
- 14.2.3** Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

**Article 15. Notices**

**15.1 General.** Unless otherwise provided in this LGIA, any notice, demand or request required or permitted to be given by a Party to another and any instrument required or permitted to be tendered or delivered by a Party in writing to another shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F, Addresses for Delivery of Notices and Billings.

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A Party must update the information in Appendix F as information changes. A Party may change the notice information in this LGIA by giving five (5) Business Days written notice prior to the effective date of the change. Such changes shall not constitute an amendment to this LGIA.

- 15.2 Billings and Payments.** Billings and payments shall be sent to the addresses set out in Appendix F.
- 15.3 Alternative Forms of Notice.** Any notice or request required or permitted to be given by a Party to another and not required by this LGIA to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out in Appendix F.
- 15.4 Operations and Maintenance Notice.** Each Party shall notify the other Parties in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

**Article 16. Force Majeure**

**16.1 Force Majeure.**

**16.1.1** Economic hardship is not considered a Force Majeure event.

**16.1.2** No Party shall be considered to be in Default with respect to any obligation hereunder, (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

**Article 17. Default**

**17.1 Default**

**17.1.1 General.** No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this LGIA or the result of an act or omission of the other Party. Upon a Breach, the affected non-Breaching Party(ies) shall give written notice of such Breach to the Breaching Party. Except as provided in Article 17.1.2, the Breaching Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

**17.1.2 Right to Terminate.** If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party(ies) shall have the right to declare a Default and terminate this LGIA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not such Party(ies) terminates this LGIA, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this LGIA.



**Article 18. Indemnity, Consequential Damages, and Insurance**

**18.1 Indemnity.** Each Party shall at all times indemnify, defend, and hold the other Parties harmless from, any and all Losses arising out of or resulting from another Party's action or inactions of its obligations under this LGIA on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

**18.1.1 Indemnified Party.** If an Indemnified Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

**18.1.2 Indemnifying Party.** If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 18, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Loss, net of any insurance or other recovery.

**18.1.3 Indemnity Procedures.** Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

**18.2 Consequential Damages.** Other than the liquidated damages heretofore described in Article 5.3, in no event shall any Party be liable under any provision of this LGIA for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

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- 18.3 Insurance.** Each Party shall, at its own expense, maintain in force throughout the period of this LGIA, and until released by the other Parties, the following minimum insurance coverages, with insurers rated no less than A- (with a minimum size rating of VII) by Bests' Insurance Guide and Key Ratings and authorized to do business in the state where the Point of Interconnection is located, except in the case of the CAISO, the State of California:
- 18.3.1** Workers' Compensation and Employers' Liability Insurance providing statutory benefits in accordance with the laws and regulations of the state in which the Point of Interconnection is located, except in the case of the CAISO, the State of California.
- 18.3.2** Commercial General Liability Insurance including coverage for premises and operations, bodily injury (including death), personal injury, property damage, products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, and (i) liability of Participating TO and the Interconnection Customer that would be imposed without the LGIA, or (ii) liability assumed by the Participating TO and the Interconnection Customer in a contract or agreement that is an "insured contract" under commercial general liability insurance policy. Such insurance shall include no cross liability exclusions or separation of insured clause endorsement exclusions, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate.
- 18.3.3** Business Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.
- 18.3.4** Excess Liability Insurance over and above the Employer's Liability Commercial General Liability and Business Automobile Liability Insurance coverage, with a minimum limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.
- 18.3.5** The Commercial General Liability Insurance, Business Automobile Insurance and Excess Liability Insurance policies shall include the other Parties, their parents, their subsidiaries, respective directors, officers, agents, servants and employees ("Other Party Group"), and the CAISO as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this LGIA against the Other Party Group.
- 18.3.6** The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and non-contributory. Each Party shall be responsible for its respective deductibles or self-insured retentions.
- 18.3.7** The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this LGIA, which coverage may be in the form of extended reporting period coverage if agreed by the Parties.
- 18.3.8** [Not Used.]
- 18.3.9** Thirty (30) Calendar Days prior to the start of any work at the construction site related to Interconnection Facilities or Generating Facility under this LGIA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) Calendar Days thereafter, the Participating TO and the Interconnection Customer shall provide a certificate of insurance for all insurance required in this LGIA, executed by each insurer or by an authorized representative of each insurer.

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**18.3.10** Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior unsecured debt or issuer rating is BBB-, or better, as rated by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior unsecured debt rating and issuer rating are both unrated by Standard & Poor's or are both rated at less than BBB- by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.3.2 through 18.3.9. In the event that a Party is permitted to self-insure pursuant to this Article 18.3.10, it shall notify the other Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.

**18.3.11** The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage greater than \$25,000, including within the scope of coverage of such insurance whether or not such coverage is sought.

**Article 19. Assignment**

**19.1 Assignment.** This LGIA may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this LGIA without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this LGIA; and provided further that the Interconnection Customer shall have the right to assign this LGIA, without the consent of the CAISO or Participating TO, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that the Interconnection Customer will promptly notify the CAISO and Participating TO of any such assignment. Any financing arrangement entered into by the Interconnection Customer pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the CAISO and Participating TO of the date and particulars of any such exercise of assignment right(s), including providing the CAISO and Participating TO with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this LGIA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

**Article 20. Severability**

**20.1 Severability.** If any provision in this LGIA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this LGIA; provided that if the Interconnection Customer (or any third party, but only if such third party is not acting at the direction of the Participating TO or CAISO) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of the provisions of Article 5.1.2 or 5.1.4 shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

**Article 21. Comparability**

**21.1 Comparability.** The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

**Article 22. Confidentiality**

**22.1 Confidentiality.** Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by any of the Parties to the other Parties prior to the execution of this LGIA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Parties receiving the information that the information is confidential.

If requested by any Party, the other Parties shall provide in writing, the basis for asserting that the information referred to in this Article 22 warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

**22.1.1 Term.** During the term of this LGIA, and for a period of three (3) years after the expiration or termination of this LGIA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

**22.1.2 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this LGIA; or (6) is required, in accordance with Article 22.1.7 of this LGIA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this LGIA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

**22.1.3 Release of Confidential Information.** No Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, Affiliates (limited by the Standards of Conduct requirements set forth in Part 358 of FERC's Regulations, 18 C.F.R. 358), subcontractors, or to parties who may be or considering providing financing to or equity participation with the Interconnection Customer, or to potential purchasers or assignees of the Interconnection Customer, on a need-to-know basis in connection with this LGIA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

**22.1.4 Rights.** Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Parties. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by a Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

**22.1.5 No Warranties.** The mere fact that a Party has provided Confidential Information does not constitute a warranty or representation as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or

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proceed with any other relationship or joint venture.

- 22.1.6 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under this LGIA or its regulatory requirements.
- 22.1.7 Order of Disclosure.** If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an appropriate protective order or waive compliance with the terms of this LGIA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.
- 22.1.8 Termination of Agreement.** Upon termination of this LGIA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.
- 22.1.9 Remedies.** The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.
- 22.1.10 Disclosure to FERC, its Staff, or a State.** Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this LGIA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this LGIA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to the LGIA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.



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**22.1.11** Subject to the exception in Article 22.1.10, Confidential Information shall not be disclosed by the other Parties to any person not employed or retained by the other Parties, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Parties, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this LGIA or as a transmission service provider or a Balancing Authority including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Parties in writing of the information it claims is confidential. Prior to any disclosures of another Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

**Article 23. Environmental Releases**

**23.1** Each Party shall notify the other Parties, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Parties copies of any publicly available reports filed with any Governmental Authorities addressing such events.

**Article 24. Information Requests**

**24.1 Information Acquisition.** The Participating TO and the Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.

**24.2 Information Submission by Participating TO.** The initial information submission by the Participating TO shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include the Participating TO's Transmission System information necessary to allow the Interconnection Customer to select equipment and meet any system protection and stability requirements, unless otherwise agreed to by the Participating TO and the Interconnection Customer. On a monthly basis the Participating TO shall provide the Interconnection Customer and the CAISO a status report on the construction and installation of the Participating TO's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report; (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.

**24.3 Updated Information Submission by Interconnection Customer.** The updated information submission by the Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. The Interconnection Customer shall submit a completed copy of the Electric Generating Unit data requirements contained in Appendix 1 to the LGIP. It shall also include any additional information provided to the Participating TO and the CAISO for the Interconnection Studies. Information in this submission shall be the most current Electric Generating Unit design or expected performance data. Information submitted for stability models shall be compatible with the Participating TO and CAISO standard models. If there is no compatible model, the Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

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If the Interconnection Customer's data is materially different from what was originally provided to the Participating TO and the CAISO for the Interconnection Studies, then the Participating TO and the CAISO will conduct appropriate studies pursuant to the LGIP to determine the impact on the Participating TO's Transmission System and affected portions of the CAISO Controlled Grid based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed and all other requirements of this LGIA are satisfied.

- 24.4 Information Supplementation.** Prior to the Trial Operation date, the Parties shall supplement their information submissions described above in this Article 24 with any and all "as-built" Electric Generating Unit information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Electric Generating Unit as required by Good Utility Practice such as an open circuit "step voltage" test on the Electric Generating Unit to verify proper operation of the Electric Generating Unit's automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Electric Generating Unit at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent (5 percent) change in Electric Generating Unit terminal voltage initiated by a change in the voltage regulators reference voltage. The Interconnection Customer shall provide validated test recordings showing the responses of Electric Generating Unit terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Electric Generating Unit's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Electric Generating Unit terminal or field voltages is provided. Electric Generating Unit testing shall be conducted and results provided to the Participating TO and the CAISO for each individual Electric Generating Unit in a station.

Subsequent to the Commercial Operation Date, the Interconnection Customer shall provide the Participating TO and the CAISO any information changes due to equipment replacement, repair, or adjustment. The Participating TO shall provide the Interconnection Customer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Participating TO-owned substation that may affect the Interconnection Customer's Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information pursuant to Article 5.19.

**Article 25. Information Access and Audit Rights**

- 25.1 Information Access.** Each Party (the "disclosing Party") shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this LGIA; and (ii) carry out its obligations and responsibilities under this LGIA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this LGIA. Nothing in this Article 25 shall obligate the CAISO to make available to a Party any third party information in its possession or control if making such third party information available would violate a CAISO Tariff restriction on the use or disclosure of such third party information.
- 25.2 Reporting of Non-Force Majeure Events.** Each Party (the "notifying Party") shall notify the other Parties when the notifying Party becomes aware of its inability to comply with the provisions of this LGIA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this LGIA.



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- 25.3 Audit Rights.** Subject to the requirements of confidentiality under Article 22 of this LGIA, the Parties' audit rights shall include audits of a Party's costs pertaining to such Party's performance or satisfaction of obligations owed to the other Party under this LGIA, calculation of invoiced amounts, the CAISO's efforts to allocate responsibility for the provision of reactive support to the CAISO Controlled Grid, the CAISO's efforts to allocate responsibility for interruption or reduction of generation on the CAISO Controlled Grid, and each such Party's actions in an Emergency Condition.
- 25.3.1** The Interconnection Customer and the Participating TO shall each have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party's accounts and records pertaining to either such Party's performance or either such Party's satisfaction of obligations owed to the other Party under this LGIA. Subject to Article 25.3.2, any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to each such Party's performance and satisfaction of obligations under this LGIA. Each such Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.
- 25.3.2** Notwithstanding anything to the contrary in Article 25.3, each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.
- 25.4 Audit Rights Periods.**
- 25.4.1 Audit Rights Period for Construction-Related Accounts and Records.** Accounts and records related to the design, engineering, procurement, and construction of Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades constructed by the Participating TO shall be subject to audit for a period of twenty-four months following the Participating TO's issuance of a final invoice in accordance with Article 12.2. Accounts and records related to the design, engineering, procurement, and construction of Participating TO's Interconnection Facilities and/or Stand Alone Network Upgrades constructed by the Interconnection Customer shall be subject to audit and verification by the Participating TO and the CAISO for a period of twenty-four months following the Interconnection Customer's issuance of a final invoice in accordance with Article 5.2(8).
- 25.4.2 Audit Rights Period for All Other Accounts and Records.** Accounts and records related to a Party's performance or satisfaction of all obligations under this LGIA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought; provided that each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.
- 25.5 Audit Results.** If an audit by the Interconnection Customer or the Participating TO determines that an overpayment or an underpayment has occurred with respect to the other Party, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which supports such determination. The Party that is owed payment shall render an invoice to the other Party and such invoice shall be paid pursuant to Article 12 hereof.
- 25.5.1** Notwithstanding anything to the contrary in Article 25.5, the Interconnection Customer's and Participating TO's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff, and the CAISO's process for remedying an overpayment or underpayment shall be as set forth in the CAISO Tariff.

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**Article 26. Subcontractors**

- 26.1 General.** Nothing in this LGIA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this LGIA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this LGIA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.
- 26.2 Responsibility of Principal.** The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this LGIA. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the CAISO or Participating TO be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under Article 5 of this LGIA. Any applicable obligation imposed by this LGIA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.
- 26.3 No Limitation by Insurance.** The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

**Article 27. Disputes**

All disputes arising out of or in connection with this LGIA whereby relief is sought by or from the CAISO shall be settled in accordance with the provisions of Article 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Article 13 of the CAISO Tariff shall be read as references to this LGIA. Disputes arising out of or in connection with this LGIA not subject to provisions of Article 13 of the CAISO Tariff shall be resolved as follows:

- 27.1 Submission.** In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this LGIA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this LGIA.
- 27.2 External Arbitration Procedures.** Any arbitration initiated under this LGIA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

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- 27.3 Arbitration Decisions.** Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this LGIA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.
- 27.4 Costs.** Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

**Article 28. Representations, Warranties, and Covenants**

- 28.1 General.** Each Party makes the following representations, warranties and covenants:
- 28.1.1 Good Standing.** Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this LGIA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this LGIA.
- 28.1.2 Authority.** Such Party has the right, power and authority to enter into this LGIA, to become a Party hereto and to perform its obligations hereunder. This LGIA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).
- 28.1.3 No Conflict.** The execution, delivery and performance of this LGIA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.
- 28.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this LGIA, and it will provide to any Governmental Authority notice of any actions under this LGIA that are required by Applicable Laws and Regulations.

**Article 29. [Reserved]**

**Article 30. Miscellaneous**

- 30.1 Binding Effect.** This LGIA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

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- 30.2 Conflicts.** In the event of a conflict between the body of this LGIA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this LGIA shall prevail and be deemed the final intent of the Parties.
- 30.3 Rules of Interpretation.** This LGIA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this LGIA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this LGIA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this LGIA or such Appendix to this LGIA, or such Section to the LGIP or such Appendix to the LGIP, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this LGIA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".
- 30.4 Entire Agreement.** This LGIA, including all Appendices and Schedules attached hereto, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between or among the Parties with respect to the subject matter of this LGIA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this LGIA.
- 30.5 No Third Party Beneficiaries.** This LGIA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.
- 30.6 Waiver.** The failure of a Party to this LGIA to insist, on any occasion, upon strict performance of any provision of this LGIA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.
- Any waiver at any time by either Party of its rights with respect to this LGIA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this LGIA. Termination or Default of this LGIA for any reason by the Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Participating TO. Any waiver of this LGIA shall, if requested, be provided in writing.
- 30.7 Headings.** The descriptive headings of the various Articles of this LGIA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this LGIA.
- 30.8 Multiple Counterparts.** This LGIA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.
- 30.9 Amendment.** The Parties may by mutual agreement amend this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this

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LGIA upon satisfaction of all Applicable Laws and Regulations.

**30.10 Modification by the Parties.** The Parties may by mutual agreement amend the Appendices to this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.

**30.11 Reservation of Rights.** The CAISO and Participating TO shall each have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles:

Recitals, 1, 2.1, 2.2, 2.3, 2.4, 2.6, 3.1, 3.3, 4.1, 4.2, 4.3, 4.4, 5 preamble, 5.4, 5.7, 5.8, 5.9, 5.12, 5.13, 5.18, 5.19.1, 7.1, 7.2, 8, 9.1, 9.2, 9.3, 9.5, 9.6, 9.7, 9.8, 9.10, 10.3, 11.4, 12.1, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24.3, 24.4, 25.1, 25.2, 25.3 (excluding subparts), 25.4.2, 26, 28, 29, 30, Appendix D, Appendix F, and any other Article not reserved exclusively to the Participating TO or the CAISO below.

The Participating TO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles:

2.5, 5.1, 5.2, 5.3, 5.5, 5.6, 5.10, 5.11, 5.14, 5.15, 5.16, 5.17, 5.19 (excluding 5.19.1), 6, 7.3, 9.4, 9.9, 10.1, 10.2, 10.4, 10.5, 11.1, 11.2, 11.3, 11.5, 12.2, 12.3, 12.4, 24.1, 24.2, 25.3.1, 25.4.1, 25.5 (excluding 25.5.1), 27 (excluding preamble), Appendix A, Appendix B, Appendix C, and Appendix E.

The CAISO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles:

3.2, 4.5, 11.6, 25.3.2, 25.5.1, and 27 preamble.

The Interconnection Customer, the CAISO, and the Participating TO shall have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this LGIA shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

**30.12 No Partnership.** This LGIA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.

**30.13 Joint and Several Obligations.** Except as otherwise provided in this LGIA, the obligations of the CAISO, the Participating TO, and the Interconnection Customer are several, and are neither joint nor joint and several.

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**IN WITNESS WHEREOF**, the Parties have executed this LGIA in multiple originals, each of which shall constitute and be an original effective agreement among the Parties.

**[Insert name of Participating TO]**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**California Independent System Operator Corporation**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**[Insert name of Interconnection Customer]**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**Appendices to LGIA**

|            |  |
|------------|--|
| Appendix A | Interconnection Facilities, Network Upgrades and Distribution Upgrades |
| Appendix B | Milestones   |
| Appendix C | Interconnection Details  |
| Appendix D | Security Arrangements Details  |
| Appendix E | Commercial Operation Date  |
| Appendix F | Addresses for Delivery of Notices and Billings                         |
| Appendix G | [NOT USED]   |
| Appendix H | Interconnection Requirements for a Wind Generating Plant               |



**Appendix A to LGIA**

**Interconnection Facilities, Network, and Distribution Upgrades**

**1. Interconnection Facilities:**

(a) [insert Interconnection Customer's Interconnection Facilities]:

(b) [insert Participating TO's Interconnection Facilities]:

**2. Network Upgrades:**

(a) [insert Stand Alone Network Upgrades]:

(b) [insert Other Network Upgrades]:

(i) [insert Participating TO's Reliability Network Upgrades]

(ii) [insert Participating TO's Delivery Network Upgrades]

**3. Distribution Upgrades:**

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**Appendix B to LGIA**

**Milestones**

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**Appendix C to LGIA**

**Interconnection Details**

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**Appendix D to LGIA**

**Security Arrangements Details**

Infrastructure security of CAISO Controlled Grid equipment and operations and control hardware and software is essential to ensure day-to-day CAISO Controlled Grid reliability and operational security. FERC will expect the CAISO, all Participating TOs, market participants, and Interconnection Customers interconnected to the CAISO Controlled Grid to comply with Applicable Reliability Criteria. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

The Interconnection Customer shall meet the requirements for security implemented pursuant to the CAISO Tariff, including the CAISO's standards for information security posted on the CAISO's internet web site at the following internet address: <http://www.caiso.com/pubinfo/info-security/index.html>.

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**Appendix E to LGIA**

**Commercial Operation Date**

This Appendix E is a part of the LGIA.

**[Date]**

**[CAISO Address]**

**[Participating TO Address]**

Re: \_\_\_\_\_ Electric Generating Unit

Dear \_\_\_\_\_:

On [Date] [Interconnection Customer] has completed Trial Operation of Unit No. \_\_\_\_\_. This letter confirms that [Interconnection Customer] commenced Commercial Operation of Unit No. \_\_\_\_\_ at the Electric Generating Unit, effective as of [Date plus one day].

Thank you.

**[Signature]**

**[Interconnection Customer Representative]**

**Appendix F to LGIA**

**Addresses for Delivery of Notices and Billings**

**Notices:**

**CAISO:**

[To be supplied.]

**Participating TO:**

[To be supplied.]

**Interconnection Customer:**

[To be supplied.]

**Billings and Payments:**

**Participating TO:**

[To be supplied.]

**Interconnection Customer:**

[To be supplied.]

**CAISO:**

[To be supplied.]

**Alternative Forms of Delivery of Notices (telephone, facsimile or e-mail):**

**CAISO:**

[To be supplied.]

**Participating TO:**

[To be supplied.]

**Interconnection Customer:**

[To be supplied.]

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**Appendix G to LGIA**

**[Not Used]**



**Appendix H to LGIA**

**INTERCONNECTION REQUIREMENTS FOR A WIND GENERATING PLANT**

Appendix H sets forth requirements and provisions specific to a wind generating plant. All other requirements of this LGIA continue to apply to wind generating plant interconnections.

**A. Technical Standards Applicable to a Wind Generating Plant**

**i. Low Voltage Ride-Through (LVRT) Capability**

A wind generating plant shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the standard below. The LVRT standard provides for a transition period standard and a post-transition period standard.

**Transition Period LVRT Standard**

The transition period standard applies to wind generating plants subject to FERC Order 661 that have either: (i) interconnection agreements signed and filed with FERC, filed with FERC in unexecuted form, or filed with FERC as non-conforming agreements between January 1, 2006 and December 31, 2006, with a scheduled In-Service Date no later than December 31, 2007, or (ii) wind generating turbines subject to a wind turbine procurement contract executed prior to December 31, 2005, for delivery through 2007.

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 – 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by the Participating TO. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles at a voltage as low as 0.15 p.u., as measured at the high side of the wind generating plant step-up transformer (i.e. the transformer that steps the voltage up to the transmission interconnection voltage or "GSU"), after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system.
2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU or to faults that would result in a voltage lower than 0.15 per unit on the high side of the GSU serving the facility.
3. Wind generating plants may be tripped after the fault period if this action is intended as part of a Remedial Action Scheme.
4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAr Compensator, etc.) within the wind generating plant or by a combination of generator performance and additional equipment.
5. Existing individual generator units that are, or have been, interconnected to the network at the same location at the effective date of the Appendix H LVRT Standard are exempt from meeting the Appendix H LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix H LVRT Standard.

### **Post-transition Period LVRT Standard**

All wind generating plants subject to FERC Order No. 661 and not covered by the transition period described above must meet the following requirements:

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 – 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by the Participating TO. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the CAISO Controlled Grid. A wind generating plant shall remain interconnected during such a fault on the CAISO Controlled Grid for a voltage level as low as zero volts, as measured at the high voltage side of the wind GSU.
2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU.
3. Wind generating plants may be tripped after the fault period if this action is intended as part of a Remedial Action Scheme.
4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAr Compensator) within the wind generating plant or by a combination of generator performance and additional equipment.
5. Existing individual generator units that are, or have been, interconnected to the CAISO Controlled Grid at the same location at the effective date of the Appendix H LVRT Standard are exempt from meeting the Appendix H LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix H LVRT Standard.

#### **ii. Power Factor Design Criteria (Reactive Power)**

A wind generating plant shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the Point of Interconnection as defined in this LGIA in order to maintain a specified voltage schedule, if the Interconnection System Impact Study shows that such a requirement is necessary to ensure safety or reliability. The power factor range standard can be met by using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two, if agreed to by the Participating TO and CAISO. The Interconnection Customer shall not disable power factor equipment while the wind plant is in operation. Wind plants shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the Interconnection System Impact Study shows this to be required for system safety or reliability.

**iii. Supervisory Control and Data Acquisition (SCADA) Capability**

The wind plant shall provide SCADA capability to transmit data and receive instructions from the Participating TO and CAISO to protect system reliability. The Participating TO and CAISO and the wind plant Interconnection Customer shall determine what SCADA information is essential for the proposed wind plant, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability in its area.

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**Appendix T**

**Small Generator Interconnection Agreement**

This Small Generator Interconnection Agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ ("Participating TO"), the California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California ("CAISO") and \_\_\_\_\_ ("Interconnection Customer") each hereinafter sometimes referred to individually as "Party" or referred to collectively as the "Parties."

**Participating TO Information**

Participating TO: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**CAISO Information**

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Interconnection Customer Information**

Interconnection Customer: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Interconnection Customer Queue Position No: \_\_\_\_\_

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

**Article 1. Scope and Limitations of Agreement**

- 1.1** This Agreement shall be used for all Small Generating Facility Interconnection Requests submitted under the applicable generator procedure (either the Generator Interconnection Procedures (GIP) set forth in Appendix Y or the Small Generator Interconnection Procedures (SGIP) set forth in Appendix S) except for those submitted under the 10 kW Inverter Process contained in GIP Appendix 7 or SGIP Attachment 5. For those Interconnection Requests, Attachment 5 contains the terms and conditions which serve as the Interconnection Agreement.
- 1.2** This Agreement governs the terms and conditions under which the Interconnection Customer's Small Generating Facility will interconnect with, and operate in parallel with, the Participating TO's Transmission System.
- 1.3** This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power. The purchase or delivery of power and other services that the Interconnection Customer may require will be covered under separate agreements, if any. The Interconnection Customer will be responsible for separately making all necessary arrangements (including scheduling) for delivery of electricity in accordance with the CAISO Tariff.
- 1.4** Nothing in this Agreement is intended to affect any other agreement between or among the Parties.
- 1.5 Responsibilities of the Parties**
- 1.5.1** The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations, Operating Requirements, and Good Utility Practice. The Parties shall use the Large Generator Interconnection Agreement (CAISO Tariff Appendix V or Appendix CC, as applicable) to interpret the responsibilities of the Parties under this Agreement.
- 1.5.2** The Interconnection Customer shall construct, interconnect, operate and maintain its Small Generating Facility and construct, operate, and maintain its Interconnection Facilities in accordance with the applicable manufacturer's recommended maintenance schedule, and in accordance with this Agreement, and with Good Utility Practice.
- 1.5.3** The Participating TO shall construct, operate, and maintain its Interconnection Facilities and Upgrades in accordance with this Agreement, and with Good Utility Practice. The CAISO and the Participating TO shall cause the Participating TO's Transmission System to be operated and controlled in a safe and reliable manner and in accordance with this Agreement.
- 1.5.4** The Interconnection Customer agrees to construct its facilities or systems in accordance with applicable specifications that meet or exceed those provided by the National Electrical Safety Code, the American National Standards Institute, IEEE, Underwriter's Laboratory, and Operating Requirements in effect at the time of construction and other applicable national and state codes and standards. The Interconnection Customer agrees to design, install, maintain, and operate its Small Generating Facility so as to reasonably minimize the likelihood of a disturbance adversely affecting or impairing the system or equipment of the Participating TO and any Affected Systems. The Interconnection Customer shall comply with the Participating TO's Interconnection Handbook. In the event of a conflict between the terms of this Agreement and the terms of the Participating TO's Interconnection Handbook, the terms in this Agreement shall govern.
- 1.5.5** Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the Attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the Point of Change of Ownership. The Participating TO and the Interconnection Customer, as appropriate, shall provide Interconnection Facilities that adequately protect the CAISO Controlled Grid, the

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Participating TO's electric system, the Participating TO's personnel, and other persons from damage and injury. The allocation of responsibility for the design, installation, operation, maintenance and ownership of Interconnection Facilities shall be delineated in the Attachments to this Agreement.

**1.5.6** The Participating TO and the CAISO shall coordinate with Affected Systems to support the interconnection.

**1.5.7** [This provision is intentionally omitted.]

**1.6 Parallel Operation Obligations**

Once the Small Generating Facility has been authorized to commence parallel operation, the Interconnection Customer shall abide by all rules and procedures pertaining to the parallel operation of the Small Generating Facility in the CAISO Balancing Authority Area, including, but not limited to; 1) the rules and procedures concerning the operation of generation set forth in the CAISO Tariff for the CAISO Controlled Grid and; 2) the Operating Requirements set forth in Attachment 5 of this Agreement.

**1.7 Metering**

The Interconnection Customer shall be responsible for the reasonable and necessary cost for the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Attachments 2 and 3 of this Agreement. The Interconnection Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and Operating Requirements.

**1.8 Reactive Power and Primary Frequency Response**

**1.8.1** The Interconnection Customer shall design its Small Generating Facility to maintain a composite power delivery at continuous rated power output at the terminals of each generating unit at a power factor within the range of 0.95 leading to 0.90 lagging, unless the CAISO has established different requirements that apply to all similarly situated generators in the CAISO Balancing Authority Area on a comparable basis. The requirements of this paragraph shall not apply to asynchronous generators and the requirements of Attachment 7 shall apply instead. For Asynchronous Generating Facilities, executing a Facilities Study Agreement on or after September 21, 2016, the Interconnection Customer shall design the Small Generating Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

**1.8.2** Payment to the Interconnection Customer for reactive power that the Small Generating Facility provides or absorbs when the CAISO requests the Interconnection Customer to operate its Small Generating Facility outside the range specified in Article 1.8.1 will be made by the CAISO in accordance with the applicable provisions of the CAISO Tariff.

**1.8.3 Primary Frequency Response.** Interconnection Customer shall ensure the primary frequency response capability of its Small Generating Facility by installing, maintaining, and operating a functioning governor or equivalent controls. The term "functioning governor or equivalent controls" as used herein shall mean the required hardware and/or software that provides frequency responsive real power control with the ability to sense changes in system frequency and autonomously adjust the Small Generating Facility's real power output in accordance with the

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droop and deadband parameters and in the direction needed to correct frequency deviations. Interconnection Customer is required to install a governor or equivalent controls with the capability of operating: (1) with a maximum 5 percent droop and  $\pm 0.036$  Hz deadband; or (2) in accordance with the relevant droop, deadband, and timely and sustained response settings from Applicable Reliability Standards providing for equivalent or more stringent parameters. The droop characteristic shall be: (1) based on the nameplate capacity of the Small Generating Facility, and shall be linear in the range of frequencies between 59 to 61 Hz that are outside of the deadband parameter; or (2) based on Applicable Reliability Standards providing for an equivalent or more stringent parameter. The deadband parameter shall be: the range of frequencies above and below nominal (60 Hz) in which the governor or equivalent controls is not expected to adjust the Small Generating Facility's real power output in response to frequency deviations. The deadband shall be implemented: (1) without a step to the droop curve, that is, once the frequency deviation exceeds the deadband parameter, the expected change in the Small Generating Facility's real power output in response to frequency deviations shall start from zero and then increase (for under-frequency deviations) or decrease (for over-frequency deviations) linearly in proportion to the magnitude of the frequency deviation; or (2) in accordance with Applicable Reliability Standards providing for an equivalent or more stringent parameter. Interconnection Customer shall notify the CAISO that the primary frequency response capability of the Small Generating Facility has been tested and confirmed during commissioning. Once Interconnection Customer has synchronized the Small Generating Facility with the CAISO Controlled Grid, Interconnection Customer shall operate the Small Generating Facility consistent with the provisions specified in Sections 1.8.3.1 and 1.8.3.2 of this SGIA. The primary frequency response requirements contained herein shall apply to both synchronous and non-synchronous Small Generating Facilities.

**1.8.3.1 Governor or Equivalent Controls.** Whenever the Small Generating Facility is operated in parallel with the CAISO Controlled Grid, Interconnection Customer shall operate the Small Generating Facility with its governor or equivalent controls in service and responsive to frequency. Interconnection Customer shall, in coordination with the CAISO, set the deadband parameter to: (1) a maximum of  $\pm 0.036$  Hz and set the droop parameter to a maximum of 5 percent; or (2) implement the relevant droop and deadband settings from Applicable Reliability Standards that provides for equivalent or more stringent parameters. Interconnection Customer shall be required to provide the status and settings of the governor or equivalent controls to the CAISO upon request. If Interconnection Customer needs to operate the Small Generating Facility with its governor or equivalent controls not in service, Interconnection Customer shall immediately notify the CAISO, and provide the following information: (1) the operating status of the governor or equivalent controls (i.e., whether it is currently out of service or when it will be taken out of service); (2) the reasons for removing the governor or equivalent controls from service; and (3) a reasonable estimate of when the governor or equivalent controls will be returned to service. Interconnection Customer shall make Reasonable Efforts to return its governor or equivalent controls into service as soon as practicable. Interconnection Customer shall make Reasonable Efforts to keep outages of the Small Generating Facility's governor or equivalent controls to a minimum whenever the Small Generating Facility is operated in parallel with the CAISO Controlled Grid.

**1.8.3.2 Timely and Sustained Response.** Interconnection Customer shall ensure that the Small Generating Facility's real power response to sustained frequency deviations outside of the deadband setting is automatically provided and shall begin immediately after frequency deviates outside of the deadband, and to the extent the Small Generating Facility has operating capability in the direction needed to correct the frequency deviation. Interconnection Customer shall not block or otherwise inhibit the ability of the governor or equivalent controls to respond and shall ensure that the response is not inhibited, except under certain operational constraints including, but not limited to, ambient temperature limitations, physical energy limitations, outages of mechanical equipment, or regulatory requirements. The Small Generating Facility shall sustain the



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real power response at least until system frequency returns to a value within the deadband setting of the governor or equivalent controls. A FERC-approved Applicable Reliability Standard with equivalent or more stringent requirements shall supersede the above requirements.

**1.8.3.3 Exemptions.** Small Generating Facilities that are regulated by the Nuclear Regulatory Commission shall be exempt from Sections 1.8.3, 1.8.3.1, and 1.8.3.2 of this SGIA. Small Generating Facilities that are behind-the-meter generation that is sized-to-load (i.e., the thermal load and the generation are near-balanced in real-time operation and the generation is primarily controlled to maintain the unique thermal, chemical, or mechanical output necessary for the operating requirements of its host facility) shall be required to install primary frequency response capability in accordance with the droop and deadband capability requirements specified in Section 1.8.3, but shall be otherwise exempt from the operating requirements in Sections 1.8.3, 1.8.3.1, 1.8.3.2, and 1.8.3.4 of this SGIA.

**1.8.3.4 Electric Storage Resources.** Interconnection Customer interconnecting an electric storage resource shall establish an operating range in Attachment 5 of this SGIA that specifies a minimum state of charge and a maximum state of charge between which the electric storage resource will be required to provide primary frequency response consistent with the conditions set forth in Sections 1.8.3, 1.8.3.1, 1.8.3.2, and 1.8.3.3 of this SGIA. Attachment 5 shall specify whether the operating range is static or dynamic, and shall consider: (1) the expected magnitude of frequency deviations in the interconnection; (2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection; (3) the expected incidence of frequency deviations outside of the deadband parameter in the interconnection; (4) the physical capabilities of the electric storage resource; (5) operational limitations of the electric storage resource due to manufacturer specifications; and (6) any other relevant factors agreed to by the CAISO and Interconnection Customer, and in consultation with the relevant transmission owner or balancing authority as appropriate. If the operating range is dynamic, then Attachment 5 must establish how frequently the operating range will be reevaluated and the factors that may be considered during its reevaluation.

Interconnection Customer's electric storage resource is required to provide timely and sustained primary frequency response consistent with Section 1.8.3.2 of this SGIA when it is online and dispatched to inject electricity to the CAISO Controlled Grid and/or receive electricity from the Participating TO's Transmission System or the CAISO Controlled Grid. This excludes circumstances when the electric storage resource is not dispatched to inject electricity to the CAISO Controlled Grid and/or dispatched to receive electricity from the Participating TO's Transmission System or the CAISO Controlled Grid. If Interconnection Customer's electric storage resource is charging at the time of a frequency deviation outside of its deadband parameter, it is to increase (for over-frequency deviations) or decrease (for under-frequency deviations) the rate at which it is charging in accordance with its droop parameter. Interconnection Customer's electric storage resource is not required to change from charging to discharging, or vice versa, unless the response necessitated by the droop and deadband settings requires it to do so and it is technically capable of making such a transition.

**1.9** Capitalized terms used herein shall have the meanings specified in the Glossary of Terms in Attachment 1 or the body of this Agreement.

## **Article 2. Inspection, Testing, Authorization, and Right of Access**

### **2.1 Equipment Testing and Inspection**

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**2.1.1** The Interconnection Customer shall test and inspect its Small Generating Facility and Interconnection Facilities prior to interconnection. The Interconnection Customer shall notify the Participating TO and the CAISO of such activities no fewer than five (5) Business Days (or as may be agreed to by the Parties) prior to such testing and inspection. Testing and inspection shall occur on a Business Day. The Participating TO and the CAISO may, at their own expense, send qualified personnel to the Small Generating Facility site to inspect the interconnection and observe the testing. The Interconnection Customer shall provide the Participating TO and the CAISO a written test report when such testing and inspection is completed.

**2.1.2** The Participating TO and the CAISO shall provide the Interconnection Customer written acknowledgment that they have received the Interconnection Customer's written test report. Such written acknowledgment shall not be deemed to be or construed as any representation, assurance, guarantee, or warranty by the Participating TO or the CAISO of the safety, durability, suitability, or reliability of the Small Generating Facility or any associated control, protective, and safety devices owned or controlled by the Interconnection Customer or the quality of power produced by the Small Generating Facility.

**2.2 Authorization Required Prior to Parallel Operation**

**2.2.1** The Participating TO and the CAISO shall use Reasonable Efforts to list applicable parallel operation requirements in Attachment 5 of this Agreement. Additionally, the Participating TO and the CAISO shall notify the Interconnection Customer of any changes to these requirements as soon as they are known. The Participating TO and the CAISO shall make Reasonable Efforts to cooperate with the Interconnection Customer in meeting requirements necessary for the Interconnection Customer to commence parallel operations by the in-service date.

**2.2.2** The Interconnection Customer shall not operate its Small Generating Facility in parallel with the Participating TO's Transmission System without prior written authorization of the Participating TO. The Participating TO will provide such authorization to the Interconnection Customer and the CAISO once the Participating TO receives notification that the Interconnection Customer has complied with all applicable parallel operation requirements. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

**2.3 Right of Access to Premises**

**2.3.1** Upon reasonable notice, the Participating TO and the CAISO may send a qualified person to the premises of the Interconnection Customer at or immediately before the time the Small Generating Facility first produces energy to inspect the interconnection, and observe the commissioning of the Small Generating Facility (including any required testing), startup, and operation for a period of up to three (3) Business Days after initial start-up of the unit. In addition, the Interconnection Customer shall notify the Participating TO and the CAISO at least five (5) Business Days prior to conducting any on-site verification testing of the Small Generating Facility.

**2.3.2** Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, the Participating TO and the CAISO shall have access to the Interconnection Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.

**2.3.3** Each Party shall be responsible for its own costs associated with following this article.

### **Article 3. Effective Date, Term, Termination, and Disconnection**

#### **3.1 Effective Date**

This Agreement shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by the FERC. The Participating TO and the CAISO shall promptly file this Agreement with the FERC upon execution, if required.

#### **3.2 Term of Agreement**

This Agreement shall become effective on the Effective Date and shall remain in effect for a period of \_\_\_\_ years from the Effective Date (term specified in individual agreements to be ten (10) years or such other longer period as the Interconnection Customer may request) and shall be automatically renewed for each successive one-year period thereafter, unless terminated earlier in accordance with Article 3.3 of this Agreement.

#### **3.3 Termination**

No termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this Agreement (if required), which notice has been accepted for filing by FERC.

**3.3.1** The Interconnection Customer may terminate this Agreement at any time by giving the Participating TO and the CAISO twenty (20) Business Days written notice.

**3.3.2** Any Party may terminate this Agreement after Default pursuant to Article 7.6.

**3.3.3** Upon termination of this Agreement, the Small Generating Facility will be disconnected from the CAISO Controlled Grid. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for these costs under this Agreement.

**3.3.4** The termination of this Agreement shall not relieve any Party of its liabilities and obligations, owed or continuing at the time of termination.

**3.3.5** The provisions of this article shall survive termination or expiration of this Agreement.

#### **3.4 Temporary Disconnection**

Temporary disconnection of the Small Generating Facility or associated Interconnection Facilities shall continue only for so long as reasonably necessary under Good Utility Practice.

##### **3.4.1 Emergency Conditions**

"Emergency Condition" shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; (2) that, in the case of the CAISO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the CAISO Controlled Grid or the electric systems of others to which the CAISO Controlled Grid is directly connected; (3) that, in the case of the Participating TO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Participating TO's Transmission System, the Participating TO's Interconnection Facilities, Distribution System, or the electric systems of others to which the Participating TO's electric system is directly connected; or (4) that,

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in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Small Generating Facility or the Interconnection Customer's Interconnection Facilities. Under Emergency Conditions, the CAISO or the Participating TO may immediately suspend interconnection service and temporarily disconnect the Small Generating Facility. The Participating TO or the CAISO shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer's operation of the Small Generating Facility or the Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall notify the Participating TO and the CAISO promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the CAISO Controlled Grid, the Participating TO's Interconnection Facilities, or any Affected Systems. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of the Interconnection Customer's or Participating TO's facilities and operations, its anticipated duration, and the necessary corrective action.

### **3.4.2 Routine Maintenance, Construction, and Repair**

The Participating TO or the CAISO may interrupt interconnection service or curtail the output of the Small Generating Facility and temporarily disconnect the Small Generating Facility from the CAISO Controlled Grid when necessary for routine maintenance, construction, and repairs on the CAISO Controlled Grid or the Participating TO's electric system. The Party scheduling the interruption shall provide the Interconnection Customer with (5) five Business Days notice prior to such interruption. The Party scheduling the interruption shall use Reasonable Efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

The Interconnection Customer shall update its planned maintenance schedules in accordance with the CAISO Tariff. The CAISO may request the Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the CAISO Controlled Grid in accordance with the CAISO Tariff. Such planned maintenance schedules and updates and changes to such schedules shall be provided by the Interconnection Customer to the Participating TO concurrently with their submittal to the CAISO.

### **3.4.3 Forced Outages**

During any forced outage, the Participating TO or the CAISO may suspend interconnection service to effect immediate repairs on the CAISO Controlled Grid or the Participating TO's electric system. The Participating TO or the CAISO shall use Reasonable Efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the Participating TO or the CAISO shall, upon request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection. The Interconnection Customer shall notify CAISO, as soon as practicable, of all forced outages or reductions of the Small Generating Facility in accordance with the CAISO Tariff.

### **3.4.4 Adverse Operating Effects**

The Participating TO or the CAISO shall notify the Interconnection Customer as soon as practicable if, based on Good Utility Practice, operation of the Small Generating Facility may cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Small Generating Facility could cause damage to the CAISO Controlled Grid, the Participating TO's Transmission System or Affected Systems. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time, the Participating TO or the CAISO may disconnect the Small Generating Facility. The Participating TO or the CAISO shall provide the Interconnection Customer with (5) five Business Day notice of such disconnection, unless the

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provisions of Article 3.4.1 apply.

### **3.4.5 Modification of the Small Generating Facility**

Prior to making any modification to the Small Generating Facility before it has achieved its Commercial Operation Date, the Interconnection Customer must first request that the CAISO evaluate whether any such proposed modification is a Material Modification and receive written authorization from the Participating TO and the CAISO. Such authorization shall not be unreasonably withheld. The CAISO may engage the services of the applicable Participating TO to assess the modification. Costs incurred by the Participating TO and CAISO (if any) shall be borne by the party making the request under Section 1.3.4 of Appendix S, and such costs shall be included in any CAISO invoice for modification assessment activities. Modifications shall be done in accordance with Good Utility Practice. If the Interconnection Customer has achieved its Commercial Operation Date, the CAISO and Participating TO(s) will review the requested modification pursuant to Sections 25 and 25.1(c) of the CAISO Tariff. If the Interconnection Customer makes such modification without the Participating TO's and the CAISO's prior written authorization, the Participating TO or the CAISO shall have the right to temporarily disconnect the Small Generating Facility. Any change to the Point of Interconnection, except those deemed acceptable under this article of the SGIA or so allowed elsewhere, shall constitute a Material Modification. The Interconnection Customer may then withdraw the proposed modification or proceed with a new Interconnection Request for such modification.

Notwithstanding Section 7.5 of Appendix DD, at any time after achieving its Commercial Operation Date, the Interconnection Customer may reduce the megawatt generating capacities of its Generating Facilities, subject to Section 25.1(c) of the CAISO Tariff. Section 7.5.11 of Appendix DD will still apply to such requests to reduce capacity.

### **3.4.6 Reconnection**

The Parties shall cooperate with each other to restore the Small Generating Facility, Interconnection Facilities, the Participating TO's electric system, and the CAISO Controlled Grid to their normal operating state as soon as reasonably practicable following a temporary disconnection.

## **Article 4. Costs for Interconnection Facilities and Distribution Updates**

### **4.1 Interconnection Facilities**

**4.1.1** The Interconnection Customer shall pay for the cost of the Interconnection Facilities itemized in Attachment 2 of this Agreement. The Participating TO shall provide a best estimate cost, including overheads, for the purchase and construction of its Interconnection Facilities and provide a detailed itemization of such costs. Costs associated with Interconnection Facilities may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, the CAISO, and the Participating TO.

**4.1.2** The Interconnection Customer shall be responsible for its share of all reasonable expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its own Interconnection Facilities, and (2) operating, maintaining, repairing, and replacing the Participating TO's Interconnection Facilities.

### **4.2 Distribution Upgrades**

The Participating TO shall design, procure, construct, install, and own the Distribution Upgrades described in Attachment 6 of this Agreement. If the Participating TO and the Interconnection



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Customer agree, the Interconnection Customer may construct Distribution Upgrades that are located on land owned by the Interconnection Customer. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer.

**Article 5. Cost Responsibility for Network Upgrades**

**5.1 Applicability**

No portion of this Article 5 shall apply unless the interconnection of the Small Generating Facility requires Network Upgrades.

**5.2 Network Upgrades**

The Participating TO shall design, procure, construct, install, and own the Network Upgrades described in Attachment 6 of this Agreement. If the Participating TO and the Interconnection Customer agree, the Interconnection Customer may construct Network Upgrades that are located on land owned by the Interconnection Customer. Unless the Participating TO elects to pay for Network Upgrades, the actual cost of the Network Upgrades, including overheads, shall be borne initially by the Interconnection Customer.

**5.3 Transmission Credits**

No later than thirty (30) calendar days prior to the Commercial Operation Date, the Interconnection Customer may make a one-time election by written notice to the CAISO and the Participating TO to receive Congestion Revenue Rights as defined in and as available under the CAISO Tariff at the time of the election in accordance with the CAISO Tariff, in lieu of a refund of the cost of Network Upgrades in accordance with Article 5.3.1.

**5.3.1 Repayment of Amounts Advanced for Network Upgrades**

**5.3.1.1 Repayment of Amounts Advanced Regarding Non-Phased Generating Facilities**

Upon the Commercial Operation Date of a Small Generating Facility that is not a Phased Generating Facility, the Interconnection Customer shall be entitled to a repayment, equal to the total amount paid to the Participating TO for the cost of Network Upgrades. Such amount shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the Commercial Operation Date; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years from the Commercial Operation Date. Notwithstanding the foregoing, if this Agreement terminates within five (5) years from the Commercial Operation Date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

**5.3.1.2 Repayment of Amounts Advanced Regarding Phased Generating Facilities**

Upon the Commercial Operation Date of each phase of a Phased Generating Facility, the Interconnection Customer shall be entitled to a repayment equal to the amount paid to the Participating TO for the cost of Network Upgrades for that completed phase for which the Interconnection Customer is responsible, if all of the following conditions are satisfied:

- (a) The Small Generating Facility is capable of being constructed in phases;
- (b) The Small Generating Facility is specified in the SGIA as being constructed in phases;

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- (c) The completed phase corresponds to one of the phases specified in the SGIA;
- (d) The Interconnection Customer has tendered notice pursuant to the SGIA that the phase has achieved Commercial Operation;
- (e) All parties to the SGIA have agreed that the completed phase meets the requirements set forth in the SGIA and any other operating, metering, and interconnection requirements to permit generation output of the entire capacity of the completed phase as specified in the SGIA;
- (f) The Network Upgrades necessary for the completed phase to meet the desired level of deliverability are in service; and
- (g) The Interconnection Customer has posted one hundred (100) percent of the Interconnection Financial Security required for the Network Upgrades for all the phases of the Small Generating Facility.

Upon satisfaction of these conditions (a) through (g), the Interconnection Customer shall be entitled to receive a partial repayment of its financed cost responsibility in an amount equal to the percentage of the Small Generating Facility declared to be in Commercial Operation multiplied by the cost of the Network Upgrades associated with the completed phase. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Small Generating Facility is completed.

If the SGIA includes a partial termination provision and the partial termination right has been exercised with regard to a phase that has not been built, then the Interconnection Customer's eligibility for repayment under this Article as to the remaining phases shall not be diminished. If the Interconnection Customer completes one or more phases and then defaults on the SGIA, the Participating TO and the CAISO shall be entitled to offset any losses or damages resulting from the default against any repayments made for Network Upgrades related to the completed phases, provided that the Party seeking to exercise the offset has complied with any requirements which may be required to apply the stream of payments utilized to make the repayment to the Interconnection Customer as an offset.

Any repayment amount for completion of a phase shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the Commercial Operation Date; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years from the Commercial Operation Date. Notwithstanding the foregoing, if this Agreement terminates within five (5) years from the Commercial Operation Date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

### **5.3.1.3 Interest Payments and Assignment Rights**

Any repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a repayment of such payment. Interest shall continue to accrue on the repayment obligation so long as this Agreement is in effect. The Interconnection Customer may assign such repayment rights to any person.



#### **5.3.1.4 Failure to Achieve Commercial Operation**

If the Small Generating Facility fails to achieve commercial operation, but it or another generating facility is later constructed and makes use of the Network Upgrades, the Participating TO shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the generating facility, if different, is responsible for identifying the entity to which reimbursement must be made.

#### **5.3.2 Special Provisions for Affected Systems**

The Interconnection Customer shall enter into an agreement with the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid, as applicable, in accordance with the applicable generation interconnection procedure under which the Small Generating Facility was processed (SGIP or GIP). Such agreement shall specify the terms governing payments to be made by the Interconnection Customer to the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid. In no event shall the Participating TO be responsible for the repayment for any facilities that are not part of the Participating TO's Transmission System.

#### **5.3.3 Rights Under Other Agreements**

Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future, under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements or transmission credits for transmission service that is not associated with the Small Generating Facility.

### **Article 6. Billing, Payment, Milestones, and Interconnection Financial Security**

#### **6.1 Billing and Payment Procedures and Final Accounting**

- 6.1.1** The Participating TO shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of Interconnection Facilities and Upgrades contemplated by this Agreement on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within thirty (30) calendar days of receipt, or as otherwise agreed to by the Parties. Notwithstanding the foregoing, any invoices between the CAISO and another Party shall be submitted and paid in accordance with the CAISO Tariff.
- 6.1.2** Within six (6) months of completing the construction and installation of the Participating TO's Interconnection Facilities and/or Upgrades described in the Attachments to this Agreement, the Participating TO shall provide the Interconnection Customer with a final accounting report of any difference between (1) the Interconnection Customer's cost responsibility for the actual cost of such facilities or Upgrades, and (2) the Interconnection Customer's previous aggregate payments to the Participating TO for such facilities or Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous aggregate payments, the Participating TO shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the Participating TO within thirty (30) calendar days. If the Interconnection Customer's previous aggregate payments exceed its cost responsibility under this Agreement, the Participating TO shall refund to the Interconnection Customer an amount equal to the difference within thirty (30) calendar days of the final accounting report.

## 6.2 Milestones

The Parties shall agree on milestones for which each Party is responsible and list them in Attachment 4 of this Agreement. A Party's obligations under this provision may be extended by agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a Force Majeure Event, as defined in Article 7.5.1, it shall immediately notify the other Parties of the reason(s) for not meeting the milestone and (1) propose the earliest reasonable alternate date by which it can attain this and future milestones, and (2) request appropriate amendments to Attachment 4. The Parties affected by the failure to meet a milestone shall not unreasonably withhold agreement to such an amendment unless (1) they will suffer significant uncompensated economic or operational harm from the delay, (2) attainment of the same milestone has previously been delayed, or (3) they have reason to believe that the delay in meeting the milestone is intentional or unwarranted notwithstanding the circumstances explained by the Party proposing the amendment.

## 6.3 Interconnection Financial Security Arrangements for Small Generating Facilities Processed Under the Fast Track Process or Small Generating Facilities Processed under SGIP

The terms and conditions of this Article 6.3 shall apply only to:

- (i) Small Generating Facilities that are no larger than 5 MW that are processed under the Fast Track Process under the Generation Interconnection Procedures, CAISO Tariff Appendix Y; and
- (ii) Small Generating Facilities processed under the Small Generation Interconnection Procedures set forth in CAISO Tariff Appendix S.

In such case, the terms of Article 6.4 below do not apply to this Agreement.

For easy reference, the Parties shall check the Box below when this Article 6.3 applies:

**THIS ARTICLE 6.3 APPLIES**

**6.3.1** At least twenty (20) Business Days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the Participating TO's Interconnection Facilities and Upgrades, the Interconnection Customer shall provide the Participating TO, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Participating TO and is consistent with the Uniform Commercial Code of the jurisdiction where the Point of Interconnection is located. Such security for payment shall be in an amount sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Participating TO's Interconnection Facilities and Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Participating TO under this Agreement during its term.

**6.3.2** If a guarantee is provided, the guarantee must be made by an entity that meets the creditworthiness requirements of the Participating TO, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.

**6.3.3** If a letter of credit or surety bond is provided, the letter of credit or surety bond must be issued by a financial institution or insurer reasonably acceptable to the Participating TO and must specify a reasonable expiration date.

#### **6.4 Interconnection Financial Security Arrangements for All Other Small Generating Facilities**

The terms of this Article 6.4 apply to Small Generating Facilities that have been processed under either

- (i) the Cluster Study Process or
- (ii) the Independent Study Track Process of the Generation Interconnection Procedures set forth in CAISO Tariff Appendix Y. In such case, the provisions of Article 6.3 do not apply to this Agreement.

In such case, the terms of Article 6.3 above do not apply to this Agreement.

For easy reference, the Parties shall check the Box below when this Article 6.4 applies:

**THIS ARTICLE 6.4 APPLIES**

**6.4.1** The Interconnection Customer is obligated to provide all necessary Interconnection Financial Security required under Section 9 of the GIP in a manner acceptable under Section 9 of the GIP. Failure by the Interconnection Customer to timely satisfy the GIP's requirements for the provision of Interconnection Financial Security shall be deemed a breach of this Agreement and a condition of Default of this Agreement.

**6.4.2** Notwithstanding any other provision in this Agreement for notice of Default and opportunity to cure such Default, the CAISO or the Participating TO shall provide Interconnection Customer with written notice of any Default due to timely failure to post Interconnection Financial Security, and the Interconnection Customer shall have five (5) Business Days from the date of such notice to cure such Default by posting the required Interconnection Financial Security. If the Interconnection Customer fails to cure the Default, then this Agreement shall be deemed terminated.

#### **Article 7. Assignment, Liability, Indemnity, Force Majeure, and Default**

##### **7.1 Assignment**

This Agreement may be assigned by any Party upon fifteen (15) Business Days prior written notice and opportunity to object by the other Parties; provided that:

- 7.1.1** Any Party may assign this Agreement without the consent of the other Parties to any affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement, provided that the Interconnection Customer promptly notifies the Participating TO and the CAISO of any such assignment;
- 7.1.2** The Interconnection Customer shall have the right to assign this Agreement, without the consent of the Participating TO or the CAISO, for collateral security purposes to aid in providing financing for the Small Generating Facility, provided that the Interconnection Customer will promptly notify the Participating TO and the CAISO of any such assignment.
- 7.1.3** Any attempted assignment that violates this article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is responsible for meeting the same financial, credit, and insurance obligations as the Interconnection Customer. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

## **7.2 Limitation of Liability**

Each Party's liability to the other Parties for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall any Party be liable to the other Parties for any indirect, special, consequential, or punitive damages, except as authorized by this Agreement.

## **7.3 Indemnity**

**7.3.1** This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 7.2.

**7.3.2** The Parties shall at all times indemnify, defend, and hold the other Parties harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from another Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

**7.3.3** If an indemnified Party is entitled to indemnification under this article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this article, to assume the defense of such claim, such indemnified Party may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

**7.3.4** If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this article, the amount owing to the indemnified Party shall be the amount of such indemnified Party's actual loss, net of any insurance or other recovery.

**7.3.5** Promptly after receipt by an indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this article may apply, the indemnified Party shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

## **7.4 Consequential Damages**

Other than as expressly provided for in this Agreement, no Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

## **7.5 Force Majeure**

**7.5.1** As used in this article, a Force Majeure Event shall mean "any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing by the Party

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claiming Force Majeure."

- 7.5.2** If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Parties, either in writing or via the telephone, of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Parties informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of Reasonable Efforts. The Affected Party will use Reasonable Efforts to resume its performance as soon as possible.

**7.6 Default**

- 7.6.1** No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement or the result of an act or omission of another Party. Upon a Default, the affected non-defaulting Party(ies) shall give written notice of such Default to the defaulting Party. Except as provided in Article 7.6.2 and in Article 6.4.2, the defaulting Party shall have sixty (60) calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within 20 calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.

- 7.6.2** If a Default is not cured as provided in this article, or if a Default is not capable of being cured within the period provided for herein, the affected non-defaulting Party(ies) shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not such Party(ies) terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

**Article 8. Insurance**

- 8.1** The Interconnection Customer shall, at its own expense, maintain in force general liability insurance without any exclusion for liabilities related to the interconnection undertaken pursuant to this Agreement. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. The Interconnection Customer shall obtain additional insurance only if necessary as a function of owning and operating a generating facility. Such insurance shall be obtained from an insurance provider authorized to do business in the State where the interconnection is located. Certification that such insurance is in effect shall be provided upon request of the Participating TO or CAISO, except that the Interconnection Customer shall show proof of insurance to the Participating TO and CAISO no later than ten Business Days prior to the anticipated Commercial Operation Date. If the Interconnection Customer is of sufficient credit-worthiness, it may propose to self-insure for such liabilities, and such a proposal shall not be unreasonably rejected.
- 8.2** The Participating TO agrees to maintain general liability insurance or self-insurance consistent with the Participating TO's commercial practice. Such insurance or self-insurance shall not exclude coverage for the Participating TO's liabilities undertaken pursuant to this Agreement.

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- 8.3** The CAISO agrees to maintain general liability insurance or self-insurance consistent with the CAISO's commercial practice. Such insurance shall not exclude coverage for the CAISO's liabilities undertaken pursuant to this Agreement.
- 8.4** The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

**Article 9. Confidentiality**

- 9.1** Confidential Information shall mean any confidential and/or proprietary information provided by one Party to another Party that is clearly marked or otherwise designated "Confidential." For purposes of this Agreement all design, operating specifications, and metering data provided by the Interconnection Customer shall be deemed Confidential Information regardless of whether it is clearly marked or otherwise designated as such.
- 9.2** Confidential Information does not include information previously in the public domain, required to be publicly submitted or divulged by Governmental Authorities (after notice to the other Parties and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce this Agreement. Each Party receiving Confidential Information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the Party providing that information, except to fulfill obligations under this Agreement, or to fulfill legal or regulatory requirements.
- 9.2.1** Each Party shall employ at least the same standard of care to protect Confidential Information obtained from the other Parties as it employs to protect its own Confidential Information.
- 9.2.2** Each Party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of Confidential Information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.
- 9.3** Notwithstanding anything in this article to the contrary, and pursuant to 18 CFR § 1b.20, if FERC, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to FERC, within the time provided for in the request for information. In providing the information to FERC, the Party may, consistent with 18 CFR § 388.112, request that the information be treated as confidential and non-public by FERC and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this Agreement prior to the release of the Confidential Information to FERC. The Party shall notify the other Parties to this Agreement when it is notified by FERC that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 CFR § 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

**Article 10. Disputes**

All disputes arising out of or in connection with this Agreement whereby relief is sought by or from CAISO shall be settled in accordance with the provisions of Article 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Article 13 of the CAISO Tariff shall be read as reference to this Agreement. Disputes arising out of or in connection with this Agreement not subject to provisions of Article 13 of the CAISO Tariff shall be resolved as follows:

- 10.1** The Parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this article.



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- 10.2** In the event of a dispute, either Party shall provide the other Party with a written Notice of Dispute. Such Notice shall describe in detail the nature of the dispute.
- 10.3** If the dispute has not been resolved within two Business Days after receipt of the Notice, either Party may contact FERC's Dispute Resolution Service (DRS) for assistance in resolving the dispute.
- 10.4** The DRS will assist the Parties in either resolving their dispute or in selecting an appropriate dispute resolution venue (e.g., mediation, settlement judge, early neutral evaluation, or technical expert) to assist the Parties in resolving their dispute. DRS can be reached at 1-877-337-2237 or via the internet at <http://www.ferc.gov/legal/adr.asp>.
- 10.5** Each Party agrees to conduct all negotiations in good faith and will be responsible for one-half of any costs paid to neutral third-parties.
- 10.6** If neither Party elects to seek assistance from the DRS, or if the attempted dispute resolution fails, then either Party may exercise whatever rights and remedies it may have in equity or law consistent with the terms of this Agreement.

**Article 11. Taxes**

- 11.1** The Parties agree to follow all applicable tax laws and regulations, consistent with FERC policy and Internal Revenue Service requirements.
- 11.2** Each Party shall cooperate with the other Parties to maintain the other Parties' tax status. Nothing in this Agreement is intended to adversely affect the Participating TO's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

**Article 12. Miscellaneous**

**12.1 Governing Law, Regulatory Authority, and Rules**

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of \_\_\_\_\_ (where the Point of Interconnection is located), without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

**12.2 Amendment**

The Parties may amend this Agreement by a written instrument duly executed by all of the Parties, or under Article 12.12 of this Agreement.

**12.3 No Third-Party Beneficiaries**

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

**12.4 Waiver**

- 12.4.1** The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.



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**12.4.2** Any waiver at any time by any Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or Default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Participating TO. Any waiver of this Agreement shall, if requested, be provided in writing.

**12.5 Entire Agreement**

This Agreement, including all Attachments, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between or among the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this Agreement.

**12.6 Multiple Counterparts**

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

**12.7 No Partnership**

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.

**12.8 Severability**

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

**12.9 Security Arrangements**

Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. FERC expects all transmission providers, market participants, and interconnection customers interconnected to electric systems to comply with Applicable Reliability Criteria. All public utilities are expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

**12.10 Environmental Releases**

Each Party shall notify the other Parties, first orally and then in writing, of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Small Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than 24 hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Parties copies of any publicly available reports filed with any governmental

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authorities addressing such events.

**12.11 Subcontractors**

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.

**12.11.1** The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Participating TO or the CAISO be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

**12.11.2** The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

**12.12 Reservation of Rights**

The CAISO and Participating TO shall each have the right to make a unilateral filing with FERC to modify this Agreement pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following articles of this Agreement and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these articles:

Introductory Paragraph, 1.1, 1.2, 1.3, 1.4, 1.5.1, 1.5.2, 1.5.3, 1.5.4, 1.5.5, 1.5.6, 1.5.7, 1.6, 1.7, 1.8.1, 1.9, 2.1, 2.2.1, 2.3, 3, 4.1.1 (last sentence only), 5.1, 5.3, 6.2, 7, 8, 9, 11, 12, 13, Attachment 1, Attachment 4, Attachment 5, and Attachment 7.

The Participating TO shall have the exclusive right to make a unilateral filing with FERC to modify this Agreement pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following articles of this Agreement and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these articles:

2.2.2, 4.1.1 (all but the last sentence), 4.1.2, 4.2, 5.2, 6.1.1 (all but the last sentence), 6.1.2, 6.3, 10 (all but preamble), Attachment 2, Attachment 3 and Attachment 6.

The CAISO shall have the exclusive right to make a unilateral filing with FERC to modify this Agreement pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following articles of this Agreement and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these articles:

1.8.2, 6.1.1 (last sentence only) and 10 (preamble only).

The Interconnection Customer, the CAISO, and the Participating TO shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before

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FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the Parties otherwise mutually agree as provided herein.

**Article 13. Notices**

**13.1 General**

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

If to the Participating TO:

Participating TO: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

If to the CAISO:

California Independent System Operator Corporation  
  
Attention: \_\_\_\_\_  
250 Outcropping Way  
Folsom, CA 95630  
Phone: (916) 351-4400 Fax: \_\_\_\_\_

**13.2 Billing and Payment**

Billings and payments shall be sent to the addresses set out below:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Participating TO: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**13.3 Alternative Forms of Notice**

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Any notice or request required or permitted to be given by any Party to the other Parties and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

If to the Participating TO:

Participating TO: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

If to the CAISO:

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Attention: \_\_\_\_\_  
Address: 250 Outcropping Way  
City: Folsom State: CA Zip: 95630  
Phone: (916) 351-4400 Fax: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

**13.4 Designated Operating Representative**

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Participating TO's Operating Representative:

Participating TO: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

CAISO's Operating Representative

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California Independent System Operator Corporation  
Attention: \_\_\_\_\_  
Address: 250 Outcropping Way  
City: Folsom State: CA Zip: 95630  
Phone: (916) 351-4400 Fax: \_\_\_\_\_

**13.5 Changes to the Notice Information**

Any Party may change this information by giving five Business Days written notice to the other Parties prior to the effective date of the change.

**Article 14. Signatures**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the California Independent System Operator Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For the Participating TO

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For the Interconnection Customer

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment 1**

**Glossary of Terms**

**Affected System** – An electric system other than the CAISO Controlled Grid that may be affected by the proposed interconnection, including the Participating TO's electric system that is not part of the CAISO Controlled Grid.

**Applicable Laws and Regulations** – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Balancing Authority Area** – The collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

**Business Day** – Monday through Friday, excluding federal holidays and the day after Thanksgiving Day.

**CAISO Controlled Grid** – The system of transmission lines and associated facilities of the parties to a Transmission Control Agreement that have been placed under the CAISO's Operational Control.

**CAISO Tariff** – The CAISO's tariff, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

**Commercial Operation Date** – The date on which a Small Generating Facility commenced generating electricity for sale as agreed upon by the Participating TO and the Interconnection Customer and in accordance with any implementation plan agreed to by the Participating TO and the CAISO for multiple individual generating units or project phases at a Small Generating Facility where an Interconnection Customer intends to establish separate Commercial Operation Dates for those generating units or project phases.

**Default** – The failure of a breaching Party to cure its breach under this Agreement.

**Distribution System** – Those non-CAISO-controlled transmission and distribution facilities owned by the Participating TO.

**Distribution Upgrades** – The additions, modifications, and upgrades to the Participating TO's Distribution System. Distribution Upgrades do not include Interconnection Facilities.

**Good Utility Practice** – Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be

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acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, CAISO, Participating TO, or any affiliate thereof.

**Interconnection Facilities** – The Participating TO's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Small Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Small Generating Facility to the Participating TO's Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades or Network Upgrades.

**Interconnection Handbook** – A handbook, developed by the Participating TO and posted on the Participating TO's website or otherwise made available by the Participating TO, describing technical and operational requirements for wholesale generators and loads connected to the Participating TO's Transmission System, as such handbook may be modified or superseded from time to time. The Participating TO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and applicable reliability standards.

**Interconnection Request** – A request, in accordance with the CAISO Tariff, to interconnect a new Small Generating Facility, or to increase the capacity of, or make a Material Modification to the operating characteristics of, an existing Small Generating Facility that is interconnected with the CAISO Controlled Grid.

**Material Modification** – A modification that has a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.

**Network Upgrades** – Additions, modifications, and upgrades to the Participating TO's Transmission System required at or beyond the point at which the Small Generating Facility interconnects with the CAISO Controlled Grid to accommodate the interconnection of the Small Generating Facility with the CAISO Controlled Grid. Network Upgrades do not include Distribution Upgrades.

**Operational Control** – The rights of the CAISO under a Transmission Control Agreement and the CAISO Tariff to direct the parties to the Transmission Control Agreement how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting applicable reliability criteria.

**Operating Requirements** – Any operating and technical requirements that may be applicable due to the CAISO, Western Electricity Coordinating Council, Balancing Authority Area, or the Participating TO's requirements, including those set forth in this Agreement.



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**Party or Parties** – The Participating TO, CAISO, Interconnection Customer or the applicable combination of the above.

**Phased Generating Facility** – A Small Generating Facility that is structured to be completed and to achieve Commercial Operation in two or more successive sequences that are specified in this SGIA, such that each sequence comprises a portion of the total megawatt generation capacity of the entire Small Generating Facility.

**Point of Interconnection** – The point where the Interconnection Facilities connect with the Participating TO's Transmission System.

**Reasonable Efforts** – With respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Small Generating Facility** – The Interconnection Customer's device for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**Transmission Control Agreement** – CAISO FERC Electric Tariff No. 7.

**Transmission System** – The facilities owned and operated by the Participating TO and that have been placed under the CAISO's Operational Control, which facilities form part of the CAISO Controlled Grid.

**Upgrades** – The required additions and modifications to the Participating TO's Transmission System and Distribution System at or beyond the Point of Interconnection. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities.

**Attachment 2**

**Description of Costs of Facilities and Metering Equipment**

Equipment, including the Small Generating Facility, Interconnection Facilities, and metering equipment shall be itemized and identified as being owned by the Interconnection Customer or the Participating TO. The Participating TO will provide a best estimate itemized cost, including overheads, of its Interconnection Facilities and metering equipment, and a best estimate itemized cost of the annual operation and maintenance expenses associated with its Interconnection Facilities and metering equipment.

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**Attachment 3**

**One-Line Diagram Depicting the Small Generating Facility, Interconnection  
Facilities, Metering Equipment, and Upgrades**

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**Attachment 4**

**Milestones**

In-Service Date: \_\_\_\_\_

Critical milestones and responsibility as agreed to by the Parties:

|      | <b>Milestone/Date</b> | <b>Responsible Party</b> |
|------|-----------------------|--------------------------|
| (1)  | _____                 | _____                    |
| (2)  | _____                 | _____                    |
| (3)  | _____                 | _____                    |
| (4)  | _____                 | _____                    |
| (5)  | _____                 | _____                    |
| (6)  | _____                 | _____                    |
| (7)  | _____                 | _____                    |
| (8)  | _____                 | _____                    |
| (9)  | _____                 | _____                    |
| (10) | _____                 | _____                    |

Agreed to by:

For the CAISO \_\_\_\_\_

Date \_\_\_\_\_

For the Participating TO \_\_\_\_\_

Date: \_\_\_\_\_

For the Interconnection Customer \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment 5**

**Additional Operating Requirements for the CAISO Controlled Grid and Affected Systems Needed  
to Support the Interconnection Customer's Needs**

The Participating TO and the CAISO shall also provide requirements that must be met by the Interconnection Customer prior to initiating parallel operation with the CAISO Controlled Grid.

**Attachment 6**

**Participating TO's Description of its Upgrades and Best Estimate of Upgrade Costs**

The Participating TO shall describe Upgrades and provide an itemized best estimate of the cost, including overheads, of the Upgrades and annual operation and maintenance expenses associated with such Upgrades. The Participating TO shall functionalize Upgrade costs and annual expenses as either transmission or distribution related.

**Attachment 7**

**INTERCONNECTION REQUIREMENTS FOR AN ASYNCHRONOUS SMALL GENERATING FACILITY**

Attachment 7 sets forth requirements and provisions specific to all Asynchronous Generating Facilities. All other requirements of this Agreement continue to apply to Asynchronous Generating Facility interconnections.

**A. Technical Standards Applicable to Asynchronous Generating Facilities**

**i. Low Voltage Ride-Through (LVRT) Capability**

An Asynchronous Generating Facility shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the requirements below.

1. An Asynchronous Generating Facility shall remain online for the voltage disturbance caused by any fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, having a duration equal to the lesser of the normal three-phase fault clearing time (4-9 cycles) or one-hundred fifty (150) milliseconds, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage. Clearing time shall be based on the maximum normal clearing time associated with any three-phase fault location that reduces the voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.
2. An Asynchronous Generating Facility shall remain online for any voltage disturbance caused by a single-phase fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, with delayed clearing, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage. Clearing time shall be based on the maximum backup clearing time associated with a single point of failure (protection or breaker failure) for any single-phase fault location that reduces any phase-to-ground or phase-to-phase voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.
3. Remaining on-line shall be defined as continuous connection between the Point of Interconnection and the Asynchronous Generating Facility's units, without any mechanical isolation. Asynchronous Generating Facilities may cease to inject current into the transmission grid during a fault.
4. The Asynchronous Generating Facility is not required to remain on line during multi-phased faults exceeding the duration described in Section A.i.1 of this Attachment 7 or single-phase faults exceeding the duration described in Section A.i.2 of this Attachment 7.
5. The requirements of this Section A.i. of this Attachment 7 do not apply to faults that occur between the Asynchronous Generating Facility's terminals and the high side of the step-up transformer to the high-voltage transmission system.
6. Asynchronous Generating Facilities may be tripped after the fault period if this action is intended as part of a Remedial Action Scheme.



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7. Asynchronous Generating Facilities may meet the requirements of this Section A.i of this Attachment 7 through the performance of the generating units or by installing additional equipment within the Asynchronous Generating Facility, or by a combination of generating unit performance and additional equipment.
8. The provisions of this Section A.i of this Attachment 7 apply only if the voltage at the Point of Interconnection has remained within the range of 0.9 and 1.10 per-unit of nominal voltage for the preceding two seconds, excluding any sub-cycle transient deviations.

**ii. Frequency Disturbance Ride-Through Capacity**

An Asynchronous Generating Facility shall comply with the off nominal frequency requirements set forth in the WECC Under Frequency Load Shedding Relay Application Guide or successor requirements as they may be amended from time to time.

**iii. Power Factor Design Criteria (Reactive Power)**

An Asynchronous Generating Facility shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the Point of Interconnection as defined in this SLGIA in order to maintain a specified voltage schedule, if the Phase II Interconnection Study shows that such a requirement is necessary to ensure safety or reliability. The power factor range standard can be met by using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two, if agreed to by the Participating TO and CAISO. The Interconnection Customer shall not disable power factor equipment while the Asynchronous Generating Facility is in operation. Asynchronous Generating Facilities shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the Phase II Interconnection Study shows this to be required for system safety or reliability

**iv. Supervisory Control and Data Acquisition (SCADA) Capability**

An Asynchronous Generating Facility shall provide SCADA capability to transmit data and receive instructions from the Participating TO and CAISO to protect system reliability. The Participating TO and CAISO and the Asynchronous Generating Facility Interconnection Customer shall determine what SCADA information is essential for the proposed Asynchronous Generating Facility, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability.

**v. Power System Stabilizers (PSS)**

Power system stabilizers are not required for Asynchronous Generating Facilities.

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**Attachment 8.**

**[This Attachment is Intentionally Omitted]**

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**Appendix EE**  
**Large Generator Interconnection Agreement**  
**for Interconnection Requests Processed under the Generator Interconnection and Deliverability**  
**Allocation Procedures (Appendix DD of the CAISO Tariff)**

**LARGE GENERATOR INTERCONNECTION AGREEMENT**

**[INTERCONNECTION CUSTOMER]**

**[PARTICIPATING TO]**

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

**THIS LARGE GENERATOR INTERCONNECTION AGREEMENT** (“LGIA”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and among \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State/Commonwealth of \_\_\_\_\_ (“Interconnection Customer” with a Large Generating Facility), \_\_\_\_\_, a corporation organized and existing under the laws of the State of California (“**Participating TO**”), and **California Independent System Operator Corporation**, a California nonprofit public benefit corporation organized and existing under the laws of the State of California (“CAISO”). Interconnection Customer, Participating TO, and CAISO each may be referred to as a “Party” or collectively as the “Parties.”

**RECITALS**

**WHEREAS**, CAISO exercises Operational Control over the CAISO Controlled Grid; and

**WHEREAS**, the Participating TO owns, operates, and maintains the Participating TO’s Transmission System; and

**WHEREAS**, Interconnection Customer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this LGIA; and

**WHEREAS**, Interconnection Customer, Participating TO, and CAISO have agreed to enter into this LGIA for the purpose of interconnecting the Large Generating Facility with the Participating TO’s Transmission System;

**NOW, THEREFORE**, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this LGIA, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used.

**Article 1. Definitions**

**ADNU** shall mean Area Delivery Network Upgrade.

**Adverse System Impact** shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of the electric system.

**Affected System** shall mean an electric system other than the CAISO Controlled Grid that may be affected by the proposed interconnection, including the Participating TO’s electric system that is not part of the CAISO Controlled Grid.

**Affiliate** shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

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**Applicable Reliability Council** shall mean the Western Electricity Coordinating Council or its successor.

**Applicable Reliability Standards** shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Balancing Authority Area of the Participating TO's Transmission System to which the Generating Facility is directly connected, including requirements adopted pursuant to Section 215 of the Federal Power Act.

**Area Deliverability Constraint** shall mean a previously identified transmission system operating limit, based on a CAISO interconnection study or transmission planning study and listed on the CAISO website, that would constrain the deliverability of a substantial number of generators if the CAISO were to assign full capacity or partial capacity deliverability status to additional generating facilities in one or more specified geographic or electrical areas of the CAISO Controlled Grid in a total amount that is greater than the TP Deliverability for those areas. May also be a transmission system operating limit that constrains all or most of the same generation already constrained by a previously identified Area Deliverability Constraint.

**Area Delivery Network Upgrade** shall mean a transmission upgrade or addition identified by the CAISO to relieve an Area Deliverability Constraint.

**Area Off-Peak Constraints** shall mean a transmission system operating limit that would cause excessive curtailment to a substantial number of Generating Facilities during Off-Peak Load conditions, as described in Section 6.3.2.2 of Appendix DD and the CAISO Off-Peak Deliverability Assessment posted on the CAISO Website.

**Area Off-Peak Network Upgrades (AOPNUs)** shall mean a transmission upgrade or addition the CAISO identifies in the Transmission Planning Process to relieve an Area Off-Peak Constraint.

**Assigned Network Upgrade (ANU)** shall mean Reliability Network Upgrades, Local Off-Peak Network Upgrades, and Local Delivery Network Upgrades currently assigned to the Interconnection Customer. Assigned Network Upgrades exclude Conditionally Assigned Network Upgrades unless they become Assigned Network Upgrades.

**Asynchronous Generating Facility** shall mean an induction, doubly-fed, or electronic power generating unit(s) that produces 60 Hz (nominal) alternating current.

**Balancing Authority** shall mean the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.

**Balancing Authority Area** shall mean the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

**Base Case** shall mean the base case power flow, short circuit, and stability databases used for the Interconnection Studies.

**Breach** shall mean the failure of a Party to perform or observe any material term or condition of this LGIA.

**Breaching Party** shall mean a Party that is in Breach of this LGIA.

**Business Day** shall mean Monday through Friday, excluding federal holidays and the day after Thanksgiving Day.

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**CAISO Controlled Grid** shall mean the system of transmission lines and associated facilities of the parties to the Transmission Control Agreement that have been placed under the CAISO's Operational Control.

**CAISO Tariff** shall mean the CAISO's tariff, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

**Calendar Day** shall mean any day including Saturday, Sunday or a federal holiday.

**Commercial Operation** shall mean the status of an Electric Generating Unit or project phase at a Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

**Commercial Operation Date** of an Electric Generating Unit or project phase shall mean the date on which the Electric Generating Unit or project phase at the Generating Facility commences Commercial Operation as agreed to by the applicable Participating TO, the CAISO, and the Interconnection Customer pursuant to Appendix E to this LGIA, and in accordance with the implementation plan agreed to by the Participating TO and the CAISO for multiple individual Electric Generating Units or project phases at a Generating Facility where an Interconnection Customer intends to establish separate Commercial Operation Dates for those Electric Generating Units or project phases.

**Conditionally Assigned Network Upgrade (CANU)** shall mean Reliability Network Upgrades, Local Off-Peak Network Upgrades, and Local Delivery Network Upgrades currently assigned to an earlier Interconnection Customer, but which may be assigned to the Interconnection Customer.

**Confidential Information** shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, subject to Article 22.1.2.

**Current Cost Responsibility (CCR)** shall mean the Interconnection Customer's current allocated costs for Assigned Network Upgrades, not to exceed the Maximum Cost Responsibility. This cost is used to calculate the Interconnection Customer's Interconnection Financial Security requirement.

**Deliverability** shall mean (1) The annual Net Qualifying Capacity of a Generating Facility, as verified through a Deliverability Assessment and measured in MW, which specifies the amount of resource adequacy capacity the Generating Facility is eligible to provide. (2) The annual Maximum Import Capability of an Intertie which specifies the amount of resource adequacy capacity measured in MW, that load-serving entities collectively can procure from imports at that Intertie to meet their resource adequacy requirements.

**Default** shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of this LGIA.

**Distribution System** shall mean those non-CAISO-controlled transmission and distribution facilities owned by the Participating TO.

**Distribution Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Distribution System. Distribution Upgrades do not include Interconnection Facilities.

**Effective Date** shall mean the date on which this LGIA becomes effective upon execution by all Parties subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC.

**Electric Generating Unit** shall mean an individual electric generator and its associated plant and

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apparatus whose electrical output is capable of being separately identified and metered.

**Emergency Condition** shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the CAISO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the CAISO Controlled Grid or the electric systems of others to which the CAISO Controlled Grid is directly connected; (3) that, in the case of the Participating TO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Participating TO's Transmission System, Participating TO's Interconnection Facilities, Distribution System, or the electric systems of others to which the Participating TO's electric system is directly connected; or (4) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided, that Interconnection Customer is not obligated by this LGIA to possess black start capability.

**Environmental Law** shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

**Federal Power Act** shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq.

**FERC** shall mean the Federal Energy Regulatory Commission or its successor.

**Force Majeure** shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

**General Reliability Network Upgrade (GRNU)** shall mean Reliability Network Upgrades that are not Interconnection Reliability Network Upgrades.

**Generating Facility** shall mean the Interconnection Customer's Electric Generating Unit(s) used for the production and/or storage for later injection of electricity identified in the Interconnection Customer's Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**Generating Facility Capacity** shall mean the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.

**Generator Interconnection and Deliverability Allocation Procedures (GIDAP)** shall mean the CAISO protocol that sets forth the interconnection and allocation procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that is included in CAISO Tariff Appendix DD.

**Generator Interconnection Study Process Agreement** shall mean the agreement between the Interconnection Customer and the CAISO for the conduct of the Interconnection Studies.

**Good Utility Practice** shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the



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region.

**Governmental Authority** shall mean any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, CAISO, Participating TO, or any Affiliate thereof.

**Governing Independent Study Process Interconnection Studies** shall mean the engineering study(ies) conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's Transmission System and, if applicable, an Affected System, which shall consist primarily of a Facilities Study as described in Section 4.5 of the Generation Interconnection Procedures, a System Impact Study as described in Section 4.4 of the Generation Interconnection Procedures, or a system impact and facilities study as described in Section 4.4 of the GIDAP.

**Hazardous Substances** shall mean any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

**Initial Synchronization Date** shall mean the date upon which an Electric Generating Unit is initially synchronized and upon which Trial Operation begins.

**In-Service Date** shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Participating TO's Interconnection Facilities to obtain back feed power.

**Interconnection Customer's Interconnection Facilities** shall mean all facilities and equipment, as identified in Appendix A of this LGIA, that are located between the Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Participating TO's Transmission System. Interconnection Customer's Interconnection Facilities are sole use facilities.

**Interconnection Facilities** shall mean the Participating TO's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Participating TO's Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Interconnection Financial Security (IFS)** shall mean any of the financial instruments listed in Section 11.1 of the GIDAP that are posted by an Interconnection Customer to finance the construction of facilities or Network Upgrades.

**Interconnection Handbook** shall mean a handbook, developed by the Participating TO and posted on the Participating TO's web site or otherwise made available by the Participating TO, describing technical and operational requirements for wholesale generators and loads connected to the Participating TO's portion of the CAISO Controlled Grid, as such handbook may be modified or superseded from time to time. Participating TO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and Applicable Reliability Standards. In the event of a conflict

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between the terms of this LGIA and the terms of the Participating TO's Interconnection Handbook, the terms in this LGIA shall apply.

**Interconnection Reliability Network Upgrades (IRNU)** shall mean Reliability Network Upgrades at the Point of Interconnection to accomplish the physical interconnection of the Generating Facility to the CAISO Controlled Grid. IRNUs are treated as Reliability Network Upgrades unless otherwise noted.

**Interconnection Request** shall mean a request, in the form of Appendix 1 to the GIDAP, in accordance with the CAISO Tariff.

**Interconnection Service** shall mean the service provided by the Participating TO and CAISO associated with interconnecting the Interconnection Customer's Generating Facility to the Participating TO's Transmission System and enabling the CAISO Controlled Grid to receive electric energy and capacity from the Generating Facility at the Point of Interconnection, pursuant to the terms of this LGIA, the Participating TO's Transmission Owner Tariff, and the CAISO Tariff.

**Interconnection Study** shall mean

- (i) For Interconnection Requests processed under the cluster study process described in the GIDAP, any of the following: the Phase I Interconnection Study conducted or caused to be performed by the CAISO, the reassessment of the Phase I Interconnection Study Base Case conducted or caused to be performed by the CAISO prior to the commencement of the Phase II Interconnection Study, or the Phase II Interconnection Study conducted or caused to be performed by the CAISO, pursuant to the GIDAP.
- (ii) For Interconnection Requests processed under the Independent Study Process described in the GIDAP, the governing study(ies) conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), pursuant to the GIDAP, which shall consist primarily of a system impact and facilities study as described in Section 4.4 of the GIDAP.

**IRS** shall mean the Internal Revenue Service.

**Large Generating Facility** shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

**LDNU** shall mean Local Delivery Network Upgrades.

**Local Deliverability Constraint** shall mean a transmission system operating limit modeled in the GIDAP study process that would be exceeded if the CAISO were to assign full capacity or partial capacity deliverability status to one or more additional generating facilities interconnecting to the CAISO Controlled Grid in a specific local area, and that is not an Area Deliverability Constraint.

**Local Delivery Network Upgrade** shall mean a transmission upgrade or addition identified by the CAISO in the GIDAP study process to relieve a Local Deliverability Constraint.

**Local Off-Peak Constraints** shall mean a transmission system operating limit modeled in the generator interconnection study process that would be exceeded or lead to excessive curtailment, as described in the Off-Peak Deliverability Assessment methodology, if the CAISO were to assign Off-Peak Deliverability Status to one or more Generating Facilities interconnecting to the CAISO Controlled Grid in a specific local area, and that is not an Area Off-Peak Constraint.

**Local Off-Peak Network Upgrades (LOPNUs)** shall mean a transmission upgrade or addition the CAISO identifies in the generator interconnection study process to relieve a Local Off-Peak

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Constraint.

**Loss** shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

**Material Modification** shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.

**Maximum Cost Exposure (MCE)** shall mean, pursuant to Appendix DD, the sum of (1) the Interconnection Customer's Maximum Cost Responsibility and (2) the Conditionally Assigned Network Upgrades from its Phase I or Phase II Interconnection Study.

**Maximum Cost Responsibility (MCR)** shall mean, pursuant to Appendix DD, the lower sum of the Interconnection Customer's (1) full cost of assigned Interconnection Reliability Network Upgrades and (2) allocated costs for all other Assigned Network Upgrades, from its Phase I or Phase II Interconnection Studies, not to exceed the Maximum Cost Exposure.

**Merchant Network Upgrades** - Network Upgrades constructed and owned by an Interconnection Customer or a third party pursuant to Article 5.1.5 of this LGIA, Section 14.3 of the GIDAP, and Sections 24.4.6.1 and 36.11 of the CAISO Tariff.

**Metering Equipment** shall mean all metering equipment installed or to be installed for measuring the output of the Generating Facility pursuant to this LGIA at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

**NERC** shall mean the North American Electric Reliability Corporation or its successor organization.

**Net Scheduled Generating Unit** shall mean an Electric Generating Unit identified in a Net Scheduled PGA operated as a single unit such that the energy bid or self-schedule with the CAISO is the net value of the aggregate electrical net output of the Electric Generating Unit and the self-provided load.

**Net Scheduled PGA** shall mean a Net Scheduled Participating Generator Agreement specifying the special provisions for the operating relationship between a Net Scheduled Generating Unit and the CAISO, a pro forma version of which is set forth in Appendix B.3 of the CAISO Tariff.

**Network Upgrades** shall be Participating TO's Delivery Network Upgrades and Participating TO's Reliability Network Upgrades.

**Off-Peak Deliverability Constraints** shall mean a transmission system operating limit that constrains Generating Facilities in an area, leading to the excessive curtailment of expected Energy.

**Off-Peak Network Upgrades** shall mean Network Upgrades needed to relieve Off-Peak Deliverability Constraints. Area Off-Peak Network Upgrades address Area Off-Peak Constraints. Local Off-Peak Network Upgrades address Local Off-Peak Constraints.

**Operational Control** shall mean the rights of the CAISO under the Transmission Control Agreement and the CAISO Tariff to direct the parties to the Transmission Control Agreement how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting applicable reliability criteria.

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**Option (A) Generating Facilities** shall mean a Generating Facility for which the Interconnection Customer has selected Option (A) as the Deliverability option under Section 7.2 of the GIDAP.

**Option (B) Generating Facilities** shall mean a Generating Facility for which the Interconnection Customer has selected Option (B) as the Deliverability option under Section 7.2 of the GIDAP.

**Participating TO's Delivery Network Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, other than Reliability Network Upgrades, identified in the Interconnection Studies, as identified in Appendix A, to relieve constraints on the CAISO Controlled Grid. Participating TO Delivery Network Upgrades can be either ADNU or LDNU.

**Participating TO's Interconnection Facilities** shall mean all facilities and equipment owned, controlled or operated by the Participating TO from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to this LGIA, including any modifications, additions or upgrades to such facilities and equipment. Participating TO's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Participating TO's Reliability Network Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, identified in the Interconnection Studies, as identified in Appendix A, necessary to interconnect the Large Generating Facility safely and reliably to the Participating TO's Transmission System, which would not have been necessary but for the interconnection of the Large Generating Facility, including additions, modifications, and upgrades necessary to remedy short circuit or stability problems resulting from the interconnection of the Large Generating Facility to the Participating TO's Transmission System. Participating TO's Reliability Network Upgrades also include, consistent with Applicable Reliability Standards and Applicable Reliability Council practice, the Participating TO's facilities necessary to mitigate any adverse impact the Large Generating Facility's interconnection may have on a path's Applicable Reliability Council rating. Participating TO's Reliability Network Upgrades do not include any Participating TO's Delivery Network Upgrades.

**Participating TO's Transmission System** shall mean the facilities owned and operated by the Participating TO and that have been placed under the CAISO's Operational Control, which facilities form part of the CAISO Controlled Grid.

**Party or Parties** shall mean the Participating TO, CAISO, Interconnection Customer or the applicable combination of the above.

**Phase I Interconnection Study** shall mean the engineering study conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if the Generating Facility(ies) were interconnected without identified project modifications or system modifications, as provided in the On-Peak Deliverability Assessment (as defined in the CAISO Tariff), and other potential impacts, including but not limited to those identified in the Scoping Meeting as described in the GIDAP. The study will also identify the approximate total costs, based on per unit costs, of mitigating these impacts, along with an equitable allocation of those costs to Interconnection Customers for their individual Generating Facilities.

**Phase II Interconnection Study** shall mean an engineering and operational study conducted or caused to be performed by the CAISO in coordination with the applicable Participating TO(s), to determine the Point of Interconnection and a list of facilities (including the Participating TO's Interconnection Facilities, Network Upgrades, Distribution Upgrades, and Stand Alone Network Upgrades), the cost of those facilities, and the time required to interconnect the Generating Facility(ies) with the Participating TO's Transmission System.

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**Phased Generating Facility** shall mean a Generating Facility that is structured to be completed and to achieve Commercial Operation in two or more successive sequences that are specified in this LGIA, such that each sequence comprises a portion of the total megawatt generation capacity of the entire Generating Facility.

**Point of Change of Ownership** shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Customer's Interconnection Facilities connect to the Participating TO's Interconnection Facilities.

**Point of Interconnection** shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Facilities connect to the Participating TO's Transmission System.

**Precursor Network Upgrades (PNU)** shall mean Network Upgrades required for the Interconnection Customer consisting of (1) Network Upgrades assigned to an earlier Interconnection Customer in an earlier Queue Cluster, Independent Study Process, or Fast Track Process, that has executed its GIA pursuant to Section 14.2.2 of the GIDAP; and (2) Network Upgrades in the approved CAISO Transmission Plan.

**Reasonable Efforts** shall mean, with respect to an action required to be attempted or taken by a Party under this LGIA, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**RNU** shall mean Reliability Network Upgrades.

**Reliability Network Upgrades (RNU)** shall mean the transmission facilities at or beyond the Point of Interconnection identified in the Interconnection Studies as necessary to interconnect one or more Generating Facility(ies) safely and reliably to the CAISO Controlled Grid, which would not have been necessary but for the interconnection of one or more Generating Facility(ies), including Network Upgrades necessary to remedy short circuit or stability problems, or thermal overloads. Reliability Network Upgrades shall only be deemed necessary for system operating limits, occurring under any system condition, which cannot be adequately mitigated through Congestion Management, Operating Procedures, or Special Protection Systems based on the characteristics of the Generating Facilities included in the Interconnection Studies, limitations on market models, systems, or information, or other factors specifically identified in the Interconnection Studies. Reliability Network Upgrades also include, consistent with WECC practice, the facilities necessary to mitigate any adverse impact the Generating Facility's interconnection may have on a path's WECC rating. Reliability Network Upgrades include Interconnection Reliability Network Upgrades and General Reliability Network Upgrades.

**Scoping Meeting** shall mean the meeting among representatives of the Interconnection Customer, the Participating TO(s), other Affected Systems, and the CAISO conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

**Stand Alone Network Upgrades** shall mean Network Upgrades that are not part of an Affected System that the Interconnection Customer may construct without affecting day-to-day operations of the CAISO Controlled Grid or Affected Systems during their construction. The Participating TO, the CAISO, and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to this LGIA. If the CAISO, the Participating TO, and the Interconnection Customer disagree about whether a particular Network Upgrade is a Stand Alone Network Upgrade, the CAISO or Participating TO must provide the Interconnection Customer a written technical explanation outlining why it does not consider the Network Upgrade to be a Stand Alone Network Upgrade within 15 days of its determination.

**Surplus Interconnection Service** shall mean any unneeded portion of Interconnection Service



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Capacity established herein, such that if Surplus Interconnection Service is utilized the total amount of Interconnection Service Capacity at the Point of Interconnection would remain the same.

**System Protection Facilities** shall mean the equipment, including necessary protection signal communications equipment, that protects (1) the Participating TO's Transmission System, Participating TO's Interconnection Facilities, CAISO Controlled Grid, and Affected Systems from faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the CAISO Controlled Grid, Participating TO's Interconnection Facilities, and Affected Systems or on other delivery systems or other generating systems to which the CAISO Controlled Grid is directly connected.

**TP Deliverability** shall mean the capability, measured in MW, of the CAISO Controlled Grid as modified by transmission upgrades and additions identified in the annual Transmission Plan to support the interconnection with Full Capacity Deliverability Status or Partial Capacity Deliverability Status of additional Generating Facilities in a specified geographic or electrical area of the CAISO Controlled Grid.

**Transmission Control Agreement** shall mean CAISO FERC Electric Tariff No. 7.

**Trial Operation** shall mean the period during which the Interconnection Customer is engaged in on-site test operations and commissioning of an Electric Generating Unit prior to Commercial Operation.

**Variable Energy Resource** shall mean a device for the production of electricity that is characterized by an Energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator.

## Article 2. Effective Date, Term and Termination

- 2.1 Effective Date.** This LGIA shall become effective upon execution by all Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC. The CAISO and Participating TO shall promptly file this LGIA with FERC upon execution in accordance with Article 3.1, if required.
- 2.2 Term of Agreement.** Subject to the provisions of Article 2.3, this LGIA shall remain in effect for a period of \_\_\_\_ years from the Effective Date (Term Specified in Individual Agreements to be ten (10) years or such other longer period as the Interconnection Customer may request) and shall be automatically renewed for each successive one-year period thereafter.
- 2.3 Termination Procedures.**
- 2.3.1 Written Notice.** This LGIA may be terminated by the Interconnection Customer after giving the CAISO and the Participating TO ninety (90) Calendar Days advance written notice, or by the CAISO and the Participating TO notifying FERC after the Generating Facility permanently ceases Commercial Operation.
- 2.3.2 Default.** A Party may terminate this LGIA in accordance with Article 17.
- 2.3.3 Suspension of Work.** This LGIA may be deemed terminated in accordance with Article 5.16, if applicable.
- 2.3.4** Notwithstanding Articles 2.3.1, 2.3.2, and 2.3.3, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this LGIA (if applicable), which notice has been accepted for filing by FERC, and the Interconnection Customer has fulfilled its termination cost obligations under Article 2.4.

- 2.4 Termination Costs.** Immediately upon the other Parties' receipt of a notice of the termination of this LGIA pursuant to Article 2.3 above, the CAISO and the Participating TO will determine the total cost responsibility of the Interconnection Customer. If, as of the date of the other Parties' receipt of the notice of termination, the Interconnection Customer has not already paid its share of Network Upgrade costs, as set forth in Appendix G to this LGIA, the Participating TO will liquidate the Interconnection Customer's Interconnection Financial Security associated with its cost responsibility for Network Upgrades, in accordance with Section 11.4 of the GIDAP.

The Interconnection Customer will also be responsible for all costs incurred or irrevocably committed to be incurred in association with the construction of the Participating TO's Interconnection Facilities (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) and other such expenses, including any Distribution Upgrades for which the Participating TO or CAISO has incurred expenses or has irrevocably committed to incur expenses and has not been reimbursed by the Interconnection Customer, as of the date of the other Parties' receipt of the notice of termination, subject to the limitations set forth in this Article 2.4. Nothing in this Article 2.4 shall limit the Parties' rights under Article 17. If, as of the date of the other Parties' receipt of the notice of termination, the Interconnection Customer has not already reimbursed the Participating TO and the CAISO for costs incurred to construct the Participating TO's Interconnection Facilities, the Participating TO will liquidate the Interconnection Customer's Interconnection Financial Security associated with the construction of the Participating TO's Interconnection Facilities, in accordance with Section 11.4 of the GIDAP. If the amount of the Interconnection Financial Security liquidated by the Participating TO under this Article 2.4 is insufficient to compensate the CAISO and the Participating TO for actual costs associated with the construction of the Participating TO's Interconnection Facilities contemplated in this Article, any additional amounts will be the responsibility of the Interconnection Customer, subject to the provisions of Section 11.4 of the GIDAP. Any such additional amounts due from the Interconnection Customer beyond the amounts covered by its Interconnection Financial Security will be due to the Participating TO immediately upon termination of this LGIA in accordance with Section 11.4 of the GIDAP.

If the amount of the Interconnection Financial Security exceeds the Interconnection Customer's cost responsibility under Section 11.4 of the GIDAP, any excess amount will be released to the Interconnection Customer in accordance with Section 11.4 of the GIDAP.

- 2.4.1** Notwithstanding the foregoing, in the event of termination by a Party, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages, and charges arising as a consequence of termination. With respect to any portion of the Participating TO's Interconnection Facilities that have not yet been constructed or installed, the Participating TO shall to the extent possible and with the Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event the Interconnection Customer elects not to authorize such cancellation, the Interconnection Customer shall assume all payment obligations with respect to such materials, equipment, and contracts, and the Participating TO shall deliver such material and equipment, and, if necessary, assign such contracts, to the Interconnection Customer as soon as practicable, at the Interconnection Customer's expense. To the extent that the Interconnection Customer has already paid the Participating TO for any or all such costs of materials or equipment not taken by the Interconnection Customer, the Participating TO shall promptly refund such amounts to the Interconnection Customer, less any costs, including penalties, incurred by the Participating TO to cancel any pending orders of or return such materials, equipment, or contracts.
- 2.4.2** The Participating TO may, at its option, retain any portion of such materials, equipment, or facilities that the Interconnection Customer chooses not to accept delivery of, in which case the Participating TO shall be responsible for all costs associated with procuring



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such materials, equipment, or facilities.

- 2.4.3** With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.
- 2.5** **Disconnection.** Upon termination of this LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Participating TO's Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this LGIA or such non-terminating Party otherwise is responsible for these costs under this LGIA.
- 2.6** **Survival.** This LGIA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this LGIA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this LGIA was in effect; and to permit each Party to have access to the lands of the other Parties pursuant to this LGIA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

**Article 3. Regulatory Filings and CAISO Tariff Compliance**

- 3.1** **Filing.** The Participating TO and the CAISO shall file this LGIA (and any amendment hereto) with the appropriate Governmental Authority(ies), if required. The Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Article 22. If the Interconnection Customer has executed this LGIA, or any amendment thereto, the Interconnection Customer shall reasonably cooperate with the Participating TO and CAISO with respect to such filing and to provide any information reasonably requested by the Participating TO or CAISO needed to comply with applicable regulatory requirements.
- 3.2** **Agreement Subject to CAISO Tariff.** The Interconnection Customer will comply with all applicable provisions of the CAISO Tariff, including the GIDAP.
- 3.3** **Relationship Between this LGIA and the CAISO Tariff.** With regard to rights and obligations between the Participating TO and the Interconnection Customer, if and to the extent a matter is specifically addressed by a provision of this LGIA (including any appendices, schedules or other attachments to this LGIA), the provisions of this LGIA shall govern. If and to the extent a provision of this LGIA is inconsistent with the CAISO Tariff and dictates rights and obligations between the CAISO and the Participating TO or the CAISO and the Interconnection Customer, the CAISO Tariff shall govern.
- 3.4** **Relationship Between this LGIA and the Net Scheduled PGA.** With regard to the rights and obligations of a Net Scheduled Generating Unit that has entered into a Net Scheduled PGA with the CAISO and has entered into this LGIA, if and to the extent a matter is specifically addressed by a provision of the Net Scheduled PGA that is inconsistent with this LGIA, the terms of the Net Scheduled PGA shall govern.

**Article 4. Scope of Service**

- 4.1** **Interconnection Service.** Interconnection Service allows the Interconnection Customer to connect the Large Generating Facility to the Participating TO's Transmission System and be eligible to deliver the Large Generating Facility's output using the available capacity of the CAISO Controlled Grid. To the extent the Interconnection Customer wants to receive Interconnection Service, the Participating TO shall construct facilities identified in Appendices A and C that the

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Participating TO is responsible to construct.

Interconnection Service does not necessarily provide the Interconnection Customer with the capability to physically deliver the output of its Large Generating Facility to any particular load on the CAISO Controlled Grid without incurring congestion costs. In the event of transmission constraints on the CAISO Controlled Grid, the Interconnection Customer's Large Generating Facility shall be subject to the applicable congestion management procedures in the CAISO Tariff in the same manner as all other resources. Full Capacity Deliverability Status, Partial Capacity Deliverability Status, and Off-Peak Deliverability Status do not confer any priority over other Generating Facilities to deliver Energy; nor provide any warranty or guarantee to deliver any amount of Energy or avoid curtailment at any time.

- 4.2 Provision of Service.** The Participating TO and the CAISO shall provide Interconnection Service for the Large Generating Facility.
- 4.3 Performance Standards.** Each Party shall perform all of its obligations under this LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this LGIA for its compliance therewith. If such Party is the CAISO or Participating TO, then that Party shall amend the LGIA and submit the amendment to FERC for approval.
- 4.4 No Transmission Service.** The execution of this LGIA does not constitute a request for, nor the provision of, any transmission service under the CAISO Tariff, and does not convey any right to deliver electricity to any specific customer or point of delivery.
- 4.5 Interconnection Customer Provided Services.** The services provided by Interconnection Customer under this LGIA are set forth in Article 9.6 and Article 13.5.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.
- 4.6 TP Deliverability.** To the extent that an Interconnection Customer is eligible for and has been allocated TP Deliverability pursuant to Section 8.9 of the GIDAP, the Interconnection Customer's retention of such allocated TP Deliverability shall be contingent upon satisfying the obligations set forth in Section 8.9.3 of the GIDAP. In the event that the Interconnection does not retain allocated TP Deliverability with regard to any portion of the Generating Facility, such portion of the Generating Facility shall be deemed to receive Interconnection Service under this LGIA as Energy Only Deliverability Status.

**ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION**

Interconnection Facilities, Network Upgrades, and Distribution Upgrades shall be studied, designed, and constructed pursuant to Good Utility Practice. Such studies, design and construction shall be based on the assumed accuracy and completeness of all technical information received by the Participating TO and the CAISO from the Interconnection Customer associated with interconnecting the Large Generating Facility.

- 5.1 Options.** Unless otherwise mutually agreed among the Parties, the Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either the Standard Option, Alternate Option, or, if eligible, Merchant Option, set forth below, Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and such dates and selected option shall be set forth in Appendix B, Milestones. At the same time, the Interconnection Customer shall indicate whether it elects the Option to Build set forth in Article 5.1.3 below. If the dates designated by the Interconnection Customer are not acceptable to the CAISO and Participating TO, they shall so notify the Interconnection Customer within thirty (30)

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calendar days. Upon receipt of the notification that the Interconnection Customer's designated dates are not acceptable to the CAISO and Participating TO, the Interconnection Customer shall notify the CAISO and Participating TO within thirty (30) calendar days whether it elects to exercise the Option to Build if it has not already elected to exercise the Option to Build.

**5.1.1 Standard Option.** The Participating TO shall design, procure, and construct the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, using Reasonable Efforts to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the dates set forth in Appendix B, Milestones. The Participating TO shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event the Participating TO reasonably expects that it will not be able to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the specified dates, the Participating TO shall promptly provide written notice to the Interconnection Customer and the CAISO and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

**5.1.2 Alternate Option.** If the dates designated by the Interconnection Customer are acceptable to the Participating TO, the Participating TO shall so notify the Interconnection Customer within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities by the designated dates.

If the Participating TO subsequently fails to complete the Participating TO's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; the Participating TO shall pay the Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by the Interconnection Customer shall be extended day for day for each day that the CAISO refuses to grant clearances to install equipment.

**5.1.3 Option to Build.** The Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades. The Participating TO, CAISO, and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Appendix A to this LGIA. Except for Stand Alone Network Upgrades, the Interconnection Customer shall have no right to construct Network Upgrades under this option.

**5.1.4 Negotiated Option.** If the dates designated by the Interconnection Customer are not acceptable to the CAISO and Participating TO, the Parties shall in good faith attempt to negotiate terms and conditions, including revision of the specified dates and liquidated damages, the provision of incentives, or the procurement and construction of all facilities other than the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades if the Interconnection Customer elects to exercise the Option to Build under Article 5.1.3. If the Parties are unable to reach agreement on such terms and conditions, then, pursuant to Article 5.1.1 (Standard Option), the Participating TO shall assume responsibility for the design, procurement and construction of all facilities other than the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades if the Interconnection Customer elects to exercise the Option to Build.

**5.1.5 Merchant Option.** In addition to any Option to Build set forth in Article 5.1.3 of this LGIA,

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an Interconnection Customer having an Option (B) Generating Facility may elect to have a party other than the applicable Participating TO construct some or all of the LDNU and ADNU for which the Interconnection Customer has the obligation to fund and which are not subject to reimbursement. Such LDNU and ADNU will be constructed and incorporated into the CAISO Controlled Grid pursuant to the provisions for Merchant Transmission Facilities in CAISO Tariff Sections 24.4.6.1 and 36.11

**5.2 General Conditions Applicable to Option to Build.** If the Interconnection Customer assumes responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, or assumes responsibility for any stand-alone task, such as telecommunications, environmental, or real-estate related work:

(1) within six (6) months of the execution of this LGIA, or at a later date agreed to by the Parties, the Interconnection Customer will submit to the CAISO and the Participating TO a milestone schedule for the design, procurement, and construction of the Stand Alone Network Upgrades, or any stand-alone task assumed by the Interconnection Customer. The milestone schedule will be required to support the Interconnection Customer's Commercial Operation Date, and any Appendix B Milestones will be amended to include the milestone schedule for the Stand Alone Network Upgrades;

(2) the Interconnection Customer shall engineer, procure equipment, and construct the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the Participating TO;

(3) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law to which the Participating TO would be subject in the engineering, procurement or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(4) the Participating TO shall review, and the Interconnection Customer shall obtain the Participating TO's approval of, the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, which approval shall not be unreasonably withheld, and the CAISO may, at its option, review the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(5) prior to commencement of construction, the Interconnection Customer shall provide to the Participating TO, with a copy to the CAISO for informational purposes, a schedule for construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from the Participating TO;

(6) at any time during construction, the Participating TO shall have the right to gain unrestricted access to the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;

(7) at any time during construction, should any phase of the engineering, equipment procurement, or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by the Participating TO, the Interconnection Customer shall be obligated to remedy deficiencies in that portion of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

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(8) the Interconnection Customer shall indemnify the CAISO and Participating TO for claims arising from the Interconnection Customer's construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;

(9) The Interconnection Customer shall transfer control of the Participating TO's Interconnection Facilities to the Participating TO and shall transfer Operational Control of Stand Alone Network Upgrades to the CAISO;

(10) Unless the Parties otherwise agree, the Interconnection Customer shall transfer ownership of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO. As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, the Interconnection Customer shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO, which invoice shall set forth such costs in sufficient detail to enable the Participating TO to reflect the proper costs of such facilities in its transmission rate base and to identify the investment upon which refunds will be provided;

(11) the Participating TO shall accept for operation and maintenance the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2; and

(12) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of the "Option to Build" conditions set forth in Appendix C. Interconnection Customer shall deliver to the Participating TO "as-built" drawings, information, and any other documents that are reasonably required by the Participating TO to assure that the Interconnection Facilities and Stand-Alone Network Upgrades are built to the standards and specifications required by the Participating TO.

(13) If the Interconnection Customer exercises the Option to Build pursuant to Article 5.1.3, the Interconnection Customer shall pay the Participating TO the agreed upon amount of \$\_\_\_\_\_ for Participating TO to execute the responsibilities enumerated to it under Article 5.2. The Participating TO will invoice the Interconnection Customer for this total amount to be divided on a monthly basis pursuant to Article 12.

**5.3 Liquidated Damages.** The actual damages to the Interconnection Customer, in the event the Participating TO's Interconnection Facilities or Network Upgrades are not completed by the dates designated by the Interconnection Customer and accepted by the Participating TO pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Interconnection Customer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by the Participating TO to the Interconnection Customer in the event that the Participating TO does not complete any portion of the Participating TO's Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to ½ of 1 percent per day of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades, in the aggregate, for which the Participating TO has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades for which the Participating TO has assumed responsibility to design, procure, and construct. The foregoing payments will be made by the Participating TO to the Interconnection Customer as just compensation for the damages caused to the Interconnection Customer, which actual damages are uncertain and



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impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this LGIA. Liquidated damages, when the Parties agree to them, are the exclusive remedy for the Participating TO's failure to meet its schedule.

No liquidated damages shall be paid to the Interconnection Customer if: (1) the Interconnection Customer is not ready to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for the Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit on the specified dates, unless the Interconnection Customer would have been able to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit, but for the Participating TO's delay; (2) the Participating TO's failure to meet the specified dates is the result of the action or inaction of the Interconnection Customer or any other interconnection customer who has entered into an interconnection agreement with the CAISO and/or Participating TO, action or inaction by the CAISO, or any cause beyond the Participating TO's reasonable control or reasonable ability to cure; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.

In no event shall the CAISO have any responsibility or liability to the Interconnection Customer for liquidated damages pursuant to the provisions of this Article 5.3.

- 5.4 Power System Stabilizers.** The Interconnection Customer shall procure, install, maintain and operate Power System Stabilizers in accordance with Applicable Reliability Standards, the guidelines and procedures established by the Applicable Reliability Council, and the provisions of Section 4.6.5.1 of the CAISO Tariff. The CAISO reserves the right to establish reasonable minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and restore the Power System Stabilizers to operation as soon as possible. The CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected as a result of improperly tuned Power System Stabilizers. The requirements of this Article 5.4 shall apply to Asynchronous Generating Facilities in accordance with Appendix H.
- 5.5 Equipment Procurement.** If responsibility for construction of the Participating TO's Interconnection Facilities or Network Upgrades is to be borne by the Participating TO, then the Participating TO shall commence design of the Participating TO's Interconnection Facilities or Network Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:
- 5.5.1** The CAISO, in coordination with the applicable Participating TO(s), has completed the Phase II Interconnection Study or Governing Independent Study Interconnection Study pursuant to the applicable Generator Interconnection Study Process Agreement or other applicable study process agreement;
  - 5.5.2** The Participating TO has received written authorization to proceed with design and procurement from the Interconnection Customer by the date specified in Appendix B, Milestones; and
  - 5.5.3** The Interconnection Customer has provided security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.
- 5.6 Construction Commencement.** The Participating TO shall commence construction of the Participating TO's Interconnection Facilities and Network Upgrades for which it is responsible as

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soon as practicable after the following additional conditions are satisfied:

- 5.6.1** Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;
  - 5.6.2** Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Participating TO's Interconnection Facilities and Network Upgrades;
  - 5.6.3** The Participating TO has received written authorization to proceed with construction from the Interconnection Customer by the date specified in Appendix B, Milestones; and
  - 5.6.4** The Interconnection Customer has provided payment and security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.
- 5.7 Work Progress.** The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Any Party may, at any time, request a progress report from another Party. If, at any time, the Interconnection Customer determines that the completion of the Participating TO's Interconnection Facilities will not be required until after the specified In-Service Date, the Interconnection Customer will provide written notice to the Participating TO and CAISO of such later date upon which the completion of the Participating TO's Interconnection Facilities will be required.
- 5.8 Information Exchange.** As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Interconnection Customer's Interconnection Facilities and Participating TO's Interconnection Facilities and compatibility of the Interconnection Facilities with the Participating TO's Transmission System, and shall work diligently and in good faith to make any necessary design changes.
- 5.9 Limited Operation.** If any of the Participating TO's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Electric Generating Unit, the Participating TO and/or CAISO, as applicable, shall, upon the request and at the expense of the Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Electric Generating Unit and the Interconnection Customer's Interconnection Facilities may operate prior to the completion of the Participating TO's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this LGIA. The Participating TO and CAISO shall permit Interconnection Customer to operate the Electric Generating Unit and the Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.
- 5.10 Interconnection Customer's Interconnection Facilities.** The Interconnection Customer shall, at its expense, design, procure, construct, own and install the Interconnection Customer's Interconnection Facilities, as set forth in Appendix A.
- 5.10.1 Large Generating Facility and Interconnection Customer's Interconnection Facilities Specifications.** In addition to the Interconnection Customer's responsibility to submit technical data with its Interconnection Request as required by Section 3.5.1 of the GIDAP, the Interconnection Customer shall submit all remaining necessary specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. The Participating TO and the CAISO shall review such specifications pursuant to this LGIA and the GIDAP to ensure that the



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Interconnection Customer's Interconnection Facilities and Large Generating Facility are compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the Participating TO and the CAISO and comment on such specifications within thirty (30) Calendar Days of the Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.

**5.10.2 Participating TO's and CAISO's Review.** The Participating TO's and the CAISO's review of the Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall make such changes to the Interconnection Customer's Interconnection Facilities as may reasonably be required by the Participating TO or the CAISO, in accordance with Good Utility Practice, to ensure that the Interconnection Customer's Interconnection Facilities are compatible with the technical specifications, Operational Control, and safety requirements of the Participating TO or the CAISO.

**5.10.3 Interconnection Customer's Interconnection Facilities Construction.** The Interconnection Customer's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Interconnection Customer shall deliver to the Participating TO and CAISO "as-built" drawings, information and documents for the Interconnection Customer's Interconnection Facilities and the Electric Generating Unit(s), such as: a one-line diagram, a site plan showing the Large Generating Facility and the Interconnection Customer's Interconnection Facilities, plan and elevation drawings showing the layout of the Interconnection Customer's Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Interconnection Customer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the Interconnection Customer's Interconnection Facilities, and the impedances (determined by factory tests) for the associated step-up transformers and the Electric Generating Units. The Interconnection Customer shall provide the Participating TO and the CAISO specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable. Any deviations from the relay settings, machine specifications, and other specifications originally submitted by the Interconnection Customer shall be assessed by the Participating TO and the CAISO pursuant to the appropriate provisions of this LGIA and the GIDAP.

**5.10.4 Interconnection Customer to Meet Requirements of the Participating TO's Interconnection Handbook.** The Interconnection Customer shall comply with the Participating TO's Interconnection Handbook.

**5.11 Participating TO's Interconnection Facilities Construction.** The Participating TO's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Participating TO shall deliver to the Interconnection Customer and the CAISO the following "as-built" drawings, information and documents for the Participating TO's Interconnection Facilities [include appropriate drawings and relay diagrams].

The Participating TO will obtain control for operating and maintenance purposes of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities. Pursuant to Article 5.2, the CAISO will obtain Operational Control of the Stand

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Alone Network Upgrades prior to the Commercial Operation Date.

- 5.12 Access Rights.** Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party (“Granting Party”) shall furnish at no cost to the other Party (“Access Party”) any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Participating TO’s Transmission System; (ii) operate and maintain the Large Generating Facility, the Interconnection Facilities and the Participating TO’s Transmission System; and (iii) disconnect or remove the Access Party’s facilities and equipment upon termination of this LGIA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party’s business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.
- 5.13 Lands of Other Property Owners.** If any part of the Participating TO’s Interconnection Facilities and/or Network Upgrades are to be installed on property owned by persons other than the Interconnection Customer or Participating TO, the Participating TO shall at the Interconnection Customer’s expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its Affiliates, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Participating TO’s Interconnection Facilities and/or Network Upgrades upon such property.
- 5.14 Permits.** Participating TO and Interconnection Customer shall cooperate with each other in good faith in obtaining all permits, licenses and authorization that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, the Participating TO shall provide permitting assistance to the Interconnection Customer comparable to that provided to the Participating TO’s own, or an Affiliate’s generation.
- 5.15 Early Construction of Base Case Facilities.** The Interconnection Customer may request the Participating TO to construct, and the Participating TO shall construct, using Reasonable Efforts to accommodate Interconnection Customer’s In-Service Date, all or any portion of any Network Upgrades required for Interconnection Customer to be interconnected to the Participating TO’s Transmission System which are included in the Base Case of the Interconnection Studies for the Interconnection Customer, and which also are required to be constructed for another interconnection customer, but where such construction is not scheduled to be completed in time to achieve Interconnection Customer’s In-Service Date.
- 5.16 Suspension.** The Interconnection Customer may request to suspend at any time all work associated with the construction and installation of the Participating TO’s Interconnection Facilities, Network Upgrades, and/or Distribution Upgrades required under this LGIA, other than Network Upgrades identified in the Phase II Interconnection Study as common to multiple generating facilities. Interconnection Customers seeking to suspend construction will provide the CAISO and Participating TO a request for assessment pursuant to Section 6.7.2 of the GIDAP, a modification assessment deposit, and an anticipated end date of the suspension. Interconnection Customers may request a suspension for the maximum amount of time in lieu of providing an anticipated end date. The CAISO and Participating TO will approve suspension requests where:
- (a) the Participating TO’s electrical system and the CAISO Controlled Grid can be left in a safe and reliable condition in accordance with Good Utility Practice, the Participating TO’s safety and reliability criteria, and Applicable Reliability Standards; and

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- (b) the CAISO and Participating TO determine the suspension will not result in a Material Modification.

During suspension, the Interconnection Customer may request to extend or shorten their suspension period, consistent with the maximum period provided in this Article. The CAISO and Participating TO will approve such requests where they meet criteria (a) and (b), above. Requests to extend or shorten extensions will require a new modification assessment request and deposit. The Interconnection Customer shall be responsible for all reasonable and necessary costs for suspension for which the Participating TO (i) has incurred pursuant to this LGIA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Participating TO's electric system during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which the Participating TO cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, the Participating TO shall obtain Interconnection Customer's authorization to do so.

Network Upgrades common to multiple generating facilities, and to which the Interconnection Customer's right of suspension shall not extend, consist of Network Upgrades identified for:

- (i) generating facilities which are the subject of all Interconnection Requests made prior to the Interconnection Customer's Interconnection Request;
- (ii) generating facilities which are the subject of Interconnection Requests within the Interconnection Customer's queue cluster; and
- (iii) generating facilities that are the subject of Interconnection Requests that were made after the Interconnection Customer's Interconnection Request but no later than the date on which the Interconnection Customer's Phase II Interconnection Study Report is issued, and have been modeled in the Base Case at the time the Interconnection Customer seeks to exercise its suspension rights under this Article.

The Participating TO shall invoice the Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work required under this LGIA pursuant to this Article 5.16, and has not requested the Participating TO to recommence the work or has not itself recommenced work required under this LGIA in time to ensure that the new projected Commercial Operation Date for the full Generating Facility Capacity of the Large Generating Facility is no more than three (3) years from the Commercial Operation Date identified in Appendix B hereto, this LGIA shall be deemed terminated and the Interconnection Customer's responsibility for costs will be determined in accordance with Article 2.4 of this LGIA. The suspension period shall begin on the date the Interconnection Customer provides in its request, if approved. Ninety (90) days before the anticipated end date of the suspension, the Participating TO and the CAISO will tender an amended draft LGIA with new construction milestones. The Parties agree to negotiate the amended draft LGIA in good faith such that it can be executed by the end of the suspension.

Interconnection Customer subject to Section 8.9.2.2 of Appendix DD may not request suspension.

**5.17 Taxes.**

**5.17.1 Interconnection Customer Payments Not Taxable.** The Parties intend that all payments or property transfers made by the Interconnection Customer to the Participating TO for the installation of the Participating TO's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as a refundable advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

**5.17.2 Representations And Covenants.** In accordance with IRS Notice 2001-82 and IRS Notice 88-129, the Interconnection Customer represents and covenants that (i) ownership of the electricity generated at the Large Generating Facility will pass to another party prior to the transmission of the electricity on the CAISO Controlled Grid, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to the Participating TO for the Participating TO's Interconnection Facilities will be capitalized by the Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Participating TO's Interconnection Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, "de minimis amount" means no more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At the Participating TO's request, the Interconnection Customer shall provide the Participating TO with a report from an independent engineer confirming its representation in clause (iii), above. The Participating TO represents and covenants that the cost of the Participating TO's Interconnection Facilities paid for by the Interconnection Customer without the possibility of refund or credit will have no net effect on the base upon which rates are determined.

**5.17.3 Indemnification for the Cost Consequence of Current Tax Liability Imposed Upon the Participating TO.** Notwithstanding Article 5.17.1, the Interconnection Customer shall protect, indemnify and hold harmless the Participating TO from the cost consequences of any current tax liability imposed against the Participating TO as the result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by the Participating TO. The Participating TO shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges the Interconnection Customer under this LGIA unless (i) the Participating TO has determined, in good faith, that the payments or property transfers made by the Interconnection Customer to the Participating TO should be reported as income subject to taxation or (ii) any Governmental Authority directs the Participating TO to report payments or property as income subject to taxation; provided, however, that the Participating TO may require the Interconnection Customer to provide security for Interconnection Facilities, in a form reasonably acceptable to the Participating TO (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. The Interconnection Customer shall reimburse the Participating TO for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from the Participating TO of the amount due, including detail about how the amount was calculated.

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The indemnification obligation shall terminate at the earlier of (1) the expiration of the ten year testing period and the applicable statute of limitation, as it may be extended by the Participating TO upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

**5.17.4 Tax Gross-Up Amount.** The Interconnection Customer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that the Interconnection Customer will pay the Participating TO, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on the Participating TO ("Current Taxes") on the excess of (a) the gross income realized by the Participating TO as a result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the Participating TO to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on the Participating TO's composite federal and state tax rates at the time the payments or property transfers are received and the Participating TO will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Participating TO's anticipated tax depreciation deductions as a result of such payments or property transfers by the Participating TO's current weighted average cost of capital. Thus, the formula for calculating the Interconnection Customer's liability to the Participating TO pursuant to this Article 5.17.4 can be expressed as follows:  $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value of Tax Depreciation})) / (1 - \text{Current Tax Rate})$ . Interconnection Customer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

**5.17.5 Private Letter Ruling or Change or Clarification of Law.** At the Interconnection Customer's request and expense, the Participating TO shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by the Interconnection Customer to the Participating TO under this LGIA are subject to federal income taxation. The Interconnection Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of the Interconnection Customer's knowledge. The Participating TO and Interconnection Customer shall cooperate in good faith with respect to the submission of such request, provided, however, the Interconnection Customer and the Participating TO explicitly acknowledge (and nothing herein is intended to alter) Participating TO's obligation under law to certify that the facts presented in the ruling request are true, correct and complete.

The Participating TO shall keep the Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes the Interconnection Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. The Participating TO shall allow the Interconnection Customer to attend all meetings with IRS officials about the request and shall permit the Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request.



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- 5.17.6 Subsequent Taxable Events.** If, within 10 years from the date on which the relevant Participating TO's Interconnection Facilities are placed in service, (i) the Interconnection Customer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this LGIA terminates and the Participating TO retains ownership of the Interconnection Facilities and Network Upgrades, the Interconnection Customer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on the Participating TO, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.
- 5.17.7 Contests.** In the event any Governmental Authority determines that the Participating TO's receipt of payments or property constitutes income that is subject to taxation, the Participating TO shall notify the Interconnection Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by the Interconnection Customer and at the Interconnection Customer's sole expense, the Participating TO may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon the Interconnection Customer's written request and sole expense, the Participating TO may file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. The Participating TO reserve the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but the Participating TO shall keep the Interconnection Customer informed, shall consider in good faith suggestions from the Interconnection Customer about the conduct of the contest, and shall reasonably permit the Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

The Interconnection Customer shall pay to the Participating TO on a periodic basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest, including any costs associated with obtaining the opinion of independent tax counsel described in this Article 5.17.7. The Participating TO may abandon any contest if the Interconnection Customer fails to provide payment to the Participating TO within thirty (30) Calendar Days of receiving such invoice.

At any time during the contest, the Participating TO may agree to a settlement either with the Interconnection Customer's consent or, if such consent is refused, after obtaining written advice from independent nationally-recognized tax counsel, selected by the Participating TO, but reasonably acceptable to the Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. The Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by the Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding paragraph. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. The Participating TO may also settle any tax controversy without receiving the Interconnection Customer's consent or any such written advice; however, any such settlement will relieve the Interconnection Customer from any obligation to indemnify the Participating TO for the tax at issue in the contest (unless the failure to obtain written advice is attributable to the Interconnection Customer's unreasonable refusal to the appointment of independent tax counsel).

- 5.17.8 Refund.** In the event that (a) a private letter ruling is issued to the Participating TO which holds that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not subject to federal income taxation, (b) any legislative change or administrative

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announcement, notice, ruling or other determination makes it reasonably clear to the Participating TO in good faith that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not taxable to the Participating TO, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by the Interconnection Customer to the Participating TO are not subject to federal income tax, or (d) if the Participating TO receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by the Interconnection Customer to the Participating TO pursuant to this LGIA, the Participating TO shall promptly refund to the Interconnection Customer the following:

- (i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,
- (ii) interest on any amounts paid by the Interconnection Customer to the Participating TO for such taxes which the Participating TO did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date payment was made by the Interconnection Customer to the date the Participating TO refunds such payment to the Interconnection Customer, and
- (iii) with respect to any such taxes paid by the Participating TO, any refund or credit the Participating TO receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to the Participating TO for such overpayment of taxes (including any reduction in interest otherwise payable by the Participating TO to any Governmental Authority resulting from an offset or credit); provided, however, that the Participating TO will remit such amount promptly to the Interconnection Customer only after and to the extent that the Participating TO has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Participating TO's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

**5.17.9 Taxes Other Than Income Taxes.** Upon the timely request by the Interconnection Customer, and at the Interconnection Customer's sole expense, the CAISO or Participating TO may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the CAISO or Participating TO for which the Interconnection Customer may be required to reimburse the CAISO or Participating TO under the terms of this LGIA. The Interconnection Customer shall pay to the Participating TO on a periodic basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. The Interconnection Customer, the CAISO, and the Participating TO shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by the Interconnection Customer to the CAISO or Participating TO for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, the Interconnection



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Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Participating TO.

**5.18 Tax Status.** Each Party shall cooperate with the others to maintain the other Parties' tax status. Nothing in this LGIA is intended to adversely affect the CAISO's or any Participating TO's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

**5.19 Modification.**

**5.19.1 General.** The Interconnection Customer or the Participating TO may undertake modifications to its facilities, subject to Section 25.1(c) and Section 25 of the CAISO Tariff if the Interconnection Customer has achieved its Commercial Operation Date, and subject to Section 6.7.2 of Appendix DD if it has not.

If a Party plans to undertake a modification that reasonably may be expected to affect the other Parties' facilities, that Party shall provide to the other Parties sufficient information regarding such modification so that the other Parties may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Parties at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

Notwithstanding Section 7.5 of Appendix DD, at any time after achieving its Commercial Operation Date, the Interconnection Customer may reduce the megawatt generating capacities of its Generating Facilities, subject to Section 25.1(c) of the CAISO Tariff. Section 7.5.11 of Appendix DD will still apply to such requests to reduce capacity.

**5.19.2 Standards.** Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this LGIA and Good Utility Practice.

**5.19.3 Modification Costs.** The Interconnection Customer shall not be directly assigned the costs of any additions, modifications, or replacements that the Participating TO makes to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System to facilitate the interconnection of a third party to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System, or to provide transmission service to a third party under the CAISO Tariff. The Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

**5.20 Annual Reassessment Process.** In accordance with Section 7.4 of the GIDAP, the CAISO will perform an annual reassessment, as part of a queue cluster interconnection study cycle, in which it will update certain base case data prior to beginning the GIDAP Phase II Interconnection Studies. As set forth in Section 7.4, the CAISO may determine through this assessment that Delivery Network Upgrades and Off-Peak Network Upgrades already identified and included in executed generator interconnection agreements should be modified in order to reflect the current circumstances of interconnection customers

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in the queue, including any withdrawals therefrom, and any additions and upgrades approved in the CAISO's most recent TPP cycle. To the extent that this determination modifies the scope or characteristics of, or the cost responsibility for, any Delivery Network Upgrades and Off-Peak Network Upgrades set forth in Appendix A to this LGIA, such modification(s) will be reflected through an amendment to this LGIA.

**Article 6. Testing and Inspection**

- 6.1 Pre-Commercial Operation Date Testing and Modifications.** Prior to the Commercial Operation Date, the Participating TO shall test the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades and the Interconnection Customer shall test the Large Generating Facility and the Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. The Interconnection Customer shall bear the cost of all such testing and modifications. The Interconnection Customer shall not commence initial parallel operation of an Electric Generating Unit with the Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit. The Interconnection Customer shall generate test energy at the Large Generating Facility only if it has arranged for the delivery of such test energy.
- 6.2 Post-Commercial Operation Date Testing and Modifications.** Each Party shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Participating TO's Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.
- 6.3 Right to Observe Testing.** Each Party shall notify the other Parties at least fourteen (14) Calendar Days in advance of its performance of tests of its Interconnection Facilities or Generating Facility. The other Parties have the right, at their own expense, to observe such testing.
- 6.4 Right to Inspect.** Each Party shall have the right, but shall have no obligation to: (i) observe another Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of another Party's System Protection Facilities and other protective equipment; and (iii) review another Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be Confidential Information and treated pursuant to Article 22 of this LGIA.

**Article 7. Metering**

- 7.1 General.** Each Party shall comply with any Applicable Reliability Standards and the Applicable Reliability Council requirements. The Interconnection Customer and CAISO shall comply with the provisions of the CAISO Tariff regarding metering, including Section 10 of the CAISO Tariff. Unless otherwise agreed by the Participating TO and the Interconnection Customer, the Participating TO may install additional Metering Equipment at the Point of Interconnection prior to any operation of any Electric Generating Unit and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Large Generating Facility shall be measured at or, at the CAISO's or Participating TO's option for its respective Metering Equipment,

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compensated to, the Point of Interconnection. The CAISO shall provide metering quantities to the Interconnection Customer upon request in accordance with the CAISO Tariff by directly polling the CAISO's meter data acquisition system. The Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

- 7.2 Check Meters.** The Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check the CAISO-pollled meters or the Participating TO's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this LGIA, except in the case that no other means are available on a temporary basis at the option of the CAISO or the Participating TO. The check meters shall be subject at all reasonable times to inspection and examination by the CAISO or Participating TO or their designees. The installation, operation and maintenance thereof shall be performed entirely by the Interconnection Customer in accordance with Good Utility Practice.
- 7.3 Participating TO Retail Metering.** The Participating TO may install retail revenue quality meters and associated equipment, pursuant to the Participating TO's applicable retail tariffs.

**Article 8. Communications**

- 8.1 Interconnection Customer Obligations.** The Interconnection Customer shall maintain satisfactory operating communications with the CAISO in accordance with the provisions of the CAISO Tariff and with the Participating TO's dispatcher or representative designated by the Participating TO. The Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. The Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to the CAISO and Participating TO as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by the CAISO and Participating TO. Any required maintenance of such communications equipment shall be performed by the Interconnection Customer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.
- 8.2 Remote Terminal Unit.** Prior to the Initial Synchronization Date of each Electric Generating Unit, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by the Interconnection Customer, or by the Participating TO at the Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by the CAISO and by the Participating TO through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1.

Telemetry to the CAISO shall be provided in accordance with the CAISO's technical standards for direct telemetry. For telemetry to the Participating TO, the communication protocol for the data circuit(s) shall be specified by the Participating TO. Instantaneous bi-directional real power and reactive power flow and any other required information must be telemetered directly to the location(s) specified by the Participating TO.

Each Party will promptly advise the other Parties if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by another Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

- 8.3 No Annexation.** Any and all equipment placed on the premises of a Party shall be and remain

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the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

- 8.4 Provision of Data from a Variable Energy Resource.** The Interconnection Customer whose Generating Facility is a Variable Energy Resource shall provide meteorological and forced outage data to the CAISO to the extent necessary for the CAISO's development and deployment of power production forecasts for that class of Variable Energy Resources. The Interconnection Customer with a Variable Energy Resource having wind as the energy source, at a minimum, will be required to provide the CAISO with site-specific meteorological data including: temperature, wind speed, wind direction, and atmospheric pressure. The Interconnection Customer with a Variable Energy Resource having solar as the energy source, at a minimum, will be required to provide the CAISO with site-specific meteorological data including: temperature, atmospheric pressure, and irradiance. The CAISO and Interconnection Customer whose Generating Facility is a Variable Energy Resource shall mutually agree to any additional meteorological data that are required for the development and deployment of a power production forecast. The Interconnection Customer whose Generating Facility is a Variable Energy Resource also shall submit data to the CAISO regarding all forced outages to the extent necessary for the CAISO's development and deployment of power production forecasts for that class of Variable Energy Resources. The exact specifications of the meteorological and forced outage data to be provided by the Interconnection Customer to the CAISO, including the frequency and timing of data submittals, shall be made taking into account the size and configuration of the Variable Energy Resource, its characteristics, location, and its importance in maintaining generation resource adequacy and transmission system reliability in its area. All requirements for meteorological and forced outage data must be commensurate with the power production forecasting employed by the CAISO. Such requirements for meteorological and forced outage data are set forth in Appendix C, Interconnection Details, of this LGIA, as they may change from time to time.

**Article 9. Operations**

- 9.1 General.** Each Party shall comply with Applicable Reliability Standards and the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.
- 9.2 Balancing Authority Area Notification.** At least three months before Initial Synchronization Date, the Interconnection Customer shall notify the CAISO and Participating TO in writing of the Balancing Authority Area in which the Large Generating Facility intends to be located. If the Interconnection Customer intends to locate the Large Generating Facility in a Balancing Authority Area other than the Balancing Authority Area within whose electrically metered boundaries the Large Generating Facility is located, and if permitted to do so by the relevant transmission tariffs, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this LGIA, and remote Balancing Authority Area generator interchange agreements, if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Large Generating Facility in the other Balancing Authority Area.
- 9.3 CAISO and Participating TO Obligations.** The CAISO and Participating TO shall cause the Participating TO's Transmission System to be operated and controlled in a safe and reliable manner and in accordance with this LGIA. The Participating TO at the Interconnection Customer's expense shall cause the Participating TO's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this LGIA. The CAISO and Participating TO may provide operating instructions to the Interconnection Customer consistent with this LGIA and Participating TO and CAISO operating protocols and procedures as they may change from time to time. The Participating TO and CAISO will consider changes to their operating protocols and procedures proposed by the Interconnection Customer.
- 9.4 Interconnection Customer Obligations.** The Interconnection Customer shall at its own

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expense operate, maintain and control the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA. The Interconnection Customer shall operate the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of the Balancing Authority Area of which it is part, including such requirements as set forth in Appendix C, Interconnection Details, of this LGIA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. A Party may request that another Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this LGIA. The Interconnection Customer shall not commence Commercial Operation of an Electric Generating Unit with the Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit.

**9.5 Start-Up and Synchronization.** Consistent with the Parties' mutually acceptable procedures, the Interconnection Customer is responsible for the proper synchronization of each Electric Generating Unit to the CAISO Controlled Grid.

**9.6 Reactive Power.**

**9.6.1 Power Factor Design Criteria.** For all Generating Facilities other than Asynchronous Generating Facilities, the Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the terminals of the Electric Generating Unit at a power factor within the range of 0.95 leading to 0.90 lagging, unless the CAISO has established different requirements that apply to all generators in the Balancing Authority Area on a comparable basis. For Asynchronous Generating Facilities, the Interconnection Customer shall design the Large Generating Facility to maintain power factor criteria in accordance with Appendix H of this LGIA except in the following cases: (a) an Interconnection Customer posts Interconnection Financial Security for an Asynchronous Generating Facility pursuant to Appendix DD of the CAISO Tariff Section 11.2.2 on or after September 21, 2016; or (b) an Interconnection Customer that submits an Interconnection Request for an Asynchronous Generating Facility under the Fast Track Process pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016.

When an Interconnection Customer posts Interconnection Financial Security for an Asynchronous Generating Facility pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016, the Interconnection Customer will design the Large Generator Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

When an Interconnection Customer submits an Interconnection Request for an Asynchronous Generating Facility under the Fast Track Process pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016, the Interconnection Customer will design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability



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(taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

**9.6.2 Voltage Schedules.** Once the Interconnection Customer has synchronized an Electric Generating Unit with the CAISO Controlled Grid, the CAISO or Participating TO shall require the Interconnection Customer to maintain a voltage schedule by operating the Electric Generating Unit to produce or absorb reactive power within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria). CAISO's voltage schedules shall treat all sources of reactive power in the Balancing Authority Area in an equitable and not unduly discriminatory manner. The Participating TO shall exercise Reasonable Efforts to provide the Interconnection Customer with such schedules at least one (1) day in advance, and the CAISO or Participating TO may make changes to such schedules as necessary to maintain the reliability of the CAISO Controlled Grid or the Participating TO's electric system. The Interconnection Customer shall operate the Electric Generating Unit to maintain the specified output voltage or power factor within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria), and as may be required by the CAISO to operate the Electric Generating Unit at a specific voltage schedule within the design limitations set forth in Article 9.6.1. If the Interconnection Customer is unable to maintain the specified voltage or power factor, it shall promptly notify the CAISO and the Participating TO.

**9.6.2.1 Voltage Regulators.** Whenever an Electric Generating Unit is operated in parallel with the CAISO Controlled Grid and voltage regulators are capable of operation, the Interconnection Customer shall operate the Electric Generating Unit with its voltage regulators in automatic operation. If the Electric Generating Unit's voltage regulators are not capable of such automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and ensure that the Electric Generating Unit operates as specified in Article 9.6.2 through manual operation and that such Electric Generating Unit's reactive power production or absorption (measured in MVARs) are within the design capability of the Electric Generating Unit(s) and steady state stability limits. The Interconnection Customer shall restore the speed governors and voltage regulators to automatic operation as soon as possible. If the Large Generating Facility's speed governors and voltage regulators are improperly tuned or malfunctioning, the CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected. The Interconnection Customer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the CAISO Controlled Grid or trip any Electric Generating Unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Balancing Authority Area on a comparable basis.

**9.6.3 Payment for Reactive Power.** CAISO is required to pay the Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from an Electric Generating Unit when the CAISO requests the Interconnection Customer to operate its Electric Generating Unit outside the range specified in Article 9.6.1, provided that if the CAISO pays other generators for reactive power service within the specified range, it must also pay the Interconnection Customer. Payments shall be pursuant to Article 11.6 or such other agreement to which the CAISO and Interconnection Customer have otherwise agreed.

**9.6.4 Primary Frequency Response.** Interconnection Customer shall ensure the primary frequency response capability of its Electric Generating Unit(s) by installing, maintaining, and operating a functioning governor or equivalent controls. The term “functioning governor or equivalent controls” as used herein shall mean the required hardware and/or software that provides frequency responsive real power control with the ability to sense changes in system frequency and autonomously adjust the Electric Generating Unit’s real power output in accordance with the droop and deadband parameters and in the direction needed to correct frequency deviations. Interconnection Customer is required to install a governor or equivalent controls with the capability of operating: (1) with a maximum 5 percent droop and  $\pm 0.036$  Hz deadband; or (2) in accordance with the relevant droop, deadband, and timely and sustained response settings from Applicable Reliability Standards providing for equivalent or more stringent parameters. The droop characteristic shall be: (1) based on the nameplate capacity of the Electric Generating Unit(s), and shall be linear in the range of frequencies between 59 to 61 Hz that are outside of the deadband parameter; or (2) based on Applicable Reliability Standards providing for an equivalent or more stringent parameter. The deadband parameter shall be: the range of frequencies above and below nominal (60 Hz) in which the governor or equivalent controls is not expected to adjust the Electric Generating Units’ real power output in response to frequency deviations. The deadband shall be implemented: (1) without a step to the droop curve, that is, once the frequency deviation exceeds the deadband parameter, the expected change in the Electric Generating Units’ real power output in response to frequency deviations shall start from zero and then increase (for under-frequency deviations) or decrease (for over-frequency deviations) linearly in proportion to the magnitude of the frequency deviation; or (2) in accordance with Applicable Reliability Standards providing for an equivalent or more stringent parameter. Interconnection Customer shall notify the CAISO that the primary frequency response capability of the Electric Generating Unit(s) has been tested and confirmed during commissioning. Once Interconnection Customer has synchronized the Electric Generating Unit(s) with the CAISO Controlled Grid, Interconnection Customer shall operate the Electric Generating Unit(s) consistent with the provisions specified in Sections 9.6.4.1 and 9.6.4.2 of this LGIA. The primary frequency response requirements contained herein shall apply to both synchronous and non-synchronous Large Generating Facilities.

**9.6.4.1 Governor or Equivalent Controls.** Whenever the Electric Generating Unit(s) is operated in parallel with the CAISO Controlled Grid, Interconnection Customer shall operate the Electric Generating Unit(s) with its governor or equivalent controls in service and responsive to frequency. Interconnection Customer shall, in coordination with the CAISO, set the deadband parameter to: (1) a maximum of  $\pm 0.036$  Hz and set the droop parameter to a maximum of 5 percent; or (2) implement the relevant droop and deadband settings from Applicable Reliability Standards that provides for equivalent or more stringent parameters. Interconnection Customer shall be required to provide the status and settings of the governor or equivalent controls to the CAISO upon request. If Interconnection Customer needs to operate the Electric Generating Unit(s) with its governor or equivalent controls not in service, Interconnection Customer shall immediately notify the CAISO, and provide the following information: (1) the operating status of the governor or equivalent controls (i.e., whether it is currently out of service or when it will be taken out of service); (2) the reasons for removing the governor or equivalent controls from service; and (3) a reasonable estimate of when the governor or equivalent controls will be returned to service. Interconnection Customer shall make Reasonable Efforts to return its governor or equivalent controls into service as soon as practicable. Interconnection Customer shall make Reasonable Efforts to keep outages of the Electric Generating Units’ governor or equivalent controls to a minimum whenever the Electric Generating Unit(s) is operated in parallel with the CAISO Controlled Grid.



**9.6.4.2 Timely and Sustained Response.** Interconnection Customer shall ensure that the Electric Generating Units' real power response to sustained frequency deviations outside of the deadband setting is automatically provided and shall begin immediately after frequency deviates outside of the deadband, and to the extent the Electric Generating Unit(s) has operating capability in the direction needed to correct the frequency deviation. Interconnection Customer shall not block or otherwise inhibit the ability of the governor or equivalent controls to respond and shall ensure that the response is not inhibited, except under certain operational constraints including, but not limited to, ambient temperature limitations, physical energy limitations, outages of mechanical equipment, or regulatory requirements. The Electric Generating Unit(s) shall sustain the real power response at least until system frequency returns to a value within the deadband setting of the governor or equivalent controls. A FERC-approved Applicable Reliability Standard with equivalent or more stringent requirements shall supersede the above requirements.

**9.6.4.3 Exemptions.** Large Generating Facilities that are regulated by the Nuclear Regulatory Commission shall be exempt from Sections 9.6.4, 9.6.4.1, and 9.6.4.2 of this LGIA. Large Generating Facilities that are behind-the-meter generation that is sized-to-load (i.e., the thermal load and the generation are near-balanced in real-time operation and the generation is primarily controlled to maintain the unique thermal, chemical, or mechanical output necessary for the operating requirements of its host facility) shall be required to install primary frequency response capability in accordance with the droop and deadband capability requirements specified in Section 9.6.4, but shall be otherwise exempt from the operating requirements in Sections 9.6.4, 9.6.4.1, 9.6.4.2, and 9.6.4.4 of this LGIA.

**9.6.4.4 Electric Storage Resources.** Interconnection Customer interconnecting an electric storage resource shall establish an operating range in Appendix C of this LGIA that specifies a minimum state of charge and a maximum state of charge between which the electric storage resource will be required to provide primary frequency response consistent with the conditions set forth in Sections 9.6.4, 9.6.4.1, 9.6.4.2, and 9.6.4.3 of this LGIA. Appendix C shall specify whether the operating range is static or dynamic, and shall consider: (1) the expected magnitude of frequency deviations in the interconnection; (2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection; (3) the expected incidence of frequency deviations outside of the deadband parameter in the interconnection; (4) the physical capabilities of the electric storage resource; (5) operational limitations of the electric storage resource due to manufacturer specifications; and (6) any other relevant factors agreed to by the CAISO and Interconnection Customer, and in consultation with the relevant transmission owner or balancing authority as appropriate. If the operating range is dynamic, then Appendix C must establish how frequently the operating range will be reevaluated and the factors that may be considered during its reevaluation.

Interconnection Customer's electric storage resource is required to provide timely and sustained primary frequency response consistent with Section 9.6.4.2 of this LGIA when it is online and dispatched to inject electricity to the CAISO Controlled Grid and/or receive electricity from the Participating TO's Transmission System or the CAISO Controlled Grid. This excludes circumstances when the electric storage resource is not dispatched to inject electricity to the CAISO Controlled Grid and/or dispatched to receive electricity from the Participating TO's Transmission system or the CAISO Controlled Grid. If Interconnection

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Customer's electric storage resource is charging at the time of a frequency deviation outside of its deadband parameter, it is to increase (for over-frequency deviations) or decrease (for under-frequency deviations) the rate at which it is charging in accordance with its droop parameter. Interconnection Customer's electric storage resource is not required to change from charging to discharging, or vice versa, unless the response necessitated by the droop and deadband settings requires it to do so and it is technically capable of making such a transition.

**9.7 Outages and Interruptions.**

**9.7.1 Outages.**

**9.7.1.1 Outage Authority and Coordination.** Each Party may in accordance with Good Utility Practice in coordination with the other Parties remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact another Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to all Parties. In all circumstances any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Parties of such removal.

**9.7.1.2 Outage Schedules.** The CAISO shall post scheduled outages of CAISO Controlled Grid facilities in accordance with the provisions of the CAISO Tariff. The Interconnection Customer shall submit its planned maintenance schedules for the Large Generating Facility to the CAISO in accordance with the CAISO Tariff. The Interconnection Customer shall update its planned maintenance schedules in accordance with the CAISO Tariff. The CAISO may request the Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the CAISO Controlled Grid in accordance with the CAISO Tariff. Such planned maintenance schedules and updates and changes to such schedules shall be provided by the Interconnection Customer to the Participating TO concurrently with their submittal to the CAISO. The CAISO shall compensate the Interconnection Customer for any additional direct costs that the Interconnection Customer incurs as a result of having to reschedule maintenance in accordance with the CAISO Tariff. The Interconnection Customer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, the Interconnection Customer had modified its schedule of maintenance activities.

**9.7.1.3 Outage Restoration.** If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects another Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Parties, to the extent such information is known, information on the nature of the Emergency Condition, if the outage is caused by an Emergency Condition, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage, if requested by a Party, which may be provided by e-mail or facsimile.

**9.7.2 Interruption of Service.** If required by Good Utility Practice to do so, the CAISO or the

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Participating TO may require the Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity could adversely affect the CAISO's or the Participating TO's ability to perform such activities as are necessary to safely and reliably operate and maintain the Participating TO's electric system or the CAISO Controlled Grid. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

- 9.7.2.1** The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;
- 9.7.2.2** Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the CAISO Controlled Grid, subject to any conditions specified in this LGIA;
- 9.7.2.3** When the interruption or reduction must be made under circumstances which do not allow for advance notice, the CAISO or Participating TO, as applicable, shall notify the Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification, if requested by the Interconnection Customer, as soon as practicable;
- 9.7.2.4** Except during the existence of an Emergency Condition, the CAISO or Participating TO shall notify the Interconnection Customer in advance regarding the timing of such interruption or reduction and further notify the Interconnection Customer of the expected duration. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Interconnection Customer, the CAISO, and the Participating TO;
- 9.7.2.5** The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Interconnection Facilities, the Participating TO's Transmission System, and the CAISO Controlled Grid to their normal operating state, consistent with system conditions and Good Utility Practice.

**9.7.3 Under-Frequency and Over Frequency Conditions.** The CAISO Controlled Grid is designed to automatically activate a load-shed program as required by Applicable Reliability Standards and the Applicable Reliability Council in the event of an under-frequency system disturbance. The Interconnection Customer shall implement under-frequency and over-frequency protection set points for the Large Generating Facility as required by Applicable Reliability Standards and the Applicable Reliability Council to ensure "ride through" capability. Large Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the Participating TO and CAISO in accordance with Good Utility Practice. The term "ride through" as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the CAISO Controlled Grid during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice. . Asynchronous Generating Facilities shall be subject to frequency ride through capability requirements in accordance with Appendix H to this LGIA.

**9.7.4 System Protection and Other Control Requirements.**

**9.7.4.1 System Protection Facilities.** The Interconnection Customer shall, at its

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expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Participating TO shall install at the Interconnection Customer's expense any System Protection Facilities that may be required on the Participating TO's Interconnection Facilities or the Participating TO's Transmission System as a result of the interconnection of the Large Generating Facility and the Interconnection Customer's Interconnection Facilities.

**9.7.4.2** The Participating TO's and Interconnection Customer's protection facilities shall be designed and coordinated with other systems in accordance with Applicable Reliability Standards, Applicable Reliability Council criteria, and Good Utility Practice.

**9.7.4.3** The Participating TO and Interconnection Customer shall each be responsible for protection of its facilities consistent with Good Utility Practice.

**9.7.4.4** The Participating TO's and Interconnection Customer's protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of the Interconnection Customer's Electric Generating Units.

**9.7.4.5** The Participating TO and Interconnection Customer will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook.

**9.7.4.6** Prior to the in-service date, and again prior to the Commercial Operation Date, the Participating TO and Interconnection Customer or their agents shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice, the standards and procedures of the Participating TO, including, if applicable, the requirements of the Participating TO's Interconnection Handbook, and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

**9.7.5 Requirements for Protection.** In compliance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook, the Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Participating TO's Transmission System not otherwise isolated by the Participating TO's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Participating TO's Transmission System. Such protective equipment shall include, without limitation, a disconnecting device with fault current-interrupting capability located between the Large Generating Facility and the Participating TO's Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. The Interconnection Customer shall be responsible for protection of the Large Generating Facility and the Interconnection Customer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. The Interconnection Customer shall be solely responsible to disconnect the Large Generating Facility and the Interconnection Customer's other equipment if conditions on the CAISO Controlled Grid

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could adversely affect the Large Generating Facility.

- 9.7.6 Power Quality.** Neither the Participating TO's nor the Interconnection Customer's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, any applicable superseding electric industry standard, or any alternative Applicable Reliability Standard or Applicable Reliability Council standard. In the event of a conflict among ANSI Standard C84.1-1989, any applicable superseding electric industry standard, or any alternative Applicable Reliability Standard or Applicable Reliability Council standard, the alternative Applicable Reliability Standard or Applicable Reliability Council standard shall control.
- 9.8 Switching and Tagging Rules.** Each Party shall provide the other Parties a copy of its switching and tagging rules that are applicable to the other Parties' activities. Such switching and tagging rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.
- 9.9 Use of Interconnection Facilities by Third Parties.**
- 9.9.1 Purpose of Interconnection Facilities.** Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Participating TO's Transmission System and shall be used for no other purpose.
- 9.9.2 Third Party Users.** If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Participating TO's Interconnection Facilities, or any part thereof, the Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between the Interconnection Customer and any third party users based upon the pro rata use of the Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.
- 9.10 Disturbance Analysis Data Exchange.** The Parties will cooperate with one another in the analysis of disturbances to either the Large Generating Facility or the CAISO Controlled Grid by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

**Article 10. Maintenance**

- 10.1 Participating TO Obligations.** The Participating TO shall maintain the Participating TO's Transmission System and the Participating TO's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.
- 10.2 Interconnection Customer Obligations.** The Interconnection Customer shall maintain the



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Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

- 10.3 Coordination.** The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Interconnection Facilities.
- 10.4 Secondary Systems.** The Participating TO and Interconnection Customer shall cooperate with the other Parties in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Parties. Each Party shall provide advance notice to the other Parties before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.
- 10.5 Operating and Maintenance Expenses.** Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, the Interconnection Customer shall be responsible for all reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing the Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of the Participating TO's Interconnection Facilities.

**Article 11. Performance Obligation**

- 11.1 Interconnection Customer's Interconnection Facilities.** The Interconnection Customer shall design, procure, construct, install, own and/or control the Interconnection Customer's Interconnection Facilities described in Appendix A at its sole expense.
- 11.2 Participating TO's Interconnection Facilities.** The Participating TO shall design, procure, construct, install, own and/or control the Participating TO's Interconnection Facilities described in Appendix A at the sole expense of the Interconnection Customer. Unless the Participating TO elects to fund the capital for the Participating TO's Interconnection Facilities, they shall be solely funded by the Interconnection Customer.
- 11.3 Network Upgrades and Distribution Upgrades.** The Participating TO shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A, except for Stand Alone Network Upgrades, which will be constructed, and if agreed to by the Parties owned by the Interconnection Customer, and Merchant Network Upgrades. The Interconnection Customer shall be responsible for all costs related to Distribution Upgrades. Network Upgrades shall be funded by the Interconnection Customer, which for Interconnection Customers processed under Section 6 of the GIDAP (in Queue Clusters) shall be in an amount determined pursuant to the methodology set forth in Section 6.3 of the GIDAP. This specific amount is set forth in Appendix G to this LGIA. For costs associated with Area Delivery Network Upgrades, any amounts set forth in Appendix G will be advisory estimates only, and will not operate to establishing any cap or Maximum Cost Exposure on the cost responsibility of the Interconnection Customer for Area Delivery Network Upgrades.
- 11.4 Transmission Credits.** No later than thirty (30) Calendar Days prior to the Commercial Operation Date, the Interconnection Customer may make a one-time election by written notice to the CAISO and the Participating TO to (a) receive Congestion Revenue Rights as defined in and as available under the CAISO Tariff at the time of the election in accordance with the CAISO

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Tariff, in lieu of a repayment of the cost of Network Upgrades in accordance with Article 11.4.1, and/or (b) decline all or part of a refund of the cost of Network Upgrades entitled to the Interconnection Customer in accordance with Article 11.4.1.

**11.4.1 Repayment of Amounts Advanced for Network Upgrades.**

**11.4.1.1 Repayment of Amounts Advanced Regarding Non-Phased Generating Facilities**

An Interconnection Customer with a non-Phased Generating Facility in Queue Cluster 5 or earlier, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to a repayment for the Interconnection Customer's contribution to the cost of Network Upgrades commencing upon the Commercial Operation Date of its Generating Facility.

An Interconnection Customer with a non-Phased Generating Facility in Queue Cluster 6 or later, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has not been tendered an Interconnection Agreement before December 19, 2014, shall be entitled to repayment for the Interconnection Customer's contribution to the cost of Network Upgrades placed in service on or before the Commercial Operation Date of its Generating Facility, commencing upon the Commercial Operation Date of the Generating Facility. Repayment for the Interconnection Customer's contribution to the cost of Network Upgrades placed into service after the Commercial Operation Date of its Generating Facility shall, for each of these Network Upgrades, commence no later than the later of: (i) the first month of the calendar year following the year in which the Network Upgrade is placed into service or (ii) 90 days after the Network Upgrade is placed into service.

An Interconnection Customer subject to this Article 11.4.1.1 shall be entitled to repayment for its contribution to the cost of Network Upgrades as follows:

- (a) For Reliability Network Upgrades, the Interconnection Customer shall be entitled to a repayment of the amount paid by the Interconnection Customer for Reliability Network Upgrades as set forth in Appendix G, up to a maximum amount established in Section 14.3.2.1 of the GIDAP. For purposes of this determination, generating capacity will be based on the capacity of the Interconnection Customer's Generating Facility at the time it achieves Commercial Operation. To the extent that such repayment does not cover all of the costs of Interconnection Customer's Reliability Network Upgrades, the Interconnection Customer shall receive Merchant Transmission CRRs for that portion of its Reliability Network Upgrades that are not covered by cash repayment.
- (b) For Local Delivery Network Upgrades:
  - i. If the Interconnection Customer is an Option (B) Interconnection Customer and has been allocated and continues to be eligible to receive TP Deliverability pursuant to the GIDAP, the Interconnection Customer shall be entitled to repayment of a portion of the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G. The repayment amount shall be determined by dividing the amount of TP Deliverability



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received by the amount of deliverability requested by the Interconnection Customer, and multiplying that percentage by the total amount paid to the Participating TO by the Interconnection Customer for Local Delivery Network Upgrades

- ii. If the Generating Facility is an Option (B) Generating Facility and has not been allocated any TP Deliverability, the Interconnection Customer shall not be entitled to repayment for the costs of Local Delivery Network Upgrades.
  - iii. If the Generating Facility is an Option (A) Generating Facility, the Interconnection Customer shall be entitled to a repayment equal to the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G.
- (c) For Area Delivery Network Upgrades, the Interconnection Customer shall not be entitled to repayment for the costs of Area Delivery Network Upgrades.
- (d) If an Interconnection Customer having a Option (B) Generating Facility, and is eligible, to construct and own Network Upgrades pursuant to the Merchant Option set forth in Article 5.15 of this LGIA, then the Interconnection Customer shall not be entitled to any repayment pursuant to this LGIA.
- (e) For Local Off-Peak Network Upgrades, the Interconnection Customer will be entitled to a repayment equal to the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G.

Unless an Interconnection Customer has provided written notice to the CAISO that it is declining all or part of such repayment, such amounts shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer pursuant to Article 5.17.8 or otherwise, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the applicable date as provided for in this Article 11.4.1.1; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years of the applicable commencement date. Notwithstanding the foregoing, if this LGIA terminates within five (5) years of the applicable commencement date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

- (f) Where the Interconnection Customer finances the construction of Network Upgrades for more than one Participating TO, the cost allocation, Interconnection Financial Security, and repayment will be conducted pursuant to Section 14.4.1 of the GIDAP, and set forth in Appendix G.

**11.4.1.2 Repayment of Amounts Advanced Regarding Phased Generating Facilities**

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Upon the Commercial Operation Date of each phase of a Phased Generating Facility, the Interconnection Customer shall be entitled to a repayment equal to the Interconnection Customer's contribution to the cost of Network Upgrades for that completed phase for which the Interconnection Customer is responsible, as set forth in Appendix G, subject to the limitations specified in Article 11.4.1.1, if the following conditions are satisfied as described below:

- (a) The Generating Facility is capable of being constructed in phases;
- (b) The Generating Facility is specified in the LGIA as being constructed in phases;
- (c) The completed phase corresponds to one of the phases specified in the LGIA;
- (d) The phase has achieved Commercial Operation and the Interconnection Customer has tendered notice of the same pursuant to this LGIA;
- (e) All Parties to the LGIA have confirmed that the completed phase meets the requirements set forth in this LGIA and any other operating, metering, and interconnection requirements to permit generation output of the entire capacity of the completed phase as specified in this LGIA;
- (f) The Network Upgrades necessary for the completed phase to meet the desired level of deliverability are in service; and
- (g) The Interconnection Customer has posted one hundred (100) percent of the Interconnection Financial Security required for the Network Upgrades for all the phases of the Generating Facility (or if less than one hundred (100) percent has been posted, then all required Financial Security Instruments to the date of commencement of repayment).

Following satisfaction of these conditions (a) through (g), an Interconnection Customer in a Queue Cluster earlier than Queue Cluster 5, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to receive a partial repayment of its financed cost responsibility, to the extent that it is otherwise eligible for such repayment per Article 11.4.1.1, in an amount equal to the percentage of the Generating Facility declared to be in Commercial Operation multiplied by the cost of the Network Upgrades associated with the completed phase. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Generating Facility is completed.

Following satisfaction of these conditions (a) through (e) and (g), an Interconnection Customer in Queue Cluster 6 or a later Queue Cluster, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has not been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to receive a repayment of its financed cost responsibility for the Network Upgrades associated with the completed phase that have been placed in service. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Generating Facility is completed. With respect to any Network Upgrades necessary for a completed phase to meet its desired level of deliverability that are not in service by the time the phase achieves Commercial Operation, repayment for each such Network Upgrade will commence no later

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than the later of: (i) the first month of the calendar year following the year in which the Network Upgrade is placed into service or (ii) 90 days after the Network Upgrade is placed into service.

A reduction in the electrical output (MW capacity) of the Generating Facility pursuant to the CAISO Tariff shall not diminish the Interconnection Customer's right to repayment pursuant to this LGIA Article 11.4.1.2. If the LGIA includes a partial termination provision and the partial termination right has been exercised with regard to a phase that has not been built, then the Interconnection Customer's eligibility for repayment under this Article 11.4.1.2 as to the remaining phases shall not be diminished. If the Interconnection Customer completes one or more phases and then breaches the LGIA, the Participating TO and the CAISO shall be entitled to offset any losses or damages resulting from the Breach against any repayments made for Network Upgrades related to the completed phases.

Any repayment amount provided pursuant to this Article 11.4.1.2 shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer pursuant to Article 5.17.8 or otherwise, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the applicable as provided for in this Article 11.4.1.2; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years of the applicable commencement date. Notwithstanding the foregoing, if this LGIA terminates within five (5) years of the applicable commencement date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

**11.4.1.3 Interest Payments and Assignment Rights**

Any phased or non-phased repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a repayment of such payment. Interest shall continue to accrue on the repayment obligation so long as this LGIA is in effect. The Interconnection Customer may assign such repayment rights to any entity.

**11.4.1.4 Failure to Achieve Commercial Operation**

If the Large Generating Facility fails to achieve Commercial Operation, but it or another generating facility is later constructed and makes use of the Network Upgrades, the Participating TO shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the generating facility, if different, is responsible for identifying and demonstrating to the Participating TO the appropriate entity to which reimbursement must be made in order to implement the intent of this reimbursement obligation.

**11.4.2 Special Provisions for Affected Systems.** The Interconnection Customer shall enter into an agreement with the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid, as applicable, in accordance with the GIDAP. Such agreement shall specify the terms governing payments to be made by the

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Interconnection Customer to the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid as well as the repayment by the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid. In no event shall the Participating TO be responsible for the repayment for any facilities that are not part of the Participating TO's Transmission System. In the event the Participating TO is a joint owner with an Affected System or with any other co-owner of a facility affected by the Large Generating Facility, the Participating TO's obligation to reimburse the Interconnection Customer for payments made to address the impacts of the Large Generating Facility on the system shall not exceed the proportionate amount of the cost of any upgrades attributable to the proportion of the jointly-owned facility owned by the Participating TO.

- 11.4.3** Notwithstanding any other provision of this LGIA, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, Congestion Revenue Rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements, merchant transmission Congestion Revenue Rights in accordance with Section 36.11 of the CAISO Tariff, or transmission credits for transmission service that is not associated with the Large Generating Facility.
- 11.5 Provision of Interconnection Financial Security.** The Interconnection Customer is obligated to provide all necessary Interconnection Financial Security required under Section 11 of the GIDAP in a manner acceptable under Section 11 of the GIDAP. Failure by the Interconnection Customer to timely satisfy the GIDAP's requirements for the provision of Interconnection Financial Security shall be deemed a breach of this Agreement and a condition of Default of this Agreement.
- 11.5.1** Notwithstanding any other provision of this Agreement for notice of Default and opportunity to cure such Default, the CAISO or the Participating TO shall provide the Interconnection Customer with written notice of any Default due to timely failure to post Interconnection Financial Security, and the Interconnection Customer shall have five (5) Business Days from the date of such notice to cure such Default by posting the required Interconnection Financial Security. If the Interconnection Customer fails to cure the Default, then this Agreement shall be deemed terminated.
- 11.6 Interconnection Customer Compensation.** If the CAISO requests or directs the Interconnection Customer to provide a service pursuant to Articles 9.6.3 (Payment for Reactive Power) or 13.5.1 of this LGIA, the CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff.
- 11.6.1** Interconnection Customer Compensation for Actions During Emergency Condition. The CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff for its provision of real and reactive power and other Emergency Condition services that the Interconnection Customer provides to support the CAISO Controlled Grid during an Emergency Condition in accordance with Article 11.6.

**Article 12. Invoice**

- 12.1 General.** The Participating TO shall submit to the Interconnection Customer, on a monthly basis, invoices of amounts due pursuant to this LGIA for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this LGIA, including interest payments or credits, shall be netted so that only the net

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amount remaining due shall be paid by the owing Party. Notwithstanding the foregoing, any invoices between the CAISO and another Party shall be submitted and paid in accordance with the CAISO Tariff.

- 12.2 Final Invoice.** As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, the Participating TO shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and shall set forth such costs in sufficient detail to enable the Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. With respect to costs associated with the Participating TO's Interconnection Facilities and Distribution Upgrades, the Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice; or, in the event the actual costs of construction exceed the Interconnection Customer's actual payment for estimated costs, then the Interconnection Customer shall pay to the Participating TO any amount by which the actual costs of construction exceed the actual payment by the Interconnection Customer for estimated costs within thirty (30) Calendar Days of the issuance of such final construction invoice. With respect to costs associated with Network Upgrades, the Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction multiplied by the Interconnection Customer's percentage share of those costs, as set forth in Appendix G to this LGIA within thirty (30) Calendar Days of the issuance of such final construction invoice. In the event the actual costs of construction multiplied by the Interconnection Customer's percentage share of those costs exceed the Interconnection Customer's actual payment for estimated costs, then the Participating TO shall recover such difference through its transmission service rates.
- 12.3 Payment.** Invoices shall be rendered to the Interconnection Customer at the address specified in Appendix F. The Interconnection Customer shall pay, or Participating TO shall refund, the amounts due within thirty (30) Calendar Days of the Interconnection Customer's receipt of the invoice. All payments shall be made in immediately available funds payable to the Interconnection Customer or Participating TO, or by wire transfer to a bank named and account designated by the invoicing Interconnection Customer or Participating TO. Payment of invoices by any Party will not constitute a waiver of any rights or claims any Party may have under this LGIA.
- 12.4 Disputes.** In the event of a billing dispute between the Interconnection Customer and the Participating TO, the Participating TO and the CAISO shall continue to provide Interconnection Service under this LGIA as long as the Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to the Participating TO or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Interconnection Customer fails to meet these two requirements for continuation of service, then the Participating TO may provide notice to the Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accordance with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(iii). Notwithstanding the foregoing, any billing dispute between the CAISO and another Party shall be resolved in accordance with the provisions of Article 27 of this LGIA.

**Article 13. Emergencies**

- 13.1 [Reserved]**
- 13.2 Obligations.** Each Party shall comply with the Emergency Condition procedures of the CAISO, NERC, the Applicable Reliability Council, Applicable Reliability Standards, Applicable Laws and



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Regulations, and any emergency procedures set forth in this LGIA.

**13.3 Notice.** The Participating TO or the CAISO shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects the Participating TO's Interconnection Facilities or Distribution System or the CAISO Controlled Grid, respectively, that may reasonably be expected to affect the Interconnection Customer's operation of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall notify the Participating TO and the CAISO promptly when it becomes aware of an Emergency Condition that affects the Large Generating Facility or the Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the CAISO Controlled Grid or the Participating TO's Interconnection Facilities. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of the Interconnection Customer's or Participating TO's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice, if requested by a Party, which may be provided by electronic mail or facsimile, or in the case of the CAISO may be publicly posted on the CAISO's internet web site.

**13.4 Immediate Action.** Unless, in the Interconnection Customer's reasonable judgment, immediate action is required, the Interconnection Customer shall obtain the consent of the CAISO and the Participating TO, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or the Interconnection Customer's Interconnection Facilities in response to an Emergency Condition declared by the Participating TO or CAISO or in response to any other emergency condition.

**13.5 CAISO and Participating TO Authority.**

**13.5.1 General.** The CAISO and Participating TO may take whatever actions or inactions, including issuance of dispatch instructions, with regard to the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System they deem necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System, (iii) limit or prevent damage, and (iv) expedite restoration of service.

The Participating TO and the CAISO shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Participating TO or the CAISO may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing the Interconnection Customer to shut-down, start-up, increase or decrease the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.5.2; directing the Interconnection Customer to assist with black start (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall comply with all of the CAISO's Dispatch Instructions and Operating Instructions and Participating TO's dispatch instructions or Operating Instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

**13.5.2 Reduction and Disconnection.** The Participating TO or the CAISO may reduce Interconnection Service or disconnect the Large Generating Facility or the Interconnection Customer's Interconnection Facilities when such reduction or

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disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of the CAISO pursuant to the CAISO Tariff. When the CAISO or Participating TO can schedule the reduction or disconnection in advance, the CAISO or Participating TO shall notify the Interconnection Customer of the reasons, timing and expected duration of the reduction or disconnection. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to the Interconnection Customer and the CAISO and Participating TO. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Interconnection Facilities, and the CAISO Controlled Grid to their normal operating state as soon as practicable consistent with Good Utility Practice.

- 13.6 Interconnection Customer Authority.** Consistent with Good Utility Practice, this LGIA, and the CAISO Tariff, the Interconnection Customer may take actions or inactions with regard to the Large Generating Facility or the Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the CAISO Controlled Grid and the Participating TO's Interconnection Facilities. The CAISO and Participating TO shall use Reasonable Efforts to assist Interconnection Customer in such actions.
- 13.7 Limited Liability.** Except as otherwise provided in Article 11.6.1 of this LGIA, no Party shall be liable to any other Party for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

**Article 14. Regulatory Requirements and Governing Laws**

- 14.1 Regulatory Requirements.** Each Party's obligations under this LGIA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this LGIA shall require the Interconnection Customer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978, or the Energy Policy Act of 2005.
- 14.2 Governing Law.**
- 14.2.1** The validity, interpretation and performance of this LGIA and each of its provisions shall be governed by the laws of the state where the Point of Interconnection is located, without regard to its conflicts of law principles.
- 14.2.2** This LGIA is subject to all Applicable Laws and Regulations.
- 14.2.3** Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

**Article 15. Notices**

- 15.1 General.** Unless otherwise provided in this LGIA, any notice, demand or request required or permitted to be given by a Party to another and any instrument required or permitted to be tendered or delivered by a Party in writing to another shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with



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the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F, Addresses for Delivery of Notices and Billings.

A Party must update the information in Appendix F as information changes. A Party may change the notice information in this LGIA by giving five (5) Business Days written notice prior to the effective date of the change. Such changes shall not constitute an amendment to this LGIA.

- 15.2 Billings and Payments.** Billings and payments shall be sent to the addresses set out in Appendix F.
- 15.3 Alternative Forms of Notice.** Any notice or request required or permitted to be given by a Party to another and not required by this LGIA to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out in Appendix F.
- 15.4 Operations and Maintenance Notice.** Each Party shall notify the other Parties in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

**Article 16. Force Majeure**

**16.1 Force Majeure.**

**16.1.1** Economic hardship is not considered a Force Majeure event.

**16.1.2** No Party shall be considered to be in Default with respect to any obligation hereunder, (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

**Article 17. Default**

**17.1 Default.**

**17.1.1 General.** No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this LGIA or the result of an act or omission of the other Party. Upon a Breach, the affected non-Breaching Party(ies) shall give written notice of such Breach to the Breaching Party. Except as provided in Articles 11.5.1 and 17.1.2, the Breaching Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

**17.1.2 Right to Terminate.** If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party(ies) shall have the right to declare a Default and terminate this LGIA by written notice at any time until cure occurs, and be relieved of any further obligation

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hereunder and, whether or not such Party(ies) terminates this LGIA, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this LGIA.

**Article 18. Indemnity, Consequential Damages, and Insurance**

**18.1 Indemnity.** Each Party shall at all times indemnify, defend, and hold the other Parties harmless from, any and all Losses arising out of or resulting from another Party's action or inactions of its obligations under this LGIA on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

**18.1.1 Indemnified Party.** If an Indemnified Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

**18.1.2 Indemnifying Party.** If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 18, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Loss, net of any insurance or other recovery.

**18.1.3 Indemnity Procedures.** Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

**18.2 Consequential Damages.** Other than the liquidated damages heretofore described in Article 5.3, in no event shall any Party be liable under any provision of this LGIA for any losses,

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damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

**18.3 Insurance.** As indicated below, the designated Party shall, at its own expense, maintain in force throughout the periods noted in this LGIA, and until released by the other Parties, the following minimum insurance coverages, with insurers rated no less than A- (with a minimum size rating of VII) by Bests' Insurance Guide and Key Ratings and authorized to do business in the state where the Point of Interconnection is located, except in the case of any insurance required to be carried by the CAISO, the State of California:

**18.3.1 Workers' Compensation Insurance and Employers' Liability.** The Participating TO and the Interconnection Customer shall maintain such coverage from the commencement of any Construction Activities providing statutory benefits for Workers Compensation coverage and coverage amounts of no less than One Million Dollars (\$1,000,000) for employer's liability for each employee for bodily injury by accident and One Million Dollars (\$1,000,000) for each employee for bodily injury by disease in accordance with the laws and regulations of the state in which the Point of Interconnection is located. The Participating TO shall provide the Interconnection Customer with evidence of such insurance coverage within thirty (30) Calendar Days of any request by the Interconnection Customer. The Interconnection Customer shall provide evidence of such insurance thirty (30) Calendar Days prior to entry by any employee or contractor or other person acting on the Interconnection Customer's behalf onto any construction site to perform any work related to the Interconnection Facilities or Generating Facility.

**18.3.2 Commercial General Liability Insurance.** The Participating TO and the Interconnection Customer shall maintain commercial general liability insurance coverage commencing within thirty (30) Calendar Days of the Effective Date of this LGIA, including coverage for premises and operations, bodily injury (including death), personal injury, property damage, products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, and (i) liability of Participating TO and the Interconnection Customer that would be imposed without the LGIA, or (ii) liability assumed by the Participating TO and the Interconnection Customer in a contract or agreement that is an "insured contract" under commercial general liability insurance policy. Such insurance shall include no cross liability exclusions or separation of insured clause endorsement exclusions, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate. If the activities of the Interconnection Customer are being conducted through the actions of an Affiliate, then the Interconnection Customer may satisfy the insurance requirements of this Section 18.3.2 by providing evidence of insurance coverage carried by such Affiliate and showing the Participating TO and the CAISO as an additional insured only with respect to the LGIA, together with the Interconnection Customer's written representation to the Participating TO and the CAISO that the insured Affiliate is conducting all of the necessary pre-construction work. Within thirty (30) Calendar Days prior to the entry of any person on behalf of the Interconnection Customer onto any construction site to perform work related to the Interconnection Facilities or Generating Facility, the Interconnection Customer shall replace any evidence of Affiliate Insurance with evidence of such insurance carried by the Interconnection Customer, naming the Participating TO and CAISO as additional insured only with respect to the LGIA.

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- 18.3.3 Business Automobile Liability Insurance.** Prior to the entry of any such vehicles on any construction site in connection with work done by or on behalf of the Interconnection Customer, the Interconnection Customer shall provide evidence of coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage. The Interconnection Customer shall include the Participating TO and the CAISO as additional insured with respect to the LGIA on any such policies.
- 18.3.4 Excess Liability Insurance.** Commencing at the time of entry of any person on its behalf upon any construction site for the Network Upgrades, Interconnection Facilities, or Generating Facility, the Participating TO and the Interconnection Customer shall maintain Excess Liability insurance over and above the Employer's Liability Commercial General Liability and Business Automobile Liability Insurance coverage, with a minimum limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate. Such insurance carried by the Participating TO shall include the Interconnection Customer and CAISO as additional insured with respect to the LGIA, and such insurance carried by the Interconnection Customer shall include the Participating TO and CAISO as an additional insured with respect to the LGIA. The requirements of Section 18.3.2 and 18.3.4 may be met by any combination of general and excess liability insurance.
- 18.3.5** The Commercial General Liability Insurance, Business Automobile Insurance and Excess Liability Insurance policies shall include the other Parties identified in the sections above, their parents, their subsidiaries, respective directors, officers, agents, servants and employees ("Other Party Group") and the CAISO as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this LGIA against the Other Party Group. If any Party can reasonably demonstrate that coverage policies containing provisions for insurer waiver of subrogation rights, or advance notice are not commercially available, then the Parties shall meet and confer and mutually determine to (i) establish replacement or equivalent terms in lieu of subrogation or notice or (ii) waive the requirements that coverage(s) include such subrogation provision or require advance written notice from such insurers.
- 18.3.6** The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and non-contributory. Each Party shall be responsible for its respective deductibles or self-insured retentions.
- 18.3.7** The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this LGIA, which coverage may be in the form of extended reporting period coverage if agreed by the Parties.
- 18.3.8** [Not Used.]
- 18.3.9** Thirty (30) Calendar Days prior to the start of any work at the construction site related to Interconnection Facilities or Generating Facility under this LGIA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) Calendar Days thereafter, the Participating TO and the Interconnection Customer shall provide a certificate of insurance for all insurance required in this LGIA, executed by each insurer or by an authorized representative of each insurer.

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**18.3.10** Notwithstanding the foregoing, each Party may self-insure

a) to meet the minimum insurance requirements of Article 18.3.1, to the extent that it maintains a self-insurance program that is a qualified self insurer within the state in which the Point of Interconnection is located, under the laws and regulations of such state; and

b) to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior unsecured debt or issuer rating is BBB-, or better, as rated by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior unsecured debt rating and issuer rating are both unrated by Standard & Poor's or are both rated at less than BBB- by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.3.2 through 18.3.9.

c) in the event that a Party is permitted to self-insure pursuant to this Article 18.3.10, it shall notify the other Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.

**18.3.11** The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage greater than \$25,000, including within the scope of coverage of such insurance whether or not such coverage is sought.

**Article 19. Assignment**

**19.1 Assignment.** This LGIA may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this LGIA without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this LGIA; and provided further that the Interconnection Customer shall have the right to assign this LGIA, without the consent of the CAISO or Participating TO, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that the Interconnection Customer will promptly notify the CAISO and Participating TO of any such assignment. Any financing arrangement entered into by the Interconnection Customer pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the CAISO and Participating TO of the date and particulars of any such exercise of assignment right(s), including providing the CAISO and Participating TO with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this LGIA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

The Interconnection Customer may assign Surplus Interconnection Service pursuant to Section 3.4 of the GIDAP. The CAISO, Participating TO, and original Interconnection Customer will work in good faith to amend this GIA to reflect the transfer of Surplus Interconnection Service before the execution of the assignee's GIA. The assignee must execute a separate GIA with the CAISO and Participating TO to memorialize its Interconnection Service.

**Article 20. Severability**

**20.1 Severability.** If any provision in this LGIA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this LGIA; provided that if the Interconnection Customer (or any third party, but only if



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such third party is not acting at the direction of the Participating TO or CAISO) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of the provisions of Article 5.1.2 or 5.1.4 shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

**Article 21. Comparability**

- 21.1 Comparability.** The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

**Article 22. Confidentiality**

- 22.1 Confidentiality.** Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by any of the Parties to the other Parties prior to the execution of this LGIA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Parties receiving the information that the information is confidential.

If requested by any Party, the other Parties shall provide in writing, the basis for asserting that the information referred to in this Article 22 warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

- 22.1.1 Term.** During the term of this LGIA, and for a period of three (3) years after the expiration or termination of this LGIA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

- 22.1.2 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this LGIA; or (6) is required, in accordance with Article 22.1.7 of this LGIA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this LGIA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

- 22.1.3 Release of Confidential Information.** No Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, Affiliates (limited by the Standards of Conduct requirements set forth in Part 358 of FERC's Regulations, 18 C.F.R. 358), subcontractors, or to parties who may be or considering providing financing to or equity participation with the Interconnection Customer, or to potential purchasers or assignees of the Interconnection Customer, on a need-to-know basis in connection with this LGIA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person

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shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

- 22.1.4 Rights.** Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Parties. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by a Party or any other person or entity of the right to protect the Confidential Information from public disclosure.
- 22.1.5 No Warranties.** The mere fact that a Party has provided Confidential Information does not constitute a warranty or representation as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or proceed with any other relationship or joint venture.
- 22.1.6 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under this LGIA or its regulatory requirements.
- 22.1.7 Order of Disclosure.** If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an appropriate protective order or waive compliance with the terms of this LGIA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.
- 22.1.8 Termination of Agreement.** Upon termination of this LGIA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.
- 22.1.9 Remedies.** The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.
- 22.1.10 Disclosure to FERC, its Staff, or a State.** Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that



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is otherwise required to be maintained in confidence pursuant to this LGIA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this LGIA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to the LGIA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

- 22.1.11** Subject to the exception in Article 22.1.10, Confidential Information shall not be disclosed by the other Parties to any person not employed or retained by the other Parties, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Parties, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this LGIA or as a transmission service provider or a Balancing Authority including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Parties in writing of the information it claims is confidential. Prior to any disclosures of another Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

**Article 23. Environmental Releases**

- 23.1** Each Party shall notify the other Parties, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Parties copies of any publicly available reports filed with any Governmental Authorities addressing such events.

**Article 24. Information Requirements**

- 24.1 Information Acquisition.** The Participating TO and the Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.
- 24.2 Information Submission by Participating TO.** The initial information submission by the Participating TO shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include the Participating TO's Transmission System information necessary to allow the Interconnection Customer to select equipment and meet any system protection and stability requirements, unless otherwise agreed to by the Participating TO and the Interconnection Customer. On a monthly basis the Participating TO shall provide the Interconnection Customer and the CAISO a status report on the construction and installation of the Participating TO's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report; (3) a

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description of the action items for the next period; and (4) the delivery status of equipment ordered.

- 24.3 Updated Information Submission by Interconnection Customer.** The updated information submission by the Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. The Interconnection Customer shall submit a completed copy of the Electric Generating Unit data requirements contained in Appendix 1 to the GIDAP. It shall also include any additional information provided to the Participating TO and the CAISO for the Interconnection Studies. Information in this submission shall be the most current Electric Generating Unit design or expected performance data. Information submitted for stability models shall be compatible with the Participating TO and CAISO standard models. If there is no compatible model, the Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Interconnection Customer's data is materially different from what was originally provided to the Participating TO and the CAISO for the Interconnection Studies, then the Participating TO and the CAISO will conduct appropriate studies pursuant to the GIDAP to determine the impact on the Participating TO's Transmission System and affected portions of the CAISO Controlled Grid based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed and all other requirements of this LGIA are satisfied.

- 24.4 Information Supplementation.** Prior to the Trial Operation date, the Parties shall supplement their information submissions described above in this Article 24 with any and all "as-built" Electric Generating Unit information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Electric Generating Unit as required by Good Utility Practice such as an open circuit "step voltage" test on the Electric Generating Unit to verify proper operation of the Electric Generating Unit's automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Electric Generating Unit at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent (5 percent) change in Electric Generating Unit terminal voltage initiated by a change in the voltage regulators reference voltage. The Interconnection Customer shall provide validated test recordings showing the responses of Electric Generating Unit terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Electric Generating Unit's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Electric Generating Unit terminal or field voltages is provided. Electric Generating Unit testing shall be conducted and results provided to the Participating TO and the CAISO for each individual Electric Generating Unit in a station.

Subsequent to the Commercial Operation Date, the Interconnection Customer shall provide the Participating TO and the CAISO any information changes due to equipment replacement, repair, or adjustment. The Participating TO shall provide the Interconnection Customer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Participating TO-owned substation that may affect the Interconnection Customer's Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information pursuant to Article 5.19.

### **Article 25. Information Access and Audit Rights**

- 25.1 Information Access.** Each Party (the "disclosing Party") shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is

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responsible under this LGIA; and (ii) carry out its obligations and responsibilities under this LGIA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this LGIA. Nothing in this Article 25 shall obligate the CAISO to make available to a Party any third party information in its possession or control if making such third party information available would violate a CAISO Tariff restriction on the use or disclosure of such third party information.

**25.2 Reporting of Non-Force Majeure Events.** Each Party (the “notifying Party”) shall notify the other Parties when the notifying Party becomes aware of its inability to comply with the provisions of this LGIA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this LGIA.

**25.3 Audit Rights.** Subject to the requirements of confidentiality under Article 22 of this LGIA, the Parties’ audit rights shall include audits of a Party’s costs pertaining to such Party’s performance or satisfaction of obligations owed to the other Party under this LGIA, calculation of invoiced amounts, the CAISO’s efforts to allocate responsibility for the provision of reactive support to the CAISO Controlled Grid, the CAISO’s efforts to allocate responsibility for interruption or reduction of generation on the CAISO Controlled Grid, and each such Party’s actions in an Emergency Condition.

**25.3.1** The Interconnection Customer and the Participating TO shall each have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party’s accounts and records pertaining to either such Party’s performance or either such Party’s satisfaction of obligations owed to the other Party under this LGIA. Subject to Article 25.3.2, any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to each such Party’s performance and satisfaction of obligations under this LGIA. Each such Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.

**25.3.2** Notwithstanding anything to the contrary in Article 25.3, each Party’s rights to audit the CAISO’s accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.

**25.4 Audit Rights Periods.**

**25.4.1 Audit Rights Period for Construction-Related Accounts and Records.** Accounts and records related to the design, engineering, procurement, and construction of Participating TO’s Interconnection Facilities, Network Upgrades, and Distribution Upgrades constructed by the Participating TO shall be subject to audit for a period of twenty-four months following the Participating TO’s issuance of a final invoice in accordance with Article 12.2. Accounts and records related to the design, engineering, procurement, and construction of Participating TO’s Interconnection Facilities and/or Stand Alone Network Upgrades constructed by the Interconnection Customer shall be subject to audit and verification by the Participating TO and the CAISO for a period of twenty-four months following the Interconnection Customer’s issuance of a final invoice in accordance with Article 5.2(8).

**25.4.2 Audit Rights Period for All Other Accounts and Records.** Accounts and records related to a Party’s performance or satisfaction of all obligations under this LGIA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months

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after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought; provided that each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.

**25.5 Audit Results.** If an audit by the Interconnection Customer or the Participating TO determines that an overpayment or an underpayment has occurred with respect to the other Party, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which supports such determination. The Party that is owed payment shall render an invoice to the other Party and such invoice shall be paid pursuant to Article 12 hereof.

**25.5.1** Notwithstanding anything to the contrary in Article 25.5, the Interconnection Customer's and Participating TO's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff, and the CAISO's process for remedying an overpayment or underpayment shall be as set forth in the CAISO Tariff.

**Article 26. Subcontractors**

**26.1 General.** Nothing in this LGIA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this LGIA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this LGIA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

**26.2 Responsibility of Principal.** The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this LGIA. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the CAISO or Participating TO be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under Article 5 of this LGIA. Any applicable obligation imposed by this LGIA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

**26.3 No Limitation by Insurance.** The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

**Article 27. Disputes**

All disputes arising out of or in connection with this LGIA whereby relief is sought by or from the CAISO shall be settled in accordance with the provisions of Article 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Article 13 of the CAISO Tariff shall be read as references to this LGIA. Disputes arising out of or in connection with this LGIA not subject to provisions of Article 13 of the CAISO Tariff shall be resolved as follows:

**27.1 Submission.** In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this LGIA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this LGIA.

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- 27.2 External Arbitration Procedures.** Any arbitration initiated under this LGIA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“Arbitration Rules”) and any applicable FERC regulations; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.
- 27.3 Arbitration Decisions.** Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this LGIA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator(s) must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.
- 27.4 Costs.** Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

**Article 28. Representations, Warranties and Covenants**

- 28.1 General.** Each Party makes the following representations, warranties and covenants:
- 28.1.1 Good Standing.** Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this LGIA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this LGIA.
- 28.1.2 Authority.** Such Party has the right, power and authority to enter into this LGIA, to become a Party hereto and to perform its obligations hereunder. This LGIA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors’ rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).
- 28.1.3 No Conflict.** The execution, delivery and performance of this LGIA does not violate or conflict with the organizational or formation documents, or bylaws or operating



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agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

- 28.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this LGIA, and it will provide to any Governmental Authority notice of any actions under this LGIA that are required by Applicable Laws and Regulations.

**Article 29. [Reserved]**

**Article 30. Miscellaneous**

- 30.1 Binding Effect.** This LGIA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.
- 30.2 Conflicts.** In the event of a conflict between the body of this LGIA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this LGIA shall prevail and be deemed the final intent of the Parties.
- 30.3 Rules of Interpretation.** This LGIA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this LGIA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this LGIA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this LGIA or such Appendix to this LGIA, or such Section to the GIDAP or such Appendix to the GIDAP, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this LGIA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".
- 30.4 Entire Agreement.** This LGIA, including all Appendices and Schedules attached hereto, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between or among the Parties with respect to the subject matter of this LGIA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this LGIA.
- 30.5 No Third Party Beneficiaries.** This LGIA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.
- 30.6 Waiver.** The failure of a Party to this LGIA to insist, on any occasion, upon strict performance of any provision of this LGIA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.



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Any waiver at any time by either Party of its rights with respect to this LGIA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this LGIA. Termination or Default of this LGIA for any reason by the Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Participating TO. Any waiver of this LGIA shall, if requested, be provided in writing.

- 30.7 Headings.** The descriptive headings of the various Articles of this LGIA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this LGIA.
- 30.8 Multiple Counterparts.** This LGIA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.
- 30.9 Amendment.** The Parties may by mutual agreement amend this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.
- 30.10 Modification by the Parties.** The Parties may by mutual agreement amend the Appendices to this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.
- 30.11 Reservation of Rights.** The CAISO and Participating TO shall each have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles and Appendices of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles and Appendices:

Recitals, 1, 2.1, 2.2, 2.3, 2.4, 2.6, 3.1, 3.3, 4.1, 4.2, 4.3, 4.4, 5 preamble, 5.4, 5.7, 5.8, 5.9, 5.12, 5.13, 5.18, 5.19.1, 7.1, 7.2, 8, 9.1, 9.2, 9.3, 9.5, 9.6, 9.7, 9.8, 9.10, 10.3, 11.4, 12.1, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24.3, 24.4, 25.1, 25.2, 25.3 (excluding subparts), 25.4.2, 26, 28, 29, 30, Appendix D, Appendix F, Appendix G, and any other Article not reserved exclusively to the Participating TO or the CAISO below.

The Participating TO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles and Appendices of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles and Appendices:

2.5, 5.1, 5.2, 5.3, 5.5, 5.6, 5.10, 5.11, 5.14, 5.15, 5.16, 5.17, 5.19 (excluding 5.19.1), 6, 7.3, 9.4, 9.9, 10.1, 10.2, 10.4, 10.5, 11.1, 11.2, 11.3, 11.5, 12.2, 12.3, 12.4, 24.1, 24.2, 25.3.1, 25.4.1, 25.5 (excluding 25.5.1), 27 (excluding preamble), Appendix A, Appendix B, Appendix C, and Appendix E.

The CAISO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles:

3.2, 4.5, 11.6, 25.3.2, 25.5.1, and 27 preamble.

The Interconnection Customer, the CAISO, and the Participating TO shall have the right to make

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a unilateral filing with FERC to modify this LGIA pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this LGIA shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

- 30.12 No Partnership.** This LGIA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.
- 30.13 Joint and Several Obligations.** Except as otherwise provided in this LGIA, the obligations of the CAISO, the Participating TO, and the Interconnection Customer are several, and are neither joint nor joint and several.

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**IN WITNESS WHEREOF**, the Parties have executed this LGIA in multiple originals, each of which shall constitute and be an original effective agreement among the Parties.

**[Insert name of Interconnection Customer]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**[Insert name of Participating TO]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**Appendices to LGIA**

- Appendix A Interconnection Facilities, Network Upgrades and Distribution Upgrades
- Appendix B Milestones
- Appendix C Interconnection Details
- Appendix D Security Arrangements Details
- Appendix E Commercial Operation Date
- Appendix F Addresses for Delivery of Notices and Billings
- Appendix G Interconnection Customer's Share of Costs of Network Upgrades for Applicable Project Group
- Appendix H Interconnection Requirements for an Asynchronous Generating Facility

**Appendix A**

**Interconnection Facilities, Network Upgrades and Distribution Upgrades**

**1. Interconnection Facilities:**

**(a) [insert Interconnection Customer's Interconnection Facilities]:**

**(b) [insert Participating TO's Interconnection Facilities]:**

**2. Network Upgrades:**

**(a) [insert Stand Alone Network Upgrades]:**

**(b) [insert Other Network Upgrades]:**

**(i) [insert Participating TO's Reliability Network Upgrades]**

**(ii) [insert Participating TO's Delivery Network Upgrades]**

**3. Distribution Upgrades:**

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**Appendix B**

**Milestones**



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**Appendix C**

**Interconnection Details**

**Appendix D**

**Security Arrangements Details**

Infrastructure security of CAISO Controlled Grid equipment and operations and control hardware and software is essential to ensure day-to-day CAISO Controlled Grid reliability and operational security. FERC will expect the CAISO, all Participating TOs, market participants, and Interconnection Customers interconnected to the CAISO Controlled Grid to comply with Applicable Reliability Criteria. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

The Interconnection Customer shall meet the requirements for security implemented pursuant to the CAISO Tariff, including the CAISO's standards for information security posted on the CAISO's internet web site at the following internet address: <http://www.caiso.com/pubinfo/info-security/index.html>.

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**Appendix E**

[This Appendix E sets forth a form of letter to be provided by the Interconnection Customer to the CAISO and Participating TO to provide formal notice of the Commercial Operation of an Electric Generating Unit.]

**[Date]**

**[CAISO Address]**

**[Participating TO Address]**

Re: \_\_\_\_\_ Electric Generating Unit

Dear \_\_\_\_\_:

On **[Date]** **[Interconnection Customer]** has completed Trial Operation of Unit No. \_\_\_\_\_. This letter confirms that **[Interconnection Customer]** commenced Commercial Operation of Unit No. \_\_\_\_\_ at the Electric Generating Unit, effective as of **[Date plus one day]** and that **[Interconnection Customer]** provided the CAISO's operations personnel advance notice of its intended Commercial Operation Date no less than five Business Days prior to that date.

Thank you.

**[Signature]**

**[Interconnection Customer Representative]**

**Appendix F**

**Addresses for Delivery of Notices and Billings**

**Notices:**

Participating TO:

[To be supplied.]

Interconnection Customer:

[To be supplied.]

CAISO:

[To be supplied.]

**Billings and Payments:**

Participating TO:

[To be supplied.]

Interconnection Customer:

[To be supplied.]

CAISO:

[To be supplied.]

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**Alternative Forms of Delivery of Notices (telephone, facsimile or e-mail):**

Participating TO:

[To be supplied.]

Interconnection Customer:

[To be supplied.]

CAISO:

[To be supplied.]

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**Appendix G**

**Interconnection Customer's Share of Costs of Network Upgrades for Applicable Project Group**



## Appendix H

### INTERCONNECTION REQUIREMENTS FOR AN ASYNCHRONOUS GENERATING FACILITY

Appendix H sets forth interconnection requirements specific to all Asynchronous Generating Facilities. Except as provided in Section 25.4.2 of the CAISO tariff, existing individual generating units of an Asynchronous Generating Facility that are, or have been, interconnected to the CAISO Controlled Grid at the same location are exempt from the requirements of this Appendix H for the remaining life of the existing generating unit.

#### A. Technical Requirements Applicable to Asynchronous Generating Facilities

##### i. Voltage Ride-Through Capability

An Asynchronous Generating Facility shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the requirements below.

1. An Asynchronous Generating Facility shall remain online for the voltage disturbance caused by any fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, having a duration equal to the lesser of the normal three-phase fault clearing time (4-9 cycles) or one-hundred fifty (150) milliseconds, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage unless clearing the fault effectively disconnects the generator from the system. Clearing time shall be based on the maximum normal clearing time associated with any three-phase fault location that reduces the voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.
2. An Asynchronous Generating Facility shall remain online for any voltage disturbance caused by a single-phase fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, with delayed clearing, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage unless clearing the fault effectively disconnects the generator from the system. Clearing time shall be based on the maximum backup clearing time associated with a single point of failure (protection or breaker failure) for any single-phase fault location that reduces any phase-to-ground or phase-to-phase voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.
3. Remaining on-line shall be defined as continuous connection between the Point of Interconnection and the Asynchronous Generating Facility's units, without any mechanical isolation. Momentary cessation (namely, ceasing to inject current during a fault without mechanical isolation) is prohibited unless transient high voltage conditions rise to 1.20 per unit or more. For transient low voltage conditions, the Asynchronous Generating Facility's inverters will inject reactive current. The level of this reactive current must be directionally proportional to the decrease in per unit voltage at the inverter AC terminals. The inverter must produce full reactive current capability when the AC voltage at the inverter terminals drops to a level of 0.50 per unit or below. The Asynchronous Generating Facility must continue to operate and absorb reactive current for transient voltage conditions between 1.10 and 1.20 per unit.

Upon the cessation of transient voltage conditions and the return of the grid to normal operating voltage ( $0.90 < V < 1.10$  per unit), the Asynchronous Generating Facility's inverters automatically must transition to normal active (real power) current injection. The Asynchronous Generating Facility's inverters must ramp up to inject active (real power) current with a minimum ramping rate

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of at least 100% per second (from no output to full available output). The total time to complete the transition from reactive current injection or absorption to normal active (real power) current injection must be one second or less. The total time to return from momentary cessation, if used, during transient high voltage conditions over 1.20 per unit or more must be one second or less.

4. The Asynchronous Generating Facility's inverter will be considered to have tripped where its AC circuit breaker is open or otherwise has electrically isolated the inverter from the grid. Following an inverter trip, the inverter must make at least one attempt to resynchronize and connect back to the grid unless the trip resulted from a fatal fault code, as defined by the inverter manufacturer. This attempt must take place within 2.5 minutes from the inverter trip. An attempt to resynchronize and connect back to the grid is not required if the trip was initiated due to a fatal fault code, as determined by the original equipment manufacturer.
5. The Asynchronous Generating Facility is not required to remain on line during multi-phased faults exceeding the duration described in Section A.i.1 of this Appendix H or single-phase faults exceeding the duration described in Section A.i.2 of this Appendix H.
6. The requirements of this Section A.i of this Appendix H do not apply to faults that occur between the Asynchronous Generating Facility's terminals and the high side of the step-up transformer to the high-voltage transmission system.
7. Asynchronous Generating Facilities may be tripped after the fault period if this action is intended as part of a special protection system.
8. Asynchronous Generating Facilities may meet the requirements of this Section A.i of this Appendix H through the performance of the generating units or by installing additional equipment within the Asynchronous Generating Facility, or by a combination of generating unit performance and additional equipment.
9. The provisions of this Section A.i of this Appendix H apply only if the voltage at the Point of Interconnection has remained within the range of 0.9 and 1.10 per-unit of nominal voltage for the preceding two seconds, excluding any sub-cycle transient deviations.
10. Asynchronous Generating Facility inverters may not trip or cease to inject current for momentary loss of synchronism. As a minimum, the Asynchronous Generating Facility's inverter controls may lock the phase lock loop to the last synchronized point and continue to inject current into the grid at that last calculated phase prior to the loss of synchronism until the phase lock loop can regain synchronism. The current injection may be limited to protect the inverter. Any inverter may trip if the phase lock loop is unable to regain synchronism 150 milliseconds after loss of synchronism.
11. Inverter restoration following transient voltage conditions must not be impeded by plant level controllers. If the Asynchronous Generating Facility uses a plant level controller, it must be programmed to allow the inverters to automatically re-synchronize rapidly and ramp up to active current injection (without delayed ramping) following transient voltage recovery, before resuming overall control of the individual plant inverters.

**ii. Frequency Disturbance Ride-Through Capability**

An Asynchronous Generating Facility shall comply with the off nominal frequency requirements set forth in the NERC Reliability Standard for Generator Frequency and Voltage Protective Relay Settings, or successor requirements as they may be amended from time to time.

**iii. Power Factor Design Criteria (Reactive Power)**

An Asynchronous Generating Facility not studied under the Independent Study Process, as set forth in Section 4 of Appendix DD, shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the high voltage side of the substation transformer, as defined in this LGIA in order to maintain a specified voltage schedule, if the Phase II Interconnection Study shows that such a requirement is necessary to ensure safety or reliability. An Asynchronous Generating Facility studied under the Independent Study Process, as set forth in Section 4 of Appendix DD, shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the high voltage side of the substation transformer, as defined in this LGIA in order to maintain a specified voltage schedule. The power factor range standards set forth in this section can be met by using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two, if agreed to by the Participating TO and CAISO. The Interconnection Customer shall not disable power factor equipment while the Asynchronous Generating Facility is in operation. Asynchronous Generating Facilities shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the Phase II Interconnection Study shows this to be required for system safety or reliability.

**iv. Supervisory Control and Data Acquisition (SCADA) Capability**

An Asynchronous Generating Facility shall provide SCADA capability to transmit data and receive instructions from the Participating TO and CAISO to protect system reliability. The Participating TO and CAISO and the Asynchronous Generating Facility Interconnection Customer shall determine what SCADA information is essential for the proposed Asynchronous Generating Facility, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability.

**v. Power System Stabilizers (PSS)**

Power system stabilizers are not required for Asynchronous Generating Facilities.

**vi. Transient Data Recording Equipment for Facilities above 20 MW**

Asynchronous Generating Facilities with generating capacities of more than 20 MW must monitor and record data for all frequency ride-through events, transient low voltage disturbances that initiated reactive current injection, reactive current injection or momentary cessation for transient high voltage disturbances, and inverter trips. The data may be recorded and stored in a central plant control system. The following data must be recorded:

**Plant Level:**

- (1) Plant three phase voltage and current
- (2) Status of ancillary reactive devices
- (3) Status of all plant circuit breakers
- (4) Status of plant controller
- (5) Plant control set points
- (6) Position of main plant transformer no-load taps
- (7) Position of main plant transformer tap changer (if extant)
- (8) Protective relay trips or relay target data

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**Inverter Level:**

- (1) Frequency, current, and voltage during frequency ride-through events
- (2) Voltage and current during momentary cessation for transient high voltage events (when used)
- (3) Voltage and current during reactive current injection for transient low or high voltage events
- (4) Inverter alarm and fault codes
- (5) DC current
- (6) DC voltage

The data must be time synchronized, using a GPS clock or similar device, to a one millisecond level of resolution. All data except phase angle measuring unit data must be sampled at least every 10 milliseconds. Data recording must be triggered upon detecting a frequency ride-through event, a transient low voltage disturbance that initiated reactive current injection, momentary cessation or reactive current injection for a transient high voltage disturbance, or an inverter trip. Each recording will include as a minimum 150 milliseconds of data prior to the triggering event, and 1000 milliseconds of data after the event trigger. The Asynchronous Generating Facility must store this data for a minimum of 30 days. The Asynchronous Generating Facility will provide all data within 10 calendar days of a request from the CAISO or the Participating TO.

The Asynchronous Generating Facility must install and maintain a phase angle measuring unit or functional equivalent at the entrance to the facility or at the Generating Facility's main substation transformer. The phase angle measuring unit must have a resolution of at least 30 samples per second. The Asynchronous Generating Facility will store this data for a minimum of 30 days. The Asynchronous Generating Facility will provide all phase angle measuring unit data within 10 calendar days of a request from the CAISO or the Participating TO.

**Appendix FF**

**Small Generator Interconnection Agreement for Interconnection Requests Processed Under the  
Generator Interconnection and Deliverability Allocation Procedures  
(Appendix DD to the CAISO Tariff)**

This Small Generator Interconnection Agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ ("Participating TO"), the California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California ("CAISO") and \_\_\_\_\_ ("Interconnection Customer") each hereinafter sometimes referred to individually as "Party" or referred to collectively as the "Parties."

**Participating TO Information**

Participating TO: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**CAISO Information**

Attention: \_\_\_\_\_

250 Outcropping Way

Folsom, CA 95630

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_@caiso.com

**Interconnection Customer Information**

Interconnection Customer: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Interconnection Customer Queue Position No: \_\_\_\_\_

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In consideration of the mutual covenants set forth herein, the Parties agree as follows:

**Article 1. Scope and Limitations of Agreement**

- 1.1** This Agreement shall be used for all Small Generating Facility Interconnection Requests submitted under the Generator Interconnection and Transmission Allocation Procedures (GIDAP) set forth in Appendix DD except for those submitted under the 10 kW Inverter Process contained in GIDAP Appendix 7. For those Interconnection Requests, GIDAP Appendix 7 contains the terms and conditions which serve as the Interconnection Agreement.
- 1.2** This Agreement governs the terms and conditions under which the Interconnection Customer's Small Generating Facility will interconnect with, and operate in parallel with, the Participating TO's Transmission System.
- 1.3** This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power. The purchase or delivery of power and other services that the Interconnection Customer may require will be covered under separate agreements, if any. The Interconnection Customer will be responsible for separately making all necessary arrangements (including scheduling) for delivery of electricity in accordance with the CAISO Tariff. Full Capacity Deliverability Status, Partial Capacity Deliverability Status, and Off-Peak Deliverability Status do not confer any priority over other Generating Facilities to deliver Energy; nor provide any warranty or guarantee to deliver any amount of Energy or avoid curtailment at any time.
- 1.4** Nothing in this Agreement is intended to affect any other agreement between or among the Parties.

**1.5 Responsibilities of the Parties**

- 1.5.1** The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations, Operating Requirements, and Good Utility Practice. The Parties shall use the Large Generator Interconnection Agreement (CAISO Tariff Appendix CC) to interpret the responsibilities of the Parties under this Agreement.
- 1.5.2** The Interconnection Customer shall construct, interconnect, operate and maintain its Small Generating Facility and construct, operate, and maintain its Interconnection Facilities in accordance with the applicable manufacturer's recommended maintenance schedule, and in accordance with this Agreement, and with Good Utility Practice.
- 1.5.3** The Participating TO shall construct, operate, and maintain its Interconnection Facilities and Upgrades in accordance with this Agreement, and with Good Utility Practice. The CAISO and the Participating TO shall cause the Participating TO's Transmission System to be operated and controlled in a safe and reliable manner and in accordance with this Agreement.
- 1.5.4** The Interconnection Customer agrees to construct its facilities or systems in accordance with applicable specifications that meet or exceed those provided by the National Electrical Safety Code, the American National Standards Institute, IEEE, Underwriter's Laboratory, and Operating Requirements in effect at the time of construction and other applicable national and state codes and standards. The Interconnection Customer agrees to design, install, maintain, and operate its Small Generating Facility so as to reasonably minimize the likelihood of a disturbance adversely affecting or impairing the system or equipment of the Participating TO and any Affected Systems. The Interconnection Customer shall comply with the Participating TO's Interconnection Handbook. In the event of a conflict between the terms of this Agreement and the terms of the Participating TO's Interconnection Handbook, the terms in this Agreement shall govern.

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- 1.5.5** Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the Attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the Point of Change of Ownership. The Participating TO and the Interconnection Customer, as appropriate, shall provide Interconnection Facilities that adequately protect the CAISO Controlled Grid, the Participating TO's electric system, the Participating TO's personnel, and other persons from damage and injury. The allocation of responsibility for the design, installation, operation, maintenance and ownership of Interconnection Facilities shall be delineated in the Attachments to this Agreement.
- 1.5.6** The Participating TO and the CAISO shall coordinate with Affected Systems to support the interconnection.
- 1.5.7** For Interconnection Customers that execute or request the un-executed filing of an SGIA on or after October 5, 2016, the Interconnection Customer shall ensure "frequency ride-through" capability and "voltage ride-through" capability of its Small Generating Facility.

**Frequency Conditions.** The CAISO Controlled Grid is designed to automatically activate a load-shed program as required by the Applicable Reliability Standards and the Applicable Reliability Council in the event of an under-frequency system disturbance. The Interconnection Customer shall implement under-frequency and over-frequency protection set points for the Small Generating Facility as required by Applicable Reliability Standards and the Applicable Reliability Council to ensure "ride-through" capability. Small Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the Participating TO and CAISO in accordance with Good Utility Practice. The term "ride-through" as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the CAISO Controlled Grid during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice. Asynchronous Generating Facilities are subject to the frequency ride-through requirements set forth in Attachment 7.

**Voltage Conditions.** The Interconnection Customer shall ensure "voltage ride-through" capability of its Small Generating Facility. The Interconnection Customer shall enable these capabilities such that its Small Generating Facility shall not disconnect automatically or instantaneously from the system or equipment of the CAISO and any Affected Systems for an under-voltage or over-voltage condition, as tested pursuant to section 2.1 of this Agreement. The defined conditions shall be in accordance with Good Utility Practice and consistent with any standards and guidelines that are applied to other generating facilities in the Balancing Authority Area on a comparable basis. Asynchronous Generating Facilities are subject to the voltage ride-through requirements set forth in Attachment 7.

**1.6 Parallel Operation Obligations**

Once the Small Generating Facility has been authorized to commence parallel operation, the Interconnection Customer shall abide by all rules and procedures pertaining to the parallel operation of the Small Generating Facility in the CAISO Balancing Authority Area, including, but not limited to; 1) the rules and procedures concerning the operation of generation set forth in the CAISO Tariff for the CAISO Controlled Grid and; 2) the Operating Requirements set forth in Attachment 5 of this Agreement.

**1.7 Metering**

The Interconnection Customer shall be responsible for the reasonable and necessary cost for the



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purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Attachments 2 and 3 of this Agreement. The Interconnection Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and Operating Requirements.

## 1.8 Reactive Power and Primary Frequency Response

**1.8.1** For synchronous Generating Facilities, the Interconnection Customer shall design its Small Generating Facility to maintain a composite power delivery at continuous rated power output at the terminals of each generating unit at a power factor within the range of 0.95 leading to 0.90 lagging, unless the CAISO has established different requirements that apply to all similarly situated generators in the CAISO Balancing Authority Area on a comparable basis. The requirements of this paragraph shall not apply to Asynchronous Generating Facilities and the requirements of Attachment 7 shall apply instead except in the following cases: (a) an Interconnection Customer posts Interconnection Financial Security for an Asynchronous Generating Facility pursuant to Appendix DD of the CAISO Tariff Section 11.2.2 on or after September 21, 2016; or (b) an Interconnection Customer that submits an Interconnection Request for an Asynchronous Generating Facility under the Fast Track Process pursuant to Appendix DD of the CAISO Tariff on or after September 16, 2016.

When an Interconnection Customer posts Interconnection Financial Security for an Asynchronous Generating Facility pursuant to Appendix DD of the CAISO Tariff Section 11.2.2 on or after September 21, 2016, the Interconnection Customer will design the Small Generating Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

When an Interconnection Customer submits an Interconnection Request for an Asynchronous Generating Facility under the Fast Track Process pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016, the Interconnection Customer will design the Small Generating Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

**1.8.2** Payment to the Interconnection Customer for reactive power that the Small Generating Facility provides or absorbs when the CAISO requests the Interconnection Customer to operate its Small Generating Facility outside the range specified in Article 1.8.1 will be made by the CAISO in accordance with the applicable provisions of the CAISO Tariff.

**1.8.3 Primary Frequency Response.** Interconnection Customer shall ensure the primary frequency response capability of its Small Generating Facility by installing, maintaining, and operating a functioning governor or equivalent controls. The term "functioning governor or equivalent controls" as used herein shall mean the required hardware and/or software that provides frequency responsive real power control with the ability to sense changes in system frequency and autonomously adjust the Small Generating Facility's

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real power output in accordance with the droop and deadband parameters and in the direction needed to correct frequency deviations. Interconnection Customer is required to install a governor or equivalent controls with the capability of operating: (1) with a maximum 5 percent droop and  $\pm 0.036$  Hz deadband; or (2) in accordance with the relevant droop, deadband, and timely and sustained response settings from Applicable Reliability Standards providing for equivalent or more stringent parameters. The droop characteristic shall be: (1) based on the nameplate capacity of the Small Generating Facility, and shall be linear in the range of frequencies between 59 to 61 Hz that are outside of the deadband parameter; or (2) based on Applicable Reliability Standards providing for an equivalent or more stringent parameter. The deadband parameter shall be: the range of frequencies above and below nominal (60 Hz) in which the governor or equivalent controls is not expected to adjust the Small Generating Facility's real power output in response to frequency deviations. The deadband shall be implemented: (1) without a step to the droop curve, that is, once the frequency deviation exceeds the deadband parameter, the expected change in the Small Generating Facility's real power output in response to frequency deviations shall start from zero and then increase (for under-frequency deviations) or decrease (for over-frequency deviations) linearly in proportion to the magnitude of the frequency deviation; or (2) in accordance with Applicable Reliability Standards providing for an equivalent or more stringent parameter. Interconnection Customer shall notify the CAISO that the primary frequency response capability of the Small Generating Facility has been tested and confirmed during commissioning. Once Interconnection Customer has synchronized the Small Generating Facility with the CAISO Controlled Grid, Interconnection Customer shall operate the Small Generating Facility consistent with the provisions specified in Sections 1.8.3.1 and 1.8.3.2 of this SGIA. The primary frequency response requirements contained herein shall apply to both synchronous and non-synchronous Small Generating Facilities.

**1.8.3.1 Governor or Equivalent Controls.** Whenever the Small Generating Facility is operated in parallel with the CAISO Controlled Grid, Interconnection Customer shall operate the Small Generating Facility with its governor or equivalent controls in service and responsive to frequency. Interconnection Customer shall, in coordination with the CAISO, set the deadband parameter to: (1) a maximum of  $\pm 0.036$  Hz and set the droop parameter to a maximum of 5 percent; or (2) implement the relevant droop and deadband settings from Applicable Reliability Standards that provides for equivalent or more stringent parameters. Interconnection Customer shall be required to provide the status and settings of the governor or equivalent controls to the CAISO upon request. If Interconnection Customer needs to operate the Small Generating Facility with its governor or equivalent controls not in service, Interconnection Customer shall immediately notify the CAISO, and provide the following information: (1) the operating status of the governor or equivalent controls (i.e., whether it is currently out of service or when it will be taken out of service); (2) the reasons for removing the governor or equivalent controls from service; and (3) a reasonable estimate of when the governor or equivalent controls will be returned to service. Interconnection Customer shall make Reasonable Efforts to return its governor or equivalent controls into service as soon as practicable. Interconnection Customer shall make Reasonable Efforts to keep outages of the Small Generating Facility's governor or equivalent controls to a minimum whenever the Small Generating Facility is operated in parallel with the CAISO Controlled Grid.

**1.8.3.2 Timely and Sustained Response.** Interconnection Customer shall ensure that the Small Generating Facility's real power response to sustained frequency deviations outside of the deadband setting is automatically provided and shall begin immediately after frequency deviates outside of the deadband, and to the extent the Small Generating Facility has operating capability in the direction needed to correct the frequency deviation. Interconnection Customer shall not

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block or otherwise inhibit the ability of the governor or equivalent controls to respond and shall ensure that the response is not inhibited, except under certain operational constraints including, but not limited to, ambient temperature limitations, physical energy limitations, outages of mechanical equipment, or regulatory requirements. The Small Generating Facility shall sustain the real power response at least until system frequency returns to a value within the deadband setting of the governor or equivalent controls. A FERC-approved Applicable Reliability Standard with equivalent or more stringent requirements shall supersede the above requirements.

**1.8.3.3 Exemptions.** Small Generating Facilities that are regulated by the Nuclear Regulatory Commission shall be exempt from Sections 1.8.3, 1.8.3.1, and 1.8.3.2 of this SGIA. Small Generating Facilities that are behind-the-meter generation that is sized-to-load (i.e., the thermal load and the generation are near-balanced in real-time operation and the generation is primarily controlled to maintain the unique thermal, chemical, or mechanical output necessary for the operating requirements of its host facility) shall be required to install primary frequency response capability in accordance with the droop and deadband capability requirements specified in Section 1.8.3, but shall be otherwise exempt from the operating requirements in Sections 1.8.3, 1.8.3.1, 1.8.3.2, and 1.8.3.4 of this SGIA.

**1.8.3.4 Electric Storage Resources.** Interconnection Customer interconnecting an electric storage resource shall establish an operating range in Attachment 5 of this SGIA that specifies a minimum state of charge and a maximum state of charge between which the electric storage resource will be required to provide primary frequency response consistent with the conditions set forth in Sections 1.8.3, 1.8.3.1, 1.8.3.2, and 1.8.3.3 of this SGIA. Attachment 5 shall specify whether the operating range is static or dynamic, and shall consider: (1) the expected magnitude of frequency deviations in the interconnection; (2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection; (3) the expected incidence of frequency deviations outside of the deadband parameter in the interconnection; (4) the physical capabilities of the electric storage resource; (5) operational limitations of the electric storage resource due to manufacturer specifications; and (6) any other relevant factors agreed to by the CAISO and Interconnection Customer, and in consultation with the relevant transmission owner or balancing authority as appropriate. If the operating range is dynamic, then Attachment 5 must establish how frequently the operating range will be reevaluated and the factors that may be considered during its reevaluation.

Interconnection Customer's electric storage resource is required to provide timely and sustained primary frequency response consistent with Section 1.8.3.2 of this SGIA when it is online and dispatched to inject electricity to the CAISO Controlled Grid and/or receive electricity from the Participating TO's Transmission System or the CAISO Controlled Grid. This excludes circumstances when the electric storage resource is not dispatched to inject electricity to the CAISO Controlled Grid and/or dispatched to receive electricity from the Participating TO's Transmission System or the CAISO Controlled Grid. If Interconnection Customer's electric storage resource is charging at the time of a frequency deviation outside of its deadband parameter, it is to increase (for over-frequency deviations) or decrease (for under-frequency deviations) the rate at which it is charging in accordance with its droop parameter. Interconnection Customer's electric storage resource is not required to change from charging to discharging, or vice versa, unless the response necessitated by the droop and deadband settings requires it to do so and it is technically capable of making

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such a transition.

**1.9** Capitalized terms used herein shall have the meanings specified in the Glossary of Terms in Attachment 1 or the body of this Agreement.

**1.10 TP Deliverability**

To the extent that an Interconnection Customer is eligible for and has been allocated TP Deliverability pursuant to Section 8.9 of the GIDAP, the Interconnection Customer's right to retain such allocated TP Deliverability shall be contingent upon satisfying the obligations set forth in Section 8.9.3 of the GIDAP.

**Article 2. Inspection, Testing, Authorization, and Right of Access**

**2.1 Equipment Testing and Inspection**

**2.1.1** The Interconnection Customer shall test and inspect its Small Generating Facility and Interconnection Facilities prior to interconnection. The Interconnection Customer shall notify the Participating TO and the CAISO of such activities no fewer than five (5) Business Days (or as may be agreed to by the Parties) prior to such testing and inspection. Testing and inspection shall occur on a Business Day. The Participating TO and the CAISO may, at their own expense, send qualified personnel to the Small Generating Facility site to inspect the interconnection and observe the testing. The Interconnection Customer shall provide the Participating TO and the CAISO a written test report when such testing and inspection is completed.

**2.1.2** The Participating TO and the CAISO shall provide the Interconnection Customer written acknowledgment that they have received the Interconnection Customer's written test report. Such written acknowledgment shall not be deemed to be or construed as any representation, assurance, guarantee, or warranty by the Participating TO or the CAISO of the safety, durability, suitability, or reliability of the Small Generating Facility or any associated control, protective, and safety devices owned or controlled by the Interconnection Customer or the quality of power produced by the Small Generating Facility.

**2.2 Authorization Required Prior to Parallel Operation**

**2.2.1** The Participating TO and the CAISO shall use Reasonable Efforts to list applicable parallel operation requirements in Attachment 5 of this Agreement. Additionally, the Participating TO and the CAISO shall notify the Interconnection Customer of any changes to these requirements as soon as they are known. The Participating TO and the CAISO shall make Reasonable Efforts to cooperate with the Interconnection Customer in meeting requirements necessary for the Interconnection Customer to commence parallel operations by the in-service date.

**2.2.2** The Interconnection Customer shall not operate its Small Generating Facility in parallel with the Participating TO's Transmission System without prior written authorization of the Participating TO. The Participating TO will provide such authorization to the Interconnection Customer and the CAISO once the Participating TO receives notification that the Interconnection Customer has complied with all applicable parallel operation requirements. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

**2.3 Right of Access to Premises**

**2.3.1** Upon reasonable notice, the Participating TO and the CAISO may send a qualified

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person to the premises of the Interconnection Customer at or immediately before the time the Small Generating Facility first produces energy to inspect the interconnection, and observe the commissioning of the Small Generating Facility (including any required testing), startup, and operation for a period of up to three (3) Business Days after initial start-up of the unit. In addition, the Interconnection Customer shall notify the Participating TO and the CAISO at least five (5) Business Days prior to conducting any on-site verification testing of the Small Generating Facility.

**2.3.2** Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, the Participating TO and the CAISO shall have access to the Interconnection Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.

**2.3.3** Each Party shall be responsible for its own costs associated with following this article.

### **Article 3. Effective Date, Term, Termination, and Disconnection**

#### **3.1 Effective Date**

This Agreement shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by the FERC. The Participating TO and the CAISO shall promptly file this Agreement with the FERC upon execution, if required.

#### **3.2 Term of Agreement**

This Agreement shall become effective on the Effective Date and shall remain in effect for a period of \_\_\_\_ years from the Effective Date (term specified in individual agreements to be ten (10) years or such other longer period as the Interconnection Customer may request) and shall be automatically renewed for each successive one-year period thereafter, unless terminated earlier in accordance with Article 3.3 of this Agreement.

#### **3.3 Termination**

No termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this Agreement (if required), which notice has been accepted for filing by FERC.

**3.3.1** The Interconnection Customer may terminate this Agreement at any time by giving the Participating TO and the CAISO twenty (20) Business Days written notice.

**3.3.2** Any Party may terminate this Agreement after Default pursuant to Article 7.6.

**3.3.3** Upon termination of this Agreement, the Small Generating Facility will be disconnected from the CAISO Controlled Grid. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for these costs under this Agreement.

**3.3.4** The termination of this Agreement shall not relieve any Party of its liabilities and obligations, owed or continuing at the time of termination.

**3.3.5** The provisions of this article shall survive termination or expiration of this Agreement.



### 3.4 Temporary Disconnection

Temporary disconnection of the Small Generating Facility or associated Interconnection Facilities shall continue only for so long as reasonably necessary under Good Utility Practice.

#### 3.4.1 Emergency Conditions

“**Emergency Condition**” shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; (2) that, in the case of the CAISO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the CAISO Controlled Grid or the electric systems of others to which the CAISO Controlled Grid is directly connected; (3) that, in the case of the Participating TO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Participating TO’s Transmission System, the Participating TO’s Interconnection Facilities, Distribution System, or the electric systems of others to which the Participating TO’s electric system is directly connected; or (4) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Small Generating Facility or the Interconnection Customer’s Interconnection Facilities. Under Emergency Conditions, the CAISO or the Participating TO may immediately suspend interconnection service and temporarily disconnect the Small Generating Facility. The Participating TO or the CAISO shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer’s operation of the Small Generating Facility or the Interconnection Customer’s Interconnection Facilities. The Interconnection Customer shall notify the Participating TO and the CAISO promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the CAISO Controlled Grid, the Participating TO’s Interconnection Facilities, or any Affected Systems. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of the Interconnection Customer’s or Participating TO’s facilities and operations, its anticipated duration, and the necessary corrective action.

#### 3.4.2 Routine Maintenance, Construction, and Repair

The Participating TO or the CAISO may interrupt interconnection service or curtail the output of the Small Generating Facility and temporarily disconnect the Small Generating Facility from the CAISO Controlled Grid when necessary for routine maintenance, construction, and repairs on the CAISO Controlled Grid or the Participating TO’s electric system. The Party scheduling the interruption shall provide the Interconnection Customer with (5) five Business Days notice prior to such interruption. The Party scheduling the interruption shall use Reasonable Efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

The Interconnection Customer shall update its planned maintenance schedules in accordance with the CAISO Tariff. The CAISO may request the Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the CAISO Controlled Grid in accordance with the CAISO Tariff. Such planned maintenance schedules and updates and changes to such schedules shall be provided by the Interconnection Customer to the Participating TO concurrently with their submittal to the CAISO.

### **3.4.3 Forced Outages**

During any forced outage, the Participating TO or the CAISO may suspend interconnection service to effect immediate repairs on the CAISO Controlled Grid or the Participating TO's electric system. The Participating TO or the CAISO shall use Reasonable Efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the Participating TO or the CAISO shall, upon request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection. The Interconnection Customer shall notify CAISO, as soon as practicable, of all forced outages or reductions of the Small Generating Facility in accordance with the CAISO Tariff.

### **3.4.4 Adverse Operating Effects**

The Participating TO or the CAISO shall notify the Interconnection Customer as soon as practicable if, based on Good Utility Practice, operation of the Small Generating Facility may cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Small Generating Facility could cause damage to the CAISO Controlled Grid, the Participating TO's Transmission System or Affected Systems. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time, the Participating TO or the CAISO may disconnect the Small Generating Facility. The Participating TO or the CAISO shall provide the Interconnection Customer with (5) five Business Day notice of such disconnection, unless the provisions of Article 3.4.1 apply.

### **3.4.5 Modification of the Small Generating Facility**

Prior to making any modifications to the Small Generating Facility before it has achieved its Commercial Operation Date, the Interconnection Customer must first request that the CAISO evaluate whether such modification is a Material Modification and receive written authorization from the Participating TO and the CAISO. Such authorization shall not be unreasonably withheld. Modifications shall be done in accordance with Good Utility Practice. The CAISO may engage the services of the applicable Participating TO to assess the modification. Costs incurred by the Participating TO and CAISO (if any) shall be borne by the party making the request under Section 6.7.2 of Appendix DD, and such costs shall be included in any CAISO invoice for modification assessment activities. If the Interconnection Customer has achieved its Commercial Operation Date, the CAISO and Participating TO(s) will review the requested modification pursuant to Sections 25 and 25.1(c) of the CAISO Tariff. If the Interconnection Customer makes modifications without the Participating TO's and the CAISO's prior written authorization, the Participating TO or the CAISO shall have the right to temporarily disconnect the Small Generating Facility. Any change to the Point of Interconnection, except those deemed acceptable under this article of the GIDAP SGIA or so allowed elsewhere, shall constitute a Material Modification. The Interconnection Customer may then withdraw the proposed modification or proceed with a new Interconnection Request for such modification.

Notwithstanding Section 7.5 of Appendix DD, at any time after achieving its Commercial Operation Date, the Interconnection Customer may reduce the megawatt generating capacities of its Generating Facilities, subject to Section 25.1(c) of the CAISO Tariff. Section 7.5.11 of Appendix DD will still apply to such requests to reduce capacity.

### **3.4.6 Reconnection**



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The Parties shall cooperate with each other to restore the Small Generating Facility, Interconnection Facilities, the Participating TO's electric system, and the CAISO Controlled Grid to their normal operating state as soon as reasonably practicable following a temporary disconnection.

**Article 4. Costs for Interconnection Facilities, and Distribution Upgrades**

**4.1 Interconnection Facilities**

**4.1.1** The Interconnection Customer shall pay for the cost of the Interconnection Facilities itemized in Attachment 2 of this Agreement. The Participating TO shall provide a best estimate cost, including overheads, for the purchase and construction of its Interconnection Facilities and provide a detailed itemization of such costs. Costs associated with Interconnection Facilities may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, the CAISO, and the Participating TO.

**4.1.2** The Interconnection Customer shall be responsible for its share of all reasonable expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its own Interconnection Facilities, and (2) operating, maintaining, repairing, and replacing the Participating TO's Interconnection Facilities.

**4.2 Distribution Upgrades**

The Participating TO shall design, procure, construct, install, and own the Distribution Upgrades described in Attachment 6 of this Agreement. If the Participating TO and the Interconnection Customer agree, the Interconnection Customer may construct Distribution Upgrades that are located on land owned by the Interconnection Customer. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer.

**Article 5. Cost Responsibility For Network Upgrades**

**5.1 Applicability**

No portion of this Article 5 shall apply unless the interconnection of the Small Generating Facility requires Network Upgrades.

**5.2 Network Upgrades**

The Participating TO shall design, procure, construct, install, and own the Network Upgrades described in Attachment 6 of this Agreement, except for Merchant Network Upgrades. If the Participating TO and the Interconnection Customer agree, the Interconnection Customer may construct Network Upgrades that are located on land owned by the Interconnection Customer. The actual cost of the Network Upgrades, including overheads, shall be borne initially by the Interconnection Customer. For costs associated with Area Delivery Network Upgrades and Area Off-Peak Network Upgrades, any cost estimates will be advisory in nature and will not be considered as definitive or as establishing a cap on the Maximum Cost Exposure of the Interconnection Customer.

**5.2.1 Merchant Network Upgrades**

If the Interconnection Customer is an Option (B) Interconnection Customer, the Interconnection Customer may elect to have a party other than the applicable

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Participating TO construct some or all of the LDNU and ADNU that the Interconnection Customer has the obligation to fund and that are not subject to reimbursement. Such LDNU and ADNU will be constructed and incorporated into the CAISO Controlled Grid pursuant to the provisions for Merchant Transmission Facilities in CAISO Tariff Sections 24.4.6.1 and 36.11.

### **5.3 Transmission Credits**

No later than thirty (30) calendar days prior to the Commercial Operation Date, the Interconnection Customer may make a one-time election by written notice to the CAISO and the Participating TO to (a) receive Congestion Revenue Rights as defined in and as available under the CAISO Tariff at the time of the election in accordance with the CAISO Tariff, in lieu of a repayment of the cost of Network Upgrades in accordance with Article 5.3.1, and/or (b) decline all or a part of a refund of the cost of Network Upgrades entitled to the Interconnection Customer in accordance with Article 5.3.1.

#### **5.3.1 Repayment of Amounts Advanced for Network Upgrades**

##### **5.3.1.1 Repayment of Amounts Advanced Regarding Non-Phased Generating Facilities**

An Interconnection Customer with a non-Phased Generating Facility in Queue Cluster 5 or earlier, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to a repayment for the Interconnection Customer's contribution to the cost of Network Upgrades commencing upon the Commercial Operation Date of its Generating Facility.

An Interconnection Customer with a non-Phased Generating Facility in Queue Cluster 6 or later, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has not been tendered an Interconnection Agreement before December 19, 2014, shall be entitled to repayment for the Interconnection Customer's contribution to the cost of Network Upgrades placed in service on or before the Commercial Operation Date of its Small Generating Facility, commencing upon the Commercial Operation Date of the Small Generating Facility. Repayment for the Interconnection Customer's contribution to the cost of Network Upgrades placed into service after the Commercial Operation Date of its Small Generating Facility shall, for each of these Network Upgrades, commence no later than the later of: (i) the first month of the calendar year following the year in which the Network Upgrade is placed into service or (ii) 90 days after the Network Upgrade is placed into service.

An Interconnection Customer subject to this Article 5.3.1.1 shall be entitled to repayment for its contribution to the cost of Network Upgrades as follows:

- (a) For Reliability Network Upgrades, the Interconnection Customer shall be entitled to a repayment of the amount paid by the Interconnection Customer for Reliability Network Upgrades up to a maximum amount established in Section 14.3.2.1 of the GIDAP. For purposes of this determination, generating capacity will be based on the capacity of the Interconnection Customer's Generating Facility at the time it achieves Commercial Operation. To the extent that such repayment does not cover all of the costs of the Interconnection Customer's Reliability Network Upgrades, the Interconnection Customer shall receive Merchant

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Transmission CRRs for that portion of its Reliability Network Upgrades that are not covered by cash repayment.

- (b) For Local Delivery Network Upgrades:
- i. If the Interconnection Customer is an Option (B) Interconnection Customer and has been allocated and continues to be eligible to receive TP Deliverability pursuant to the GIDAP, the Interconnection Customer shall be entitled to repayment of a portion of the total amount paid to the Participating TO for the cost of Local Delivery Network Upgrades for which it is responsible. The repayment amount shall be determined by dividing the amount of TP Deliverability received by the amount of deliverability requested by the Interconnection Customer, and multiplying that percentage by the total amount paid to the Participating TO by the Interconnection Customer for Local Delivery Network Upgrades.
  - ii. If the Interconnection Customer is an Option (B) Interconnection Customer and has not been allocated any TP Deliverability, the Interconnection Customer shall not be entitled to repayment for the cost of Local Delivery Network Upgrades.
  - iii. If the Interconnection Customer is an Option (A) Interconnection Customer, the Interconnection Customer shall be entitled to a repayment equal to the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible.
- (c) For Area Delivery Network Upgrades, the Interconnection Customer shall not be entitled to repayment for the costs of Area Delivery Network Upgrades.
- (d) If an Option (B) Interconnection Customer elects and is eligible to construct and own Merchant Network Upgrades as set forth in Article 5.2.1 of this SGIA, then the Interconnection Customer shall not be entitled to any repayment pursuant to this SGIA.

Unless an Interconnection Customer has provided written notice to the CAISO that it is declining all or part of such repayment, such amounts shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the applicable date as provided for in this Article 5.3.1.1; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years of the applicable commencement date. Notwithstanding the foregoing, if this Agreement terminates within five (5) years of the applicable commencement date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

- (e) Where the Interconnection Customer finances the construction of Network Upgrades for more than one Participating TO, the cost

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allocation, Interconnection Financial Security, and repayment will be conducted pursuant to Section 14.4.1 of the GIDAP, and set forth in this SGIA,

- (f) For Local Off-Peak Network Upgrades, the Interconnection Customer will be entitled to a repayment equal to the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible.

**5.3.1.2 Repayment of Amounts Advanced Regarding Phased Generating Facilities**

Upon the Commercial Operation Date of each phase of a Phased Generating Facility, the Interconnection Customer shall be entitled to a repayment equal to the amount paid to the Participating TO for the cost of Network Upgrades for that completed phase for which the Interconnection Customer is responsible, subject to the limitations specified in Article 5.3.1.1, if the following conditions are satisfied as described below:

- (a) The Small Generating Facility is capable of being constructed in phases;
- (b) The Small Generating Facility is specified in the SGIA as being constructed in phases;
- (c) The completed phase corresponds to one of the phases specified in the SGIA;
- (d) The Interconnection Customer has tendered notice pursuant to the SGIA that the phase has achieved Commercial Operation;
- (e) All parties to the SGIA have agreed that the completed phase meets the requirements set forth in the SGIA and any other operating, metering, and interconnection requirements to permit generation output of the entire capacity of the completed phase as specified in the SGIA;
- (f) The Network Upgrades necessary for the completed phase to meet the desired level of deliverability are in service; and
- (g) The Interconnection Customer has posted one hundred (100) percent of the Interconnection Financial Security required for the Network Upgrades for all the phases of the Small Generating Facility.

Following satisfaction of these conditions (a) through (g), an Interconnection Customer in a Queue Cluster earlier than Queue Cluster 5, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to receive a partial repayment of its financed cost responsibility, to the extent that it is otherwise eligible for such repayment pursuant to Article 5.3.1.1, in an amount equal to the percentage of the Small Generating Facility declared to be in Commercial Operation multiplied by the cost of the Network Upgrades associated with the completed phase. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Small Generating Facility is completed.

Following satisfaction of these conditions (a) through (e) and (g), an Interconnection Customer in Queue Cluster 6 or a later Queue Cluster, or an

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Interconnection Customer in the Independent Study Process or the Fast Track Process that has not been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to receive a repayment of its financed cost responsibility for the Network Upgrades associated with the completed phase that have been placed in service. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Small Generating Facility is completed. With respect to any Network Upgrades necessary for a completed phase to meet its desired level of deliverability that are not in service by the time the phase achieves Commercial Operation, repayment for each such Network Upgrade will commence no later than the later of: (i) the first month of the calendar year following the year in which the Network Upgrade is placed into service or (ii) 90 days after the Network Upgrade is placed into service.

If the SGIA includes a partial termination provision and the partial termination right has been exercised with regard to a phase that has not been built, then the Interconnection Customer's eligibility for repayment under this Article 5.3.1.2 as to the remaining phases shall not be diminished. If the Interconnection Customer completes one or more phases and then defaults on the SGIA, the Participating TO and the CAISO shall be entitled to offset any losses or damages resulting from the default against any repayments made for Network Upgrades related to the completed phases, provided that the Party seeking to exercise the offset has complied with any requirements which may be required to apply the stream of payments utilized to make the repayment to the Interconnection Customer as an offset.

Any repayment amount provided pursuant to this Article 5.3.1.2 shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the applicable date as provided for in this Article 5.3.1.2; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years of the applicable commencement date. Notwithstanding the foregoing, if this Agreement terminates within five (5) years of the applicable commencement date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

#### **5.3.1.3 Interest Payments and Assignment Rights**

Any repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a repayment of such payment. Interest shall continue to accrue on the repayment obligation so long as this Agreement is in effect. The Interconnection Customer may assign such repayment rights to any person.

#### **5.3.1.4 Failure to Achieve Commercial Operation**

If the Small Generating Facility fails to achieve commercial operation, but it or another generating facility is later constructed and makes use of the Network Upgrades, the Participating TO shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that

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ultimately constructs the generating facility, if different, is responsible for identifying the entity to which reimbursement must be made.

**5.3.2 Special Provisions for Affected Systems**

The Interconnection Customer shall enter into an agreement with the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid, as applicable, in accordance with the GIDAP. Such agreement shall specify the terms governing payments to be made by the Interconnection Customer to the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid. In no event shall the Participating TO be responsible for the repayment for any facilities that are not part of the Participating TO's Transmission System.

**5.3.3 Rights Under Other Agreements**

Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future, under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements or transmission credits for transmission service that is not associated with the Small Generating Facility.

**5.3.4 Compensation for Customer-Funded Upgrades Utilized by Subsequent Interconnection Customers.**

If the Interconnection Customer funds Network Upgrades for which it is not eligible for repayment, the Interconnection Customer will be entitled to direct compensation by any Interconnection Customers in later Queue Clusters that utilize such Network Upgrades. Such compensation will be determined based on the distribution flow factors of the Generating Facilities that will be using the Network Upgrades.

**Article 6. Billing, Payment, Milestones, and Financial Security**

**6.1 Billing and Payment Procedures and Final Accounting**

**6.1.1** The Participating TO shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of Interconnection Facilities and Upgrades contemplated by this Agreement on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within thirty (30) calendar days of receipt, or as otherwise agreed to by the Parties. Notwithstanding the foregoing, any invoices between the CAISO and another Party shall be submitted and paid in accordance with the CAISO Tariff.

**6.1.2** Within six (6) months of completing the construction and installation of the Participating TO's Interconnection Facilities and/or Upgrades described in the Attachments to this Agreement, the Participating TO shall provide the Interconnection Customer with a final accounting report of any difference between (1) the Interconnection Customer's cost responsibility for the actual cost of such facilities or Upgrades, and (2) the Interconnection Customer's previous aggregate payments to the Participating TO for such facilities or Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous aggregate payments, the Participating TO shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the Participating TO within thirty (30) calendar days. If the Interconnection Customer's previous aggregate payments exceed its cost responsibility under this Agreement, the



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Participating TO shall refund to the Interconnection Customer an amount equal to the difference within thirty (30) calendar days of the final accounting report.

**6.2 Milestones**

The Parties shall agree on milestones for which each Party is responsible and list them in Attachment 4 of this Agreement. A Party's obligations under this provision may be extended by agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a Force Majeure Event, as defined in Article 7.5.1, it shall immediately notify the other Parties of the reason(s) for not meeting the milestone and (1) propose the earliest reasonable alternate date by which it can attain this and future milestones, and (2) request appropriate amendments to Attachment 4. The Parties affected by the failure to meet a milestone shall not unreasonably withhold agreement to such an amendment unless (1) they will suffer significant uncompensated economic or operational harm from the delay, (2) attainment of the same milestone has previously been delayed, or (3) they have reason to believe that the delay in meeting the milestone is intentional or unwarranted notwithstanding the circumstances explained by the Party proposing the amendment.

**6.3 Interconnection Financial Security Arrangements for Small Generating Facilities Processed Under the Fast Track Process or Small Generating Facilities Processed under SGIP**

The terms and conditions of this Article 6.3 shall apply only to Small Generating Facilities that are no larger than 5 MW that are processed under the Fast Track Process under the GIDAP, CAISO Tariff Appendix DD.

*In such case, the terms of Article 6.4 below do not apply to this Agreement.*

*For easy reference, the Parties shall check the Box below when this Article 6.3 applies:*

**THIS ARTICLE 6.3 APPLIES**

**6.3.1** At least twenty (20) Business Days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the Participating TO's Interconnection Facilities and Upgrades, the Interconnection Customer shall provide the Participating TO, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Participating TO and is consistent with the Uniform Commercial Code of the jurisdiction where the Point of Interconnection is located. Such security for payment shall be in an amount sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Participating TO's Interconnection Facilities and Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Participating TO under this Agreement during its term.

**6.3.2** If a guarantee is provided, the guarantee must be made by an entity that meets the creditworthiness requirements of the Participating TO, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.

**6.3.3** If a letter of credit or surety bond is provided, the letter of credit or surety bond must be issued by a financial institution or insurer reasonably acceptable to the Participating TO and must specify a reasonable expiration date.

**6.4 Interconnection Financial Security Arrangements for All Other Small Generating Facilities**



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The terms of this Article 6.4 apply to Small Generating Facilities that have been processed under either the Cluster Study Process or the Independent Study Track Process of the GIDAP set forth in CAISO Tariff Appendix DD. In such case, the provisions of Article 6.3 do not apply to this Agreement.

*In such case, the terms of Article 6.3 above do not apply to this Agreement.*

For easy reference, the Parties shall check the Box below when this Article 6.4 applies:

**THIS ARTICLE 6.4 APPLIES**

- 6.4.1** The Interconnection Customer is obligated to provide all necessary Interconnection Financial Security required under Section 11 of the GIDAP in a manner acceptable under Section 11 of the GIDAP. Failure by the Interconnection Customer to timely satisfy the GIDAP's requirements for the provision of Interconnection Financial Security shall be deemed a breach of this Agreement and a condition of Default of this Agreement.
- 6.4.2** Notwithstanding any other provision in this Agreement for notice of Default and opportunity to cure such Default, the CAISO or the Participating TO shall provide Interconnection Customer with written notice of any Default due to timely failure to post Interconnection Financial Security, and the Interconnection Customer shall have five (5) Business Days from the date of such notice to cure such Default by posting the required Interconnection Financial Security. If the Interconnection Customer fails to cure the Default, then this Agreement shall be deemed terminated.

**Article 7. Assignment, Liability, Indemnity, Force Majeure, and Default**

**7.1 Assignment**

This Agreement may be assigned by any Party upon fifteen (15) Business Days prior written notice and opportunity to object by the other Parties; provided that:

- 7.1.1** Any Party may assign this Agreement without the consent of the other Parties to any affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement, provided that the Interconnection Customer promptly notifies the Participating TO and the CAISO of any such assignment;
- 7.1.2** The Interconnection Customer shall have the right to assign this Agreement, without the consent of the Participating TO or the CAISO, for collateral security purposes to aid in providing financing for the Small Generating Facility, provided that the Interconnection Customer will promptly notify the Participating TO and the CAISO of any such assignment.
- 7.1.3** Any attempted assignment that violates this article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is responsible for meeting the same financial, credit, and insurance obligations as the Interconnection Customer. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

**7.2 Limitation of Liability**

Each Party's liability to the other Parties for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its

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performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall any Party be liable to the other Parties for any indirect, special, consequential, or punitive damages, except as authorized by this Agreement.

### **7.3 Indemnity**

**7.3.1** This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 7.2.

**7.3.2** The Parties shall at all times indemnify, defend, and hold the other Parties harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from another Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

**7.3.3** If an indemnified Party is entitled to indemnification under this article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this article, to assume the defense of such claim, such indemnified Party may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

**7.3.4** If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this article, the amount owing to the indemnified Party shall be the amount of such indemnified Party's actual loss, net of any insurance or other recovery.

**7.3.5** Promptly after receipt by an indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this article may apply, the indemnified Party shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

### **7.4 Consequential Damages**

Other than as expressly provided for in this Agreement, no Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

### **7.5 Force Majeure**

**7.5.1** As used in this article, a Force Majeure Event shall mean "any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing by the Party claiming Force Majeure."

**7.5.2** If a Force Majeure Event prevents a Party from fulfilling any obligations under this

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Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Parties, either in writing or via the telephone, of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Parties informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of Reasonable Efforts. The Affected Party will use Reasonable Efforts to resume its performance as soon as possible.

**7.6 Default**

- 7.6.1** No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement or the result of an act or omission of another Party. Upon a Default, the affected non-defaulting Party(ies) shall give written notice of such Default to the defaulting Party. Except as provided in Article 7.6.2 and in Article 6.4.2, the defaulting Party shall have sixty (60) calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within 20 calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.
- 7.6.2** If a Default is not cured as provided in this article, or if a Default is not capable of being cured within the period provided for herein, the affected non-defaulting Party(ies) shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not such Party(ies) terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

**Article 8. Insurance**

- 8.1** The Interconnection Customer shall, at its own expense, maintain in force general liability insurance without any exclusion for liabilities related to the interconnection undertaken pursuant to this Agreement. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. The Interconnection Customer shall obtain additional insurance only if necessary as a function of owning and operating a generating facility. Such insurance shall be obtained from an insurance provider authorized to do business in the State where the interconnection is located. Certification that such insurance is in effect shall be provided upon request of the Participating TO or CAISO, except that the Interconnection Customer shall show proof of insurance to the Participating TO and CAISO no later than ten Business Days prior to the anticipated Commercial Operation Date. If the Interconnection Customer is of sufficient credit-worthiness, it may propose to self-insure for such liabilities, and such a proposal shall not be unreasonably rejected.
- 8.2** The Participating TO agrees to maintain general liability insurance or self-insurance consistent with the Participating TO's commercial practice. Such insurance or self-insurance shall not exclude coverage for the Participating TO's liabilities undertaken pursuant to this Agreement.
- 8.3** The CAISO agrees to maintain general liability insurance or self-insurance consistent with the

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CAISO's commercial practice. Such insurance shall not exclude coverage for the CAISO's liabilities undertaken pursuant to this Agreement.

- 8.4** The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

**Article 9. Confidentiality**

- 9.1** Confidential Information shall mean any confidential and/or proprietary information provided by one Party to another Party that is clearly marked or otherwise designated "Confidential." For purposes of this Agreement all design, operating specifications, and metering data provided by the Interconnection Customer shall be deemed Confidential Information regardless of whether it is clearly marked or otherwise designated as such.
- 9.2** Confidential Information does not include information previously in the public domain, required to be publicly submitted or divulged by Governmental Authorities (after notice to the other Parties and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce this Agreement. Each Party receiving Confidential Information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the Party providing that information, except to fulfill obligations under this Agreement, or to fulfill legal or regulatory requirements.
- 9.2.1** Each Party shall employ at least the same standard of care to protect Confidential Information obtained from the other Parties as it employs to protect its own Confidential Information.
- 9.2.2** Each Party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of Confidential Information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.
- 9.3** Notwithstanding anything in this article to the contrary, and pursuant to 18 CFR § 1b.20, if FERC, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to FERC, within the time provided for in the request for information. In providing the information to FERC, the Party may, consistent with 18 CFR § 388.112, request that the information be treated as confidential and non-public by FERC and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this Agreement prior to the release of the Confidential Information to FERC. The Party shall notify the other Parties to this Agreement when it is notified by FERC that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 CFR § 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

**Article 10. Disputes**

All disputes arising out of or in connection with this Agreement whereby relief is sought by or from CAISO shall be settled in accordance with the provisions of Article 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Article 13 of the CAISO Tariff shall be read as reference to this Agreement. Disputes arising out of or in connection with this Agreement not subject to provisions of Article 13 of the CAISO Tariff shall be resolved as follows:

- 10.1** The Parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this article.

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- 10.2** In the event of a dispute, either Party shall provide the other Party with a written Notice of Dispute. Such Notice shall describe in detail the nature of the dispute.
- 10.3** If the dispute has not been resolved within two Business Days after receipt of the Notice, either Party may contact FERC's Dispute Resolution Service (DRS) for assistance in resolving the dispute.
- 10.4** The DRS will assist the Parties in either resolving their dispute or in selecting an appropriate dispute resolution venue (e.g., mediation, settlement judge, early neutral evaluation, or technical expert) to assist the Parties in resolving their dispute. DRS can be reached at 1-877-337-2237 or via the internet at <http://www.ferc.gov/legal/adr.asp>.
- 10.5** Each Party agrees to conduct all negotiations in good faith and will be responsible for one-half of any costs paid to neutral third-parties.
- 10.6** If neither Party elects to seek assistance from the DRS, or if the attempted dispute resolution fails, then either Party may exercise whatever rights and remedies it may have in equity or law consistent with the terms of this Agreement.

**Article 11. Taxes**

- 11.1** The Parties agree to follow all applicable tax laws and regulations, consistent with FERC policy and Internal Revenue Service requirements.
- 11.2** Each Party shall cooperate with the other Parties to maintain the other Parties' tax status. Nothing in this Agreement is intended to adversely affect the Participating TO's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

**Article 12. Miscellaneous**

**12.1 Governing Law, Regulatory Authority, and Rules**

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of \_\_\_\_\_ (where the Point of Interconnection is located), without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

**12.2 Amendment**

The Parties may amend this Agreement by a written instrument duly executed by all of the Parties, or under Article 12.12 of this Agreement.

**12.3 No Third-Party Beneficiaries**

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

**12.4 Waiver**

**12.4.1** The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

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**12.4.2** Any waiver at any time by any Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or Default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Participating TO. Any waiver of this Agreement shall, if requested, be provided in writing.

**12.5 Entire Agreement**

This Agreement, including all Attachments, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between or among the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this Agreement.

**12.6 Multiple Counterparts**

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

**12.7 No Partnership**

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.

**12.8 Severability**

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

**12.9 Security Arrangements**

Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. FERC expects all transmission providers, market participants, and interconnection customers interconnected to electric systems to comply with Applicable Reliability Criteria. All public utilities are expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

**12.10 Environmental Releases**

Each Party shall notify the other Parties, first orally and then in writing, of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Small Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than 24 hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Parties copies of any publicly available reports filed with any governmental



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authorities addressing such events.

#### **12.11 Subcontractors**

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.

**12.11.1** The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Participating TO or the CAISO be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

**12.11.2** The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

#### **12.12 Reservation of Rights**

The CAISO and Participating TO shall each have the right to make a unilateral filing with FERC to modify this Agreement pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following articles of this Agreement and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these articles:

Introductory Paragraph, 1.1, 1.2, 1.3, 1.4, 1.5.1, 1.5.2, 1.5.3, 1.5.4, 1.5.5, 1.5.6, 1.5.7, 1.6, 1.7, 1.8.1, 1.9, 2.1, 2.2.1, 2.3, 3, 4.1.1 (last sentence only), 5.1, 5.3, 6.2, 7, 8, 9, 11, 12, 13, Attachment 1, Attachment 4, Attachment 5, and Attachment 7.

The Participating TO shall have the exclusive right to make a unilateral filing with FERC to modify this Agreement pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following articles of this Agreement and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these articles:

2.2.2, 4.1.1 (all but the last sentence), 4.1.2, 4.2, 5.2, 6.1.1 (all but the last sentence), 6.1.2, 10 (all but preamble), Attachment 2, Attachment 3 and Attachment 6.

The CAISO shall have the exclusive right to make a unilateral filing with FERC to modify this Agreement pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following articles of this Agreement and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these articles:

1.8.2, 6.1.1 (last sentence only) and 10 (preamble only).

The Interconnection Customer, the CAISO, and the Participating TO shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each Party shall have the



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right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the Parties otherwise mutually agree as provided herein.

**12.13 Annual Reassessment Process**

In accordance with Section 7.4 of the GIDAP, the CAISO will perform an annual reassessment in which it will update certain base case data prior to beginning the GIDAP Phase II Interconnection Studies. As set forth in Section 7.4 of the GIDAP, the CAISO may determine through this assessment that Delivery Network Upgrades and Off-Peak Network Upgrades already identified and included in executed Generator Interconnection Agreements should be modified in order to reflect the current circumstances of Interconnection Customers in the queue, including any withdrawals therefrom, and any additions and upgrades approved in the CAISO's most recent Transmission Planning Process cycle. To the extent that this determination modifies the scope or characteristics of, or the financial responsibility for, any Delivery Network Upgrades and Off-Peak Network Upgrades determined pursuant to this SGIA, such modification(s) will be reflected through an amendment to this SGIA.

**Article 13. Notices**

**13.1 General**

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

If to the Participating TO:

Participating TO: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

If to the CAISO:

California Independent System Operator Corporation  
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California Independent System Operator Corporation

Attention: \_\_\_\_\_

250 Outcropping Way

Folsom, CA 95630

Phone: 916-351-4400 Fax: \_\_\_\_\_

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**13.2 Billing and Payment**

Billings and payments shall be sent to the addresses set out below:

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Participating TO: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**13.3 Alternative Forms of Notice**

Any notice or request required or permitted to be given by any Party to the other Parties and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail address: \_\_\_\_\_

If to the Participating TO:

Participating TO: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail address: \_\_\_\_\_

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If to the CAISO:

California Independent System Operator Corporation

Attention: \_\_\_\_\_

250 Outcropping Way

Folsom, CA 95630

Phone: 916-351-4400 Fax: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**13.4 Designated Operating Representative**

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative:

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Participating TO's Operating Representative:

Participating TO: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

CAISO's Operating Representative

California Independent System Operator Corporation

Attention: \_\_\_\_\_

250 Outcropping Way

Folsom, CA 95630

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**13.5 Changes to the Notice Information**

Any Party may change this information by giving five Business Days written notice to the other Parties prior to the effective date of the change.

**Article 14. Signatures**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the California Independent System Operator Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For the Participating TO

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For the Interconnection Customer

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment 1

### Glossary of Terms

**Affected System** - An electric system other than the CAISO Controlled Grid that may be affected by the proposed interconnection, including the Participating TO's electric system that is not part of the CAISO Controlled Grid.

**Applicable Laws and Regulations** - All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Area Deliverability Constraint** - A previously identified transmission system operating limit, based on a CAISO interconnection study or transmission planning study and listed on the CAISO website, that would constrain the deliverability of a substantial number of generators if the CAISO were to assign full capacity or partial capacity deliverability status to additional generating facilities in one or more specified geographic or electrical areas of the CAISO Controlled Grid in a total amount that is greater than the TP Deliverability for those areas. May also be a transmission system operating limit that constrains all or most of the same generation already constrained by a previously identified Area Deliverability Constraint.

**Area Delivery Network Upgrade (ADNU)** - A transmission upgrade or addition identified by the CAISO to relieve an Area Deliverability Constraint.

**Area Off-Peak Constraints** - A transmission system operating limit that would cause excessive curtailment to a substantial number of Generating Facilities during Off-Peak Load conditions, as described in Section 6.3.2.2 of Appendix DD and the CAISO Off-Peak Deliverability Assessment posted on the CAISO Website.

**Area Off-Peak Network Upgrades (AOPNUs)** - A transmission upgrade or addition the CAISO identifies in the Transmission Planning Process to relieve an Area Off-Peak Constraint.

**Assigned Network Upgrade (ANU)** - Reliability Network Upgrades, Local Off-Peak Network Upgrades, and Local Delivery Network Upgrades currently assigned to the Interconnection Customer. Assigned Network Upgrades exclude Conditionally Assigned Network Upgrades unless they become Assigned Network Upgrades.

**Balancing Authority Area** - The collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

**Business Day** - Monday through Friday, excluding federal holidays and the day after Thanksgiving Day.

**CAISO Controlled Grid** - The system of transmission lines and associated facilities of the parties to a Transmission Control Agreement that have been placed under the CAISO's Operational Control.

**CAISO Tariff** - The CAISO's tariff, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

**Commercial Operation Date** - The date on which a Small Generating Facility commenced generating electricity for sale as agreed upon by the Participating TO and the Interconnection Customer and in accordance with any implementation plan agreed to by the Participating TO and the CAISO for multiple individual generating units or project phases at a Small Generating Facility where an Interconnection Customer intends to establish separate Commercial Operation Dates for those generating units or project phases.

**Conditionally Assigned Network Upgrade (CANU)** - Reliability Network Upgrades and Local Delivery

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Network Upgrades currently assigned to an earlier Interconnection Customer, but which may be assigned to the Interconnection Customer.

**Current Cost Responsibility (CCR)** - The Interconnection Customer's current allocated costs for Assigned Network Upgrades, not to exceed the Maximum Cost Responsibility. This cost is used to calculate the Interconnection Customer's Interconnection Financial Security requirement.

**Default** - The failure of a breaching Party to cure its breach under this Agreement.

**Distribution System** - Those non-CAISO-controlled transmission and distribution facilities owned by the Participating TO.

**Distribution Upgrades** - The additions, modifications, and upgrades to the Participating TO's Distribution System. Distribution Upgrades do not include Interconnection Facilities.

**General Reliability Network Upgrade (GRNU)** - Reliability Network Upgrades that are not Interconnection Reliability Network Upgrades.

**Generator Interconnection and Deliverability Allocation Procedures (GIDAP)** - The CAISO protocol that sets forth the interconnection and allocation procedures applicable to an Interconnection Request pertaining to a Small Generating Facility that is included in CAISO Tariff Appendix DD.

**Good Utility Practice** - Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** - Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, CAISO, Participating TO, or any affiliate thereof.

**Interconnection Facilities** - The Participating TO's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Small Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Small Generating Facility to the Participating TO's Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades or Network Upgrades.

**Interconnection Financial Security (IFS)** - Any of the financial instruments listed in Section 11.1 of the GIDAP that are posted by an Interconnection Customer to finance the construction of facilities or Network Upgrades.

**Interconnection Handbook** - A handbook, developed by the Participating TO and posted on the Participating TO's website or otherwise made available by the Participating TO, describing technical and operational requirements for wholesale generators and loads connected to the Participating TO's Transmission System, as such handbook may be modified or superseded from time to time. The Participating TO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and applicable reliability standards.

**Interconnection Reliability Network Upgrade (IRNU)** - Reliability Network Upgrades at the Point of



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Interconnection to accomplish the physical interconnection of the Generating Facility to the CAISO Controlled Grid. IRNUs are treated as Reliability Network Upgrades unless otherwise noted.

**Interconnection Request** - A request, in accordance with the CAISO Tariff, to interconnect a new Small Generating Facility, or to increase the capacity of, or make a Material Modification to the operating characteristics of, an existing Small Generating Facility that is interconnected with the CAISO Controlled Grid.

**Interconnection Study** -

- (i) For Interconnection Requests processed under the Cluster Study Process described in the GIDAP, any of the following: the Phase I Interconnection Study conducted or caused to be performed by the CAISO, the reassessment of the Phase I Interconnection Study Base Case conducted or caused to be performed by the CAISO prior to the commencement of the Phase II Interconnection Study, or the Phase II Interconnection Study conducted or caused to be performed by the CAISO, pursuant to the GIDAP.
- (ii) For Interconnection Requests processed under the Independent Study Process described in the GIDAP, the governing study(ies) conducted or caused to be performed by the CAISO pursuant to the GIDAP, which shall consist primarily of a system impact and facilities study as described in Section 4.4 of the GIDAP, and, as applicable to Full Capacity Deliverability Status or Partial Deliverability Status, Phase I and Phase Interconnection Studies as described in Section 2.4.3 of the GIDAP.

**Local Deliverability Constraint** - A transmission system operating limit modeled in the GIDAP study process that would be exceeded if the CAISO were to assign full capacity or partial capacity deliverability status to one or more additional generating facilities interconnecting to the CAISO Controlled Grid in a specific local area, and that is not an Area Deliverability Constraint.

**Local Delivery Network Upgrade (LDNU)** - A transmission upgrade or addition identified by the CAISO in the GIDAP study process to relieve a Local Deliverability Constraint.

**Local Off-Peak Constraints** - A transmission system operating limit modeled in the generator interconnection study process that would be exceeded or lead to excessive curtailment, as described in the Off-Peak Deliverability Assessment methodology, if the CAISO were to assign Off-Peak Deliverability Status to one or more Generating Facilities interconnecting to the CAISO Controlled Grid in a specific local area, and that is not an Area Off-Peak Constraint.

**Local Off-Peak Network Upgrades (LOPNUs)** - A transmission upgrade or addition the CAISO identifies in the generator interconnection study process to relieve a Local Off-Peak Constraint.

**Material Modification** - A modification that has a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.

**Maximum Cost Exposure (MCE)** - Pursuant to Appendix DD, the sum of (1) the Interconnection Customer's Maximum Cost Responsibility and (2) the Conditionally Assigned Network Upgrades from its Phase I or Phase II Interconnection Study.

**Maximum Cost Responsibility (MCR)** - Pursuant to Appendix DD, the lower sum of the Interconnection Customer's (1) full cost of assigned Interconnection Reliability Network Upgrades and (2) allocated costs for all other Assigned Network Upgrades, from its Phase I or Phase II Interconnection Studies, not to exceed the Maximum Cost Exposure.

**Merchant Network Upgrades** - Network Upgrades constructed and owned by an Interconnection Customer pursuant to Article 5.2.1 of this SGIA, Section 13.3 of the GIDAP, and Sections 24.4.6.1 and 36.11 of the CAISO Tariff.

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**Network Upgrades** - Additions, modifications, and upgrades to the Participating TO's Transmission System required at or beyond the point at which the Small Generating Facility interconnects with the CAISO Controlled Grid to accommodate the interconnection of the Small Generating Facility with the CAISO Controlled Grid. Network Upgrades do not include Distribution Upgrades.

**Operational Control** - The rights of the CAISO under a Transmission Control Agreement and the CAISO Tariff to direct the parties to the Transmission Control Agreement how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting applicable reliability criteria.

**Off-Peak Deliverability Constraints** - A transmission system operating limit that constrains Generating Facilities in an area, leading to the excessive curtailment of expected Energy.

**Off-Peak Network Upgrades** - Network Upgrades needed to relieve Off-Peak Deliverability Constraints. Area Off-Peak Network Upgrades address Area Off-Peak Constraints. Local Off-Peak Network Upgrades address Local Off-Peak Constraints.

**Operating Requirements** - Any operating and technical requirements that may be applicable due to the CAISO, Western Electricity Coordinating Council, Balancing Authority Area, or the Participating TO's requirements, including those set forth in this Agreement.

**Option (A) Interconnection Customer** - An Interconnection Customer that elects to interconnect pursuant to Option (A) as set forth in Section 7.2 of the GIDAP.

**Option (B) Interconnection Customer** - An Interconnection Customer that elects to interconnect pursuant to Option (B) as set forth in Section 7.2 of the GIDAP.

**Party or Parties** - The Participating TO, CAISO, Interconnection Customer or the applicable combination of the above.

**Phased Generating Facility** - A Small Generating Facility that is structured to be completed and to achieve Commercial Operation in two or more successive sequences that are specified in this SGIA, such that each sequence comprises a portion of the total megawatt generation capacity of the entire Small Generating Facility.

**Point of Interconnection** - The point where the Interconnection Facilities connect with the Participating TO's Transmission System.

**Precursor Network Upgrades (PNU)** - Network Upgrades required for the Interconnection Customer consisting of (1) Network Upgrades assigned to an earlier Interconnection Customer in an earlier Queue Cluster, Independent Study Process, or Fast Track Process, that has executed its GIA pursuant to Section 14.2.2 of the GIDAP; and (2) Network Upgrades in the approved CAISO Transmission Plan.

**Reasonable Efforts** - With respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Reliability Network Upgrades (RNU)** - The transmission facilities at or beyond the Point of Interconnection identified in the Interconnection Studies as necessary to interconnect one or more Generating Facility(ies) safely and reliably to the CAISO Controlled Grid, which would not have been necessary but for the interconnection of one or more Generating Facility(ies), including Network Upgrades necessary to remedy short circuit or stability problems, or system operating limits. Reliability Network Upgrades shall only be deemed necessary for system operating limits, occurring under any system condition, which cannot be adequately mitigated through Congestion Management, Operating Procedures, or Special Protection Systems based on the characteristics of the Generating Facilities included in the Interconnection Studies, limitations on market models, systems, or information, or other

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factors specifically identified in the Interconnection Studies. Reliability Network Upgrades also include, consistent with WECC practice, the facilities necessary to mitigate any adverse impact the Generating Facility's interconnection may have on a path's WECC rating. Reliability Network Upgrades include Interconnection Reliability Network Upgrades and General Reliability Network Upgrades.

**Small Generating Facility** - The Interconnection Customer's device for the production and/or storage for later injection of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**TP Deliverability** - The capability, measured in MW, of the CAISO Controlled Grid as modified by transmission upgrades and additions identified in the annual Transmission Plan to support the interconnection with Full Capacity Deliverability Status or Partial Capacity Deliverability Status of additional Generating Facilities in a specified geographic or electrical area of the CAISO Controlled Grid.

**Transmission Control Agreement** - CAISO FERC Electric Tariff No. 7.

**Transmission System** - The facilities owned and operated by the Participating TO and that have been placed under the CAISO's Operational Control, which facilities form part of the CAISO Controlled Grid.

**Upgrades** - The required additions and modifications to the Participating TO's Transmission System and Distribution System at or beyond the Point of Interconnection. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities

**Attachment 2**

**Description and Costs of the Small Generating Facility,  
Interconnection Facilities, and Metering Equipment**

Equipment, including the Small Generating Facility, Interconnection Facilities, and metering equipment shall be itemized and identified as being owned by the Interconnection Customer or the Participating TO. The Participating TO will provide a best estimate itemized cost, including overheads, of its Interconnection Facilities and metering equipment, and a best estimate itemized cost of the annual operation and maintenance expenses associated with its Interconnection Facilities and metering equipment.

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**Attachment 3**

**One-line Diagram Depicting the Small Generating Facility, Interconnection  
Facilities, Metering Equipment, and Upgrades**

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**Attachment 4**

**Milestones**

In-Service Date: \_\_\_\_\_

Critical milestones and responsibility as agreed to by the Parties:

|      | Milestone/Date | Responsible Party |
|------|----------------|-------------------|
| (1)  | _____          | _____             |
| (2)  | _____          | _____             |
| (3)  | _____          | _____             |
| (4)  | _____          | _____             |
| (5)  | _____          | _____             |
| (6)  | _____          | _____             |
| (7)  | _____          | _____             |
| (8)  | _____          | _____             |
| (9)  | _____          | _____             |
| (10) | _____          | _____             |

Agreed to by:

For the CAISO \_\_\_\_\_

Date \_\_\_\_\_

For the Participating TO \_\_\_\_\_

Date \_\_\_\_\_

For the Interconnection Customer \_\_\_\_\_

Date \_\_\_\_\_

**Attachment 5**

**Additional Operating Requirements for the CAISO Controlled Grid and Affected Systems Needed  
to Support the Interconnection Customer's Needs**

The Participating TO and the CAISO shall also provide requirements that must be met by the Interconnection Customer prior to initiating parallel operation with the CAISO Controlled Grid.



**Attachment 6**

**Participating TO's Description of its Upgrades and Best Estimate of Upgrade Costs**

The Participating TO shall describe Upgrades and provide an itemized best estimate of the cost, including overheads, of the Upgrades and annual operation and maintenance expenses associated with such Upgrades. The Participating TO shall functionalize Upgrade costs and annual expenses as either transmission or distribution related.

**Attachment 7**

**Interconnection Requirements for an Asynchronous Small Generating Facility**

Attachment 7 sets forth requirements and provisions specific to all Asynchronous Generating Facilities. All other requirements of this Agreement continue to apply to all Asynchronous Generating Facility interconnections consistent with Section 25.4.2 of the CAISO tariff.

**A. Technical Standards Applicable to Asynchronous Generating Facilities**

**i. Low Voltage Ride-Through (LVRT) Capability**

An Asynchronous Generating Facility shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the requirements below.

1. An Asynchronous Generating Facility shall remain online for the voltage disturbance caused by any fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, having a duration equal to the lesser of the normal three-phase fault clearing time (4-9 cycles) or one-hundred fifty (150) milliseconds, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage. Clearing time shall be based on the maximum normal clearing time associated with any three-phase fault location that reduces the voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.
2. An Asynchronous Generating Facility shall remain online for any voltage disturbance caused by a single-phase fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, with delayed clearing, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage. Clearing time shall be based on the maximum backup clearing time associated with a single point of failure (protection or breaker failure) for any single-phase fault location that reduces any phase-to-ground or phase-to-phase voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.
3. Remaining on-line shall be defined as continuous connection between the Point of Interconnection and the Asynchronous Generating Facility's units, without any mechanical isolation. Momentary cessation (namely, ceasing to inject current during a fault without mechanical isolation) is prohibited unless transient high voltage conditions rise to 1.20 per unit or more. For transient low voltage conditions, the Asynchronous Generating Facility's inverters will inject reactive current. The level of this reactive current must be directionally proportional to the decrease in per unit voltage at the inverter AC terminals. The inverter must produce full reactive current capability when the AC voltage at the inverter terminals drops to a level of 0.50 per unit or below. The Asynchronous Generating Facility must continue to operate and absorb reactive current for transient voltage conditions between 1.10 and 1.20 per unit.

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Upon the cessation of transient voltage conditions and the return of the grid to normal operating voltage ( $0.90 < V < 1.10$  per unit), the Asynchronous Generating Facility's inverters automatically must transition to normal active (real power) current injection. The Asynchronous Generating Facility's inverters must ramp up to inject active (real power) current with a minimum ramping rate of at least 100% per second (from no output to full available output). The total time to complete the transition from reactive current injection or absorption to normal active (real power) current injection must be one second or less. The total time to return from momentary cessation, if used, during transient high voltage conditions over 1.20 per unit or more must be one second or less.

The Asynchronous Generating Facility's inverter will be considered to have tripped where its AC circuit breaker is open or otherwise has electrically isolated the inverter from the grid. Following an inverter trip, the inverter must make at least one attempt to resynchronize and connect back to the grid unless the trip resulted from a fatal fault code, as defined by the inverter manufacturer. This attempt must take place within 2.5 minutes from the inverter trip. An attempt to resynchronize and connect back to the grid is not required if the trip was initiated due to a fatal fault code, as determined by the original equipment manufacturer.

4. The Asynchronous Generating Facility is not required to remain on line during multi-phased faults exceeding the duration described in Section A.i.1 of this Attachment 7 or single-phase faults exceeding the duration described in Section A.i.2 of this Attachment 7.
5. The requirements of this Section A.i of this Attachment 7 do not apply to faults that occur between the Asynchronous Generating Facility's terminals and the high side of the step-up transformer to the high-voltage transmission system.
6. Asynchronous Generating Facilities may be tripped after the fault period if this action is intended as part of a special protection system.
7. Asynchronous Generating Facilities may meet the requirements of this Section A of this Attachment 7 through the performance of the generating units or by installing additional equipment within the Asynchronous Generating Facility or by a combination of generating unit performance and additional equipment.
8. The provisions of this Section A.i of this Attachment 7 apply only if the voltage at the Point of Interconnection has remained within the range of 0.9 and 1.10 per-unit of nominal voltage for the preceding two seconds, excluding any sub-cycle transient deviations.
9. Asynchronous Generating Facility inverters may not trip or cease to inject current for momentary loss of synchronism. As a minimum, the Asynchronous Generating Facility's inverter controls may lock the phase lock loop to the last synchronized point and continue to inject current into the grid at that last calculated phase prior to the loss of synchronism until the phase lock loop can regain synchronism. The current injection may be limited to protect the inverter. Any inverter may trip if the phase lock loop is unable to regain synchronism 150 milliseconds after loss of synchronism.
10. Inverter restoration following transient voltage conditions must not be impeded by plant level controllers. If the Asynchronous Generating Facility uses a plant level controller, it must be programmed to allow the inverters to automatically re-synchronize rapidly and ramp up to active current injection (without delayed ramping) following transient voltage recovery, before resuming overall control of

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the individual plant inverters.

**ii. Frequency Disturbance Ride-Through Capacity**

An Asynchronous Generating Facility shall comply with the off nominal frequency requirements set forth in the NERC Reliability Standard for Generator Frequency and Voltage Protective Relay Settings as they may be amended from time to time.

**iii. Power Factor Design Criteria (Reactive Power)**

An Asynchronous Generating Facility not studied under the Independent Study Process, as set forth in Section 4 of Appendix DD, shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the high voltage side of the substation transformer, as defined in this SGIA in order to maintain a specified voltage schedule, if the Phase II Interconnection Study shows that such a requirement is necessary to ensure safety or reliability. An Asynchronous Generating Facility studied under the Independent Study Process, as set forth in Section 4 of Appendix DD, shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the high voltage side of the substation transformer, as defined in this SGIA in order to maintain a specified voltage schedule. The power factor range standards set forth in this section can be met by using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two, if agreed to by the Participating TO and CAISO. The Interconnection Customer shall not disable power factor equipment while the Asynchronous Generating Facility is in operation. Asynchronous Generating Facilities shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the Phase II Interconnection Study shows this to be required for system safety or reliability.

**iv. Supervisory Control and Data Acquisition (SCADA) Capability**

An Asynchronous Generating Facility shall provide SCADA capability to transmit data and receive instructions from the Participating TO and CAISO to protect system reliability. The Participating TO and CAISO and the Asynchronous Generating Facility Interconnection Customer shall determine what SCADA information is essential for the proposed Asynchronous Generating Facility, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability.

**v. Power System Stabilizers (PSS)**

Power system stabilizers are not required for Asynchronous Generating Facilities.

**Attachment 8**

**[This Attachment is Intentionally Omitted]**

**PACIFIC GAS AND ELECTRIC COMPANY**

**CHAPTER 4**

**ATTACHMENT D**

**BILLING SERVICES AGREEMENT**

**ATTACHMENT D**

**Draft as of March 17, 2023**

**BILLING SERVICES AGREEMENT**

**by and between**

**PACIFIC GAS AND ELECTRIC COMPANY**

**and**

**PACIFIC GENERATION LLC**

**[DATE]**

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## **BILLING SERVICES AGREEMENT**

THIS BILLING SERVICES AGREEMENT (this “Agreement”) is made and entered into as of [●] by and between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (“PG&E”), and PACIFIC GENERATION LLC, a Delaware limited liability company (“PacGen”). Unless otherwise defined herein, capitalized terms used herein are defined in Section 1.1 or in the Operations and Services Agreement (as defined herein).

WHEREAS, concurrently herewith, at the closing of the transactions contemplated by that certain Separation Agreement between PacGen and PG&E dated as of [●] (the “Separation Agreement”), among other things, PG&E is contributing to PacGen, and PacGen is accepting, all of PG&E’s right, title and interest in and to the Generation Assets, and PG&E is assigning and PacGen is assuming certain of PG&E’s obligations and liabilities related to such Generation Assets, all in accordance with the terms and conditions set forth in the Separation Agreement and the agreements contemplated thereby;

WHEREAS, in connection with such contribution and assignment and as part of the separation of the generation business from PG&E and the establishment of PacGen as a separate entity and regulated utility, PG&E is concurrently agreeing to provide services to PacGen under the Operations and Services Agreement; and

WHEREAS, PacGen and PG&E desire to enter into this Agreement, the Operations and Services Agreement and the other Intercompany Service Agreements to set forth the terms and conditions upon which PG&E shall provide such services.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I DEFINITIONS**

1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below.

“Agreement” has the meaning set forth in the preamble.

“Billing Services” has the meaning set forth in Article II.

“Commencement Date” means [●].<sup>1</sup>

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<sup>1</sup> NTD: to be the “Closing Date” under the Separation Agreement, which is the date of the contribution of the Generation Assets to PacGen.

“Joint Billing Period” means the period from and after the Commencement Date and through and until the date of the divestiture sale, transfer, disposition or decommissioning of the last Generation Facility.

“Operations and Services Agreement” means that certain Operations and Services Agreement, dated as of the Commencement Date, by and between PG&E and PacGen.

“PacGen” has the meaning set forth in the preamble.

“PacGen Charges” means amounts authorized to be collected by or on behalf of PacGen from PacGen Customers pursuant to PacGen’s operative tariff(s) and other applicable Law, including PacGen Customer Taxes, during the Joint Billing Period.

“PacGen Customers” means bundled service and departed load customers who are subject to PacGen’s tariff(s).

“PacGen Customer Taxes” means taxes, fees and surcharges assessed by Governmental Authorities to PacGen Customers with respect to PacGen Charges or PacGen’s services.

“Party” means PG&E or PacGen individually, as the context requires; and “Parties” means both collectively.

“PG&E” has the meaning set forth in the preamble.

“Separation Agreement” has the meaning set forth in the recitals.

1.2. Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (c) reference to any gender includes all genders;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; provided, however, that if the approval of a Party is required for any such amendment or modification pursuant to this Agreement, any other Intercompany Service Agreement, or any other agreement or contract between PacGen, on the one hand, and PG&E or PG&E Corporation on the other hand, references to the applicable document, instrument or agreement means only such document, instrument or agreement that has received such Party’s approval;
- (e) reference to any Article or Section means such Article or Section to this Agreement, and references in any Article, Section or definition to any clause means such clause of such Article, Section or definition;

(f) “hereunder”, “hereof”, “hereto” and words of similar import are references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;

(g) “including” (and with correlative meaning “include”) means “including without limitation”;

(h) the word “or” shall be used in the inclusive sense of “and/or” and not exclusive;

(i) reference to a 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 time and ending at 12:00:00 midnight Pacific time; provided that a day may be 23 or 25 hours on those days on which daylight savings begins and ends;

(j) when an action is required to be completed on a Business Day, such action must be completed prior to 5:00 p.m. Pacific time on such day, and actions occurring after 5:00 p.m. will be deemed to have occurred on the following Business Day;

(k) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”;

(l) reference to any Law (including statutes and ordinances) means such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder;

(m) reference to “\$” and dollars shall be deemed to refer to United States currency; and

(n) reference to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable.

## **ARTICLE II BILLING SERVICES**

PacGen hereby engages PG&E to provide the services described in this Article II (the “Billing Services”) for PacGen, as PacGen’s agent and servicer, and PG&E hereby accepts such engagement and agrees to perform such services in accordance with the terms and conditions and subject to the limitations set forth in this Agreement and the Operations and Services Agreement. PG&E’s obligations to perform the Billing Services will commence on the Commencement Date and will be coterminous with the Joint Billing Period.

### **2.1. Customer Billing.**

(a) PacGen Charges. PG&E will calculate PacGen Charges and will send to each PacGen Customer that is also a customer of PG&E a bill (a “Joint Bill”) including PacGen Charges, which will be presented on such Joint Bill on a consolidated basis with charges of PG&E of a similar type, or as separately stated line items.

(b) Timing. PG&E will render Joint Bills with the frequency required by applicable Law; provided that if billing quality meter data is not available, PG&E may (i) send out an estimated Joint Bill for its services and PacGen's services in accordance with applicable Law or (ii) hold the Joint Bill.

(c) Bill Content.

(i) Subject to regulatory review, each Joint Bill will include a notice that states: "The bill includes charges for Pacific Generation as authorized in applicable tariffs for Pacific Generation, who has the right to recover those charges. PG&E is collecting those charges for Pacific Generation in the capacity as agent and servicer for Pacific Generation."

(ii) PG&E will create and disseminate to PacGen Customers legal and safety notices required by applicable Law to be included with or as part of a bill that includes PacGen Charges. PG&E may enclose utility-related bill inserts in or with the Joint Bill as permitted by applicable Law.

(d) Adjustments. PG&E will adjust Joint Bills for meter error and for billing error in accordance with applicable Law.

2.2. Unauthorized Use. PG&E will conduct the investigation of unauthorized use of energy by PacGen Customers during the Joint Billing Period in accordance with applicable Law.

2.3. Collection and Remittance.

(a) Payments by PacGen Customers of PacGen Charges (excluding PacGen Customer Taxes) will be accounted for and transferred by PG&E to a deposit or other account in the name of PacGen no later than seven (7) Business Days after funds are received or seven (7) Business Days after funds are deemed received pursuant to a segregation methodology (including periodic true ups, if applicable) mutually agreed upon by the Parties. All funds received by PG&E in respect of PacGen Charges (excluding PacGen Customer Taxes) will be held in trust by PG&E for the benefit of PacGen pending such transfer.

(b) PG&E will remit in accordance with Law PacGen Customer Taxes to the applicable Governmental Authorities after payment thereof is received by PG&E.

(c) PG&E will debit from the transfer to PacGen any amounts resulting from returned payments of PacGen Charges (excluding PacGen Customer Taxes).

(d) PG&E will send notices informing PacGen Customers of unpaid balances of PacGen Charges and take actions to recover the unpaid amounts of PacGen Charges owed PacGen by PacGen Customers.

(e) Except to the extent not permitted by applicable Law, if a PacGen Customer makes a partial payment of PacGen Charges, the payment will be allocated proportionately among the charges on the relevant Joint Bill.

2.4. Customer Disputes.

(a) Subject to further direction from PacGen, PG&E will handle disputes of PacGen Charges with PacGen Customers on behalf of PacGen using the same standards and protocols PG&E uses with PG&E customer disputes of PG&E charges.

(b) PG&E will carry out disconnection policies with respect to PacGen Customers during the Joint Billing Period in accordance with applicable Law.

2.5. Compensation. Following the approval by the CPUC of a methodology allocating or charging the costs of the Billing Services to PacGen, which is anticipated to occur in the first GRC jointly filed by PG&E and PacGen, PacGen will compensate PG&E in respect of the Billing Services pursuant to the Operations and Services Agreement.

### **ARTICLE III MISCELLANEOUS**

3.1. Notices. All notices, requests, consents and other communications under this Agreement must be in writing and shall be deemed to have been duly given and effective (a) immediately (or, if not delivered before 5:00 p.m. San Francisco, California time on a Business Day, the next Business Day) if delivered by electronic mail (with confirmation of transmission) and if a hard copy is delivered by overnight delivery service the next Business Day, (b) on the date of delivery if by hand delivery (with confirmation of receipt) (or, if not delivered on a Business Day, the next Business Day) or (c) on the first Business Day following the date of dispatch (or, if not sent on a Business Day, the next Business Day after the date of dispatch) if sent by overnight service with a nationally recognized overnight delivery service (all fees prepaid). All notices shall be delivered to the following addresses, or such other addresses as may hereafter be designated in writing by a party to the other party:

Notices to PG&E:

Pacific Gas and Electric Company  
300 Lakeside Drive  
Oakland, CA 94612  
Attention: [●]  
Email: [●]

Notices to PacGen:

Pacific Generation LLC  
300 Lakeside Drive, 25<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: [*President of the Company*]  
E-mail: [●]

3.2. Successors and Assigns; Amendments. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment,

by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective.

3.3. Severability; Interpretation. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, each of PacGen and PG&E confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Person. The captions used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

3.4. Complete Agreement. This Agreement and the other Intercompany Service Agreements contain the complete agreement between the Parties and supersede any prior understandings, agreements, representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.

3.5. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA (WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF) AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

3.6. Reserved.

3.7. No Third Party Beneficiaries; Independent Parties.

(a) No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person that is not a party hereto any rights or remedies under or by reason of this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor give any third Persons any right of subrogation or action against any Party.

(b) Independent Parties. The relationship of the Parties is that of independent parties and not as agents of each other (except as expressly provided herein or in another agreement between the Parties) or as joint venturers or partners. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership, or impose a trust or partnership duty, obligation or liability on or with regard to any of the Parties except as expressly provided in Section 2.3(a) with respect to funds to be held in trust by PG&E for the benefit of PacGen. Each Party shall be individually responsible for its own duties and obligations under this

Agreement, and shall maintain sole and exclusive control over its respective personnel and operations. Neither Party shall be under the control of or shall be deemed to control the other Party. Except as expressly provided in this Agreement or another agreement between the Parties, neither Party shall have a right or power to bind the other Party without its express written consent.

3.8. No Waiver. It is understood and agreed that no delay, waiver or omission by either Party to exercise any right or power arising from any breach or default by either Party with respect to any of the terms, provisions or covenants of this Agreement will be construed to be a waiver by either Party of any subsequent breach or default of the same or other terms, provisions or covenants on the part of either Party.

3.9. Cumulative Remedies. All rights and remedies of the Parties under this Agreement and the other Intercompany Service Agreements shall be cumulative and the exercise of one or more right or remedies shall not preclude the exercise of any other right or remedy available under this Agreement, the other Intercompany Service Agreements or applicable Law.

3.10. Reserved.

3.11. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

\* \* \* \* \*



**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first above written

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

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GENERATION LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GAS AND ELECTRIC COMPANY**  
**CHAPTER 4**  
**ATTACHMENT E**  
**LEGAL AND REGULATORY MATTERS AGREEMENT**

**ATTACHMENT E**

**Draft as of March 17, 2023**

**LEGAL AND REGULATORY MATTERS AGREEMENT**

**by and between**

**PACIFIC GAS AND ELECTRIC COMPANY**

**and**

**PACIFIC GENERATION LLC**

**[DATE]**

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## **LEGAL AND REGULATORY MATTERS AGREEMENT**

THIS LEGAL AND REGULATORY MATTERS AGREEMENT (this “Agreement”) is made and entered into as of [●], by and between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (“PG&E”) and PACIFIC GENERATION LLC, a Delaware limited liability company (“PacGen”). Unless otherwise defined herein, capitalized terms used herein are defined in Section 1.1.

### **BACKGROUND**

WHEREAS, concurrently herewith, at the closing of the transactions contemplated by that certain Separation Agreement between PacGen and PG&E dated as of [●] (the “Separation Agreement”), among other things, PG&E is contributing to PacGen, and PacGen is accepting, all of PG&E’s right, title and interest in and to the Generation Assets, and PG&E is assigning and PacGen is assuming certain of PG&E’s obligations and liabilities related to such Generation Assets, all in accordance with the terms and conditions set forth in the Separation Agreement and the agreements contemplated thereby;

WHEREAS, in connection with such contribution and assignment and as part of the separation of the Generation Business from PG&E and the establishment of PacGen as a separate entity and regulated utility, PG&E agrees to provide services to PacGen as provided herein;

WHEREAS, PG&E will provide legal, regulatory, and related services to PacGen pursuant to that certain Operations and Services Agreement between PacGen and PG&E dated as of [●] (the “**Operations and Services Agreement**”), which services shall include, without limitation, PG&E’s in-house attorneys acting as legal counsel to PacGen and PG&E engaging Outside Counsel to represent PacGen (whether jointly with, or independently from, PG&E) as required from time to time;

WHEREAS, the Parties desire that the confidential and privileged nature of certain information shared between PG&E and PacGen in connection with any Legal Matter be maintained, including with respect to Legal Matters in which PG&E and PacGen are each represented by different Outside Counsel; and

WHEREAS, PacGen and PG&E desire to enter into this Agreement to set forth the terms and conditions upon which PG&E and PacGen will share certain information in connection with Legal Matters.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I DEFINITIONS**

1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below.

“Agreement” has the meaning set forth in the preamble.

“Business Day” means a day other than Saturday, Sunday or a day on which: (a) banks are required or permitted to be closed for business in the State of California, or (b) PG&E’s headquarters office is closed for business.

“Commencement Date” means [●]<sup>1</sup>.

“Common Interest Material” or “CIM” means all information, whether written or oral, tangible, intangible, or ephemeral, that is disclosed by a Party to the other Party in confidence to further the Parties’ mutual interests and development and preparation of positions, interests, strategies, claims, defenses, and statements or other communications in relation to any Legal Matter, including, without limitation: research and analysis, reports, drafts of contracts and other legal instruments, statements of fact, memoranda of law, witness interviews and statements, briefing and debriefing memoranda and conversations, summaries, transcripts, notes, outlines, tape recordings, transcripts of tape recordings, correspondence, factual analyses and mental impressions, emails, instant messages, and any other documents, electronic data, or information that are protected from disclosure to third parties under any privilege, protection, or immunity. CIM also includes information derived from or reflecting CIM. The Parties may undertake joint efforts concerning any Legal Matter, and any information, communications, and work product concerning or resulting from such joint efforts shall be deemed CIM. Notwithstanding the foregoing, CIM does not include information that is generally known by or readily ascertainable by or available to the general public (provided that it does not become public in violation of this Agreement); provided that the Parties’ communications concerning public information that relates to the development or preparation of positions, interests, strategies, claims, defenses, and statements or other communications shall be CIM.

“Generation Assets” has the meaning set forth in the Separation Agreement.

“Generation Facilities” has the meaning set forth in the Operations and Services Agreement.

“Governmental Authority” means any Federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority.

“Law” means any statute, law, treaty, rule, regulation, applicable regulatory guidance document, ordinance, code, permit, license condition, agency agreement, 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 Commencement Date, or which become effective after the Commencement Date, or any binding interpretation of the foregoing.

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<sup>1</sup> NTD: to be the “Closing Date” under the Separation Agreement, which is the date of the contribution of the Generation Assets.

“Legal Matter” means any Regulatory Filing; Proceeding or the facts and circumstances giving rise or otherwise relating to any such Proceeding; matters relating to organizational governance; compliance with any currently effective or contemplated Law or contractual or other legal requirement; relations with or interactions with any Governmental Authority; or any corporate, commercial or other transaction, in each case in which PG&E and Pacific Generation participate jointly.

“Operations and Services Agreement” means that certain Operations and Services Agreement, dated as of the Commencement Date, by and between PG&E and PacGen.

“PacGen” has the meaning set forth in the preamble.

“Party” means PG&E or PacGen individually, as the context requires; and “Parties” means both collectively.

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization or any Governmental Authority.

“PG&E” has the meaning set forth in the preamble.

“Proceedings” means any pending or anticipated potential disputes or issues, including but not limited to in connection with investigations, filings, hearings, lawsuits, negotiations, transactions, or proceedings (including criminal, civil, or other proceedings before or involving any federal, state, or local governmental authorities).

“Regulatory Filings” means applications, filings, submissions, approvals, licenses, registrations, permits, notifications, and authorizations or waivers made to or received from any Governmental Authority.

“Separation Agreement” has the meaning set forth in the recitals.

1.2. Interpretation. If there exists a conflict, variation or inconsistency between the Exhibits and Schedules of this Agreement and the terms and conditions of this Agreement, the latter will control and be given priority. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (c) reference to any gender includes all genders;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; provided, however, that if the approval of a Party is required for any such amendment or



modification pursuant to this Agreement, any Intercompany Service Agreement (as defined in the Operations and Services Agreement), or any other agreement or contract between PacGen, on the one hand, and PG&E or PG&E Corporation, a California corporation, on the other hand, references to the applicable document, instrument or agreement means only such document, instrument or agreement that has received such Party's approval;

(e) reference to any Article or Section means such Article or Section to this Agreement, and references in any Article, Section or definition to any clause means such clause of such Article, Section or definition;

(f) "hereunder", "hereof", "hereto" and words of similar import are references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;

(g) "including" (and with correlative meaning "include") means "including without limitation";

(h) the word "or" shall be used in the inclusive sense of "and/or" and not exclusive;

(i) reference to a 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 time and ending at 12:00:00 midnight Pacific time; provided that a day may be 23 or 25 hours on those days on which daylight savings begins and ends;

(j) when an action is required to be completed on a Business Day, such action must be completed prior to 5:00 p.m. Pacific time on such day, and actions occurring after 5:00 p.m. will be deemed to have occurred on the following Business Day;

(k) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including"; and

(l) reference to any Law (including statutes and ordinances) means such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder.

(m) reference to "\$" and dollars shall be deemed to refer to United States currency; and

(n) reference to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable.

## **ARTICLE II TREATMENT OF COMMON INTEREST MATERIAL**

2.1. Exchange and Use of CIM. The Parties agree that they may exchange CIM in order to advance their common interest in connection with any Legal Matter. CIM shall be used solely for the purpose of communicating, coordinating, strategizing, and securing advice and counsel with respect to, and developing, preparing, pursuing, progressing, and completing, Legal Matters.

2.2. Non-Disclosure of CIM. Each Party (and its officers, employees, counsel, representatives and agents) will, using the same degree of care as that Party takes to preserve and safeguard its own confidential information, maintain in confidence and not disclose to third Persons any CIM other than as follows:

(a) CIM may be disclosed to the following individuals and entities in confidence solely to the extent required to accomplish the purposes of this Agreement and to promote the mutual best interests of the Parties in connection with a Proceeding:

- (i) the Parties,
- (ii) the Parties' respective counsel and co-counsel within their respective law firms,
- (iii) paralegals, legal assistants, secretaries and clerical personnel assisting such counsel,
- (iv) any outside legal support services retained to assist any Party's counsel, and
- (v) subject to the Parties' mutual agreement, outside, non-testifying consultants or experts, and their staff, who have been retained for the purposes of assisting any Party's counsel.

(b) CIM may be disclosed to the extent reasonably necessary in furtherance of a Legal Matter.

(c) CIM may be disclosed with the prior written approval of the Party originating such CIM or their counsel.

(d) CIM may be disclosed if and to the extent required by law, regulation, court order, subpoena, or other lawful order of a governmental authority with jurisdiction.

2.3. Notice of Potential Required Disclosures. In the event that any non-party to this Agreement seeks disclosure of any CIM through the judicial process or otherwise, where there is any reasonable possibility of disclosure of CIM to such non-party, notice shall be given promptly to the other Party hereto to reasonably enable such Party to protect their rights under this Agreement. Further, the Party from whom such non-party seeks such CIM shall assert all appropriate objections to the production of such material.

2.4. Discretionary Sharing of CIM. The Parties agree that all CIM shared pursuant to this Agreement by an originating Party to the other Party is provided in the sole discretion of the originating Party. Neither Party to this Agreement is required to share information or to receive information pursuant to this Agreement. Neither Party has any right to receive information from the other Party by virtue of this Agreement. This Agreement shall not create a presumption that information in the possession of, or available to, a Party has been shared with the other Party. Upon written notice to the other Party, an originating Party may limit the disclosure of specific

CIM to specific Persons, and the Party receiving CIM subject to such a restriction shall not disclose the CIM to unauthorized individuals.

### **ARTICLE III RELATIONSHIPS WITH OUTSIDE COUNSEL**

3.1. Agreement of Counsel to Be Bound. Outside Counsel retained by either Party in connection with any Legal Matter shall agree to be bound by this Agreement prior to the commencement of the representation of either Party in connection with such Legal Matter, but in any event such counsel shall be deemed to have accepted the terms hereof by commencing the representation of either Party in connection with such Legal Matter.

3.2. No Implied Relationships. The Parties recognize and agree that their respective Outside Counsel (and such counsel's respective law firms) are each attorneys only for the Parties so indicated in the agreements pursuant to which such counsel is engaged. This Agreement creates no attorney-client relationships, and no such relationships shall be deemed to arise from this Agreement by implication. No duty of loyalty (as opposed to a duty of confidentiality) or agency relationship exists by virtue of this Agreement between one Party and the other Party's Outside Counsel other than the duty of loyalty that such attorney otherwise owes to their client(s). Nothing in this Agreement is intended or shall be construed to interfere with either Party's Outside Counsel's ability to competently, ethically, and zealously represent their respective clients.

3.3. Conflicts. Both Parties understand and acknowledge that (a) at some point their respective interests may conflict with respect to certain Legal Matters or (b) this Agreement may be terminated. In the event such a conflict arises or such termination occurs, neither Party will seek to have any of the other Party's Outside Counsel (or such counsel's respective law firms) disqualified as counsel on the basis of any communication or exchange of CIM made pursuant to this Agreement, and the Parties each hereby knowingly and intelligently waive any right they might otherwise have had to seek such disqualification. Each Party also acknowledges and agrees that their respective Outside Counsel shall not be disqualified from examining or cross-examining the other Party or such other Party's attorney who testifies in connection with any Legal Matter because of such counsel's communication or exchange of CIM made pursuant to this Agreement.

3.4. Acknowledgement. Each Party represents that Outside Counsel for such Party has fully explained this Agreement's terms, benefits, and limitations to such Party (including as it relates to the waiver of conflicts of interest), and that such Party has considered the foregoing and concluded that this Agreement's benefits outweigh its limitations and burdens.

### **ARTICLE IV ATTORNEY-CLIENT PRIVILEGE AND ATTORNEY WORK PRODUCT**

4.1. Maintenance of Attorney-Client Privilege and Work Product Doctrine. The Parties agree that all CIM will retain, to the fullest extent permitted by law, any and all protections provided by the attorney work product doctrine and the attorney-client privilege under all applicable state and federal statutory and common laws. The Parties agree that the disclosure of CIM by one Party to another or to the other Party's counsel is not intended to and shall not constitute a waiver of any applicable privilege, immunity, or other protection against disclosure

that would otherwise apply to the CIM. Neither Party shall have the authority to waive any applicable privilege or protection of the other Party. If a Party learns of an inadvertent disclosure of CIM that is not authorized by the terms of this Agreement, it shall promptly take all reasonable steps to rectify the error.

## **ARTICLE V WITHDRAWAL**

5.1. Discretionary Withdrawal. Either Party may withdraw from this Agreement, in its entirety or on a limited basis with respect to a specific Legal Matter, for any reason or no reason in such Party's sole discretion, by giving ten (10) calendar days' prior written notice to the other Party (and in the case of a limited withdrawal with respect to discrete Legal Matters, such notice shall identify the Legal Matters to which such withdrawal apply). In the event of any withdrawal, the withdrawing Party and counsel for the withdrawing Party shall continue to be bound by this Agreement as to all communications, exchanges of information and documents, and other matters that occurred prior to such withdrawal. Upon either Party's withdrawal from this Agreement in accordance with this Section 5.1, such Party's Outside Counsel shall be deemed to have withdrawn from this Agreement concurrently, and in the case of either Party's withdrawal from this Agreement in its entirety, this Agreement shall thereupon be terminated. For clarity, neither Party's withdrawal from or termination of this Agreement shall terminate or otherwise impact the effectiveness of any other Intercompany Agreement, including with respect to the legal services provided by PG&E to Pacific Generation pursuant to the Operations and Services Agreement.

## **ARTICLE VI MISCELLANEOUS**

6.1. Notices. All notices, requests, consents and other communications under this Agreement must be in writing and shall be deemed to have been duly given and effective (a) immediately (or, if not delivered before 5:00 p.m. San Francisco, California time on a Business Day, the next Business Day) if delivered by electronic mail (with confirmation of transmission) and if a hard copy is delivered by overnight delivery service the next Business Day, (b) on the date of delivery if by hand delivery (with confirmation of receipt) (or, if not delivered on a Business Day, the next Business Day) or (c) on the first Business Day following the date of dispatch (or, if not sent on a Business Day, the next Business Day after the date of dispatch) if sent by overnight service with a nationally recognized overnight delivery service (all fees prepaid). All notices shall be delivered to the following addresses, or such other addresses as may hereafter be designated in writing by a party to the other party:

Notices to PG&E:

Pacific Gas and Electric Company  
300 Lakeside Drive  
Oakland, CA 94612  
Attention: [●]  
Email: [●]

Notices to PacGen:

Pacific Generation LLC  
300 Lakeside Drive, 25<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: [*President of the Company*]  
E-mail: [●]

6.2. Successors and Assigns; Amendments. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective.

6.3. Severability; Interpretation. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, each of PacGen and PG&E confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Person. The captions used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

6.4. Complete Agreement. This Agreement contains the complete agreement between the Parties and supersedes any prior understandings, agreements, representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.

6.5. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA (WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF) AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

6.6. Dispute Resolution. The provisions of Section 12.6 “Dispute Resolution” (other than clause (c) thereof and references to Independent Engineer) and Section 12.13 “Consent to Jurisdiction” of the Operations and Services Agreement shall apply to this Agreement and claims arising out of or relating to this Agreement, *mutatis mutandis*.

6.7. No Third Party Beneficiaries; Independent Parties.

(a) No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person that is not a party hereto any rights or remedies under or by reason of this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor give any third Persons any right of subrogation or action against any Party.

(b) Independent Parties. The relationship of the Parties is that of independent parties and not as agents of each other (except as expressly provided herein or in another agreement between the Parties) or as joint venturers or partners. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership, or impose a trust or partnership duty, obligation or liability on or with regard to any of the Parties. Each Party shall be individually responsible for its own duties and obligations under this Agreement, and shall maintain sole and exclusive control over its respective personnel and operations. Neither Party shall be under the control of or shall be deemed to control the other Party. Except as expressly provided in this Agreement or another agreement between the Parties, neither Party shall have a right or power to bind the other Party without its express written consent.

6.8. No Waiver. It is understood and agreed that no delay, waiver or omission by either Party to exercise any right or power arising from any breach or default by either Party with respect to any of the terms, provisions or covenants of this Agreement will be construed to be a waiver by either Party of any subsequent breach or default of the same or other terms, provisions or covenants on the part of either Party.

6.9. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative and the exercise of one or more right or remedies shall not preclude the exercise of any other right or remedy available under this Agreement or applicable Law.

6.10. Survival. Notwithstanding any provisions herein to the contrary, the obligations set forth in Article II, Section 3.3, and Article IV will survive in full force the termination of this Agreement with respect to CIM that is exchanged between the Parties prior to such termination.

6.11. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

\* \* \* \* \*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

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

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GENERATION LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:



**PACIFIC GAS AND ELECTRIC COMPANY**  
**CHAPTER 4**  
**ATTACHMENT F**  
**WILDFIRE INDEMNIFICATION AGREEMENT**

**ATTACHMENT F**

**Draft as of March 17, 2023**

**WILDFIRE INDEMNIFICATION AGREEMENT**

**by and between**

**PACIFIC GAS AND ELECTRIC COMPANY**

**and**

**PACIFIC GENERATION LLC**

**[DATE]**

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## WILDFIRE INDEMNIFICATION AGREEMENT

THIS WILDFIRE INDEMNIFICATION AGREEMENT (this “Agreement”) is made as of [●], by and between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (“PG&E”) and PACIFIC GENERATION LLC, a Delaware limited liability company (“PacGen”). Unless otherwise defined herein, capitalized terms used herein are defined in Section 1.1.

WHEREAS, concurrently herewith, at the closing of the transactions contemplated by that certain Separation Agreement between PacGen and PG&E dated as of [\_\_\_\_\_] (the “Separation Agreement”), among other things, PG&E is contributing to PacGen, and PacGen is accepting, all of PG&E’s right, title and interest in and to the Generation Assets, and PG&E is assigning and PacGen is assuming certain of PG&E’s obligations and liabilities related to such Generation Assets, all in accordance with the terms and conditions set forth in the Separation Agreement and the agreements contemplated thereby.

WHEREAS, in connection with such contribution and assignment and as part of the separation of the Generation Business from PG&E and the establishment of PacGen as a separate entity and regulated utility, PG&E agrees to provide services to PacGen as provided herein.

WHEREAS, in connection with the consummation of the transactions contemplated by the Separation Agreement, PG&E and PacGen will seek confirmation from the administrator of the Wildfire Fund (as defined herein) that the Agreement is a valid and enforceable indemnification agreement; and

WHEREAS, PG&E and PacGen have determined that it is appropriate and desirable, due to, among other things, PacGen being added as an additional insured to the Wildfire Fund, PG&E’s operation of PacGen’s assets, and PG&E’s experience with and efficient management of such matters, for PG&E to assume the defense, and pay for the costs of such defense, on behalf of PacGen of claims related to Designated Wildfires (as defined herein) giving rise to losses and to indemnify PacGen for any costs of settlements or judgments in respect of such losses.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I DEFINITIONS**

1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below.

“Agreement” has the meaning provided in the preamble.

“Business Day” means a day other than Saturday, Sunday or a day on which: (a) banks are required or permitted to be closed for business in the State of California, or (b) PG&E’s headquarters office is closed for business.

“Commencement Date” means [ \_\_\_\_\_ ]<sup>1</sup>.

“Confidential Information” means, with respect to a Party, all proprietary or confidential information and data of such Party, including Trade Secrets, that is received by the other Party and is not generally known by or readily ascertainable by or available to, on a legal or authorized basis, the general public, and that the receiving Party would normally consider and treat as confidential if the information were its own.

“CPUC” means the California Public Utilities Commission, or its successor entity.

“Designated Wildfire” means any wildfire ignited during the Term that is caused or alleged to be caused by PG&E or PacGen, which includes a wildfire determined to be a Covered Wildfire as defined in Public Utilities Code section 1701.8 or its successor statute. A landslide, mudslide, mudflow, or debris flow that follows a Designated Wildfire will be considered to be part of and included within the definition of a Designated Wildfire, if it is induced by, and would not have occurred in the absence of, that Designated Wildfire.

“Generation Assets” has the meaning provided in the Separation Agreement.

“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.

“Law” means any statute, law, treaty, rule, regulation, CEC guidance document, ordinance, code, permit, license condition, agency agreement, 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 date hereof, and which becomes effective after the date hereof; or any binding interpretation of the foregoing.

“Notice” unless otherwise specified in this Agreement, means written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service or electronic messaging (e-mail).

“Operations and Services Agreement” means that certain Operations and Services Agreement, dated as of the Commencement Date, between PG&E and PacGen, as amended, modified or supplemented from time to time. “PacGen” has the meaning provided in the preamble.

“PacGen Asset” means all of the assets, properties, rights and interests of PacGen, including, for so long as the same are owned by PacGen, the Generation Assets.

“Party” means PG&E or PacGen individually, and “Parties” means both collectively.

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<sup>1</sup> NTD: to be the “Closing Date” under the Separation Agreement, which is the date of the contribution of the Generation Assets.

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization or any Governmental Authority.

“PG&E” has the meaning provided in the preamble.

“Representative” means, with respect to either Party, any agent, employee, subcontractor or other representative of such Party, excluding the other Party.

“Separation Agreement” has the meaning set forth in the recitals.

“Term” has the meaning provided in Section 2.1.

“Third Party Claims” means all claims or threatened claims, civil, criminal, administrative, or investigative actions or proceedings, demands, charges, fines, penalties, actions, causes of action or other proceedings asserted against a party hereto and brought by any person or entity (including a Governmental Authority) that is not a Party, in each case, arising out of, related to, resulting from or based upon a Designated Wildfire.

“Third Party Losses” means any costs, losses, liabilities, damages, debts, fines, fees, penalties, assessments, restitution, payments and expenses (including costs to satisfy or discharge judgments, orders, and settlements, as well as costs of investigation, attorneys’ fees, expert and consultant fees, and other costs incurred in connection with the defense of any action, suit or proceeding) arising out of, related to, resulting from or based upon a Third Party Claim. For the avoidance of doubt, to the extent PacGen must incur any financing to make payments of amounts that would be Indemnifiable Losses, the costs incurred to obtain such financing shall be treated as Third Party Losses.

“Wildfire Fund” means the Wildfire Fund created pursuant to Section 3284 of the California Public Utilities Code (or any similar benefit provided to PG&E or PacGen pursuant to successor laws and statutes).

1.2. Interpretation. If there exists a conflict, variation or inconsistency between the Appendices of this Agreement and the terms and conditions of this Agreement, the latter will control and be given priority. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (c) reference to any gender includes all genders;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; provided, however, that if the approval of a Party is required for any such amendment or modification pursuant to this Agreement, references to the applicable document, instrument or

agreement means only such document, instrument or agreement that has received such Party's approval;

(e) reference to any Article, Section, or Appendix means such Article, Section, or Appendix to this Agreement, and references in any Article, Section, Appendix or definition to any clause means such clause of such Article, Section, Appendix or definition. Appendices attached hereto are deemed incorporated by reference herein;

(f) "hereunder", "hereof", "hereto" and words of similar import are references to this Agreement as a whole and not to any particular Article, Section or other provision hereof or thereof;

(g) "including" (and with correlative meaning "include") means "including without limitation";

(h) the word "or" shall be used in the inclusive sense of "and/or" and not exclusive;

(i) reference to a 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 time and ending at 12:00:00 midnight Pacific time; provided that a day may be 23 or 25 hours on those days on which daylight savings begins and ends;

(j) when an action is required to be completed on a Business Day, such action must be completed prior to 5:00 p.m. Pacific time on such day, and actions occurring after 5:00 p.m. will be deemed to have occurred on the following Business Day;

(k) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including"; and

(l) reference to any Law (including statutes and ordinances) means such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder.

## **ARTICLE II TERM**

2.1. Term. The term of this Agreement (the "Term") will commence on the Commencement Date and shall terminate automatically upon the earlier of (a) the divestiture sale, transfer, disposition or decommissioning of the last Generation Asset or other disposition of all or substantially all of the assets of PacGen and (b) such time that PG&E no longer holds a, direct or indirect, majority ownership interest in PacGen. Following the end of the Term, PG&E's indemnification obligations for Indemnifiable Losses that arise after the Term shall remain in effect and shall not terminate (it being understood that PG&E shall have no obligation under this Agreement to indemnify an Indemnified Party for any event that is not a Designated Wildfire).

## **ARTICLE III**



## INDEMNIFICATION

3.1. Indemnification by PG&E. PG&E shall, to the extent permitted by applicable Law and without regard to either Party's negligence, fault, or misconduct, indemnify and hold harmless PacGen (the "Indemnified Party") against, and shall hold each of them harmless from, (a) any and all Third Party Losses incurred or suffered by or imposed upon an Indemnified Party, and (b) any and all costs incurred, or reasonably expected to be incurred, to repair or replace PacGen Assets damaged by a Designated Wildfire (the "Indemnifiable Losses"). For the avoidance of doubt, PacGen shall not be responsible to defend, indemnify or hold PG&E harmless from any Indemnifiable Losses.

3.2. Determination of Indemnifiable Losses.

(a) PG&E and PacGen acknowledge that PacGen may be entitled to (i) recover all or a portion of an Indemnifiable Loss through PacGen's rates or (ii) receive insurance proceeds or distributions for all or a portion of an Indemnifiable Loss from other sources, including from the Wildfire Fund or from commercial insurance policies that may be in effect (the "Recovery Sources"). PacGen shall use commercially reasonable efforts to recover amounts for Indemnifiable Losses through the Recovery Sources, to the extent such recovery is available to PacGen. PG&E and PacGen further acknowledge that, subject to the foregoing, PG&E's indemnification obligations under Section 3.1 shall not be affected by any limitations on recovery from the Recovery Sources by PacGen.

(b) If, in respect of any Indemnifiable Loss, the Indemnified Party recovers all or a portion of such Indemnifiable Loss through any of the Recovery Sources, then, to the extent PG&E has made indemnification payments for such Indemnifiable Loss to the Indemnified Party, the Indemnified Party shall promptly refund PG&E an amount equal to the payments made by PG&E to the extent the same payments are also recovered from the Recovery Sources.

(c) If, in respect of any Indemnifiable Loss, the Indemnified Party recovers all or a portion of such Indemnifiable Loss through any of the Recovery Sources and, at the time amounts for such Indemnifiable Loss (or portion thereof) are recovered, PG&E has not made indemnification payments for such Indemnifiable Loss (or portion thereof) to the Indemnified Party, then, only for the purpose of preventing double recovery for an Indemnifiable Loss (or portion thereof), Purchaser's right to indemnification pursuant to Section 3.1 with respect to such Indemnifiable Loss (or portion thereof) shall be reduced by the amounts recovered from the Recovery Sources.

(d) For the avoidance of doubt, as between PG&E and the Recovery Sources, any obligation of the Recovery Sources to pay Indemnifiable Loss shall be primary and any obligation of PG&E to pay Indemnifiable Loss shall be secondary. To the fullest extent permitted by applicable Law, the Parties intend that the foregoing shall have the effect of waiving and releasing any subrogation rights that any of the Recovery Sources might otherwise have with respect to any Indemnifiable Loss.

3.3. Indemnification Procedures.

(a) Non-Third Party Claims. As promptly as is reasonably practicable after becoming aware of a claim for indemnification for an Indemnifiable Loss not involving a Third Party Claim, but in any event no later than thirty (30) Business Days after first becoming aware of such claim, the Indemnified Party shall give written Notice to PG&E of such claim in accordance herewith (a “Claim Notice”); provided, however, that the failure of the Indemnified Party to give such notice shall not relieve PG&E of its obligations under this Article III . The Claim Notice shall set forth in reasonable detail (a) the facts and circumstances giving rise to such claim for indemnification, including relevant supporting documentation and (b) the nature of the Indemnifiable Loss suffered or incurred or expected to be suffered or incurred .

(b) Third Party Claims. The Indemnified Party shall give a Claim Notice (in the form contemplated by Section 3.4(a)) as promptly as is reasonably practicable, but in any event no later than thirty (30) Business Days after receiving notice of a Third Party Claim giving rise to an Indemnifiable Loss; provided, however, that the failure of the Indemnified Party to give such notice shall not relieve PG&E of its obligations under this Article III .

(c) Assumption of Defense.

- (i) PG&E shall, at its own expense (regardless of whether PG&E ultimately prevails with respect to a Third Party Claim), (A) participate in the defense of any Third Party Claim and (B) within ninety (90) Business Days of receipt of a Claim Notice for such Third Party Claim, assume the defense thereof with counsel of its own choice, and provide written notice of the same to the Indemnified Party. In respect of a Third Party Claim, PacGen shall have a right, upon request, to be consulted about all significant decisions made in respect of a Third Party Claim.
- (ii) PG&E shall be permitted to settle or compromise such Third Party Claim without the prior written consent of the Indemnified Party; provided, however, that the Indemnified Party’s consent shall be required if such settlement or judgment (A) imposes any injunctive or equitable relief or other restriction against any Indemnified Party, (B) does not include as a term thereof the giving by the Person(s) asserting such claim to the Indemnified Party an unconditional release from all liability with respect to such claim, with prejudice, or (C) requires any Indemnified Party to admit any fault or wrongdoing.
- (iii) For such Third Party Claims for which PG&E assumes the defense, the Indemnified Party may participate in the defense thereof and employ counsel, at its own expense, without any right of indemnification from PG&E for such expenses, separate from the counsel employed by PG&E. If an Indemnified Party wishes to exercise sole control of the

defense of a Third Party Claim for any reason whatsoever, it may do so at its own expense, without any right of indemnification from PG&E for such expenses. Whether or not an Indemnified Party chooses to defend or prosecute any such Third Party Claim, all of the Parties shall cooperate in the defense or prosecution thereof, including making available all witnesses, pertinent records, materials and information in the Indemnified Party's possession or under the Indemnified Party's control relating thereto (or in the possession or control of any of its Representatives) as is reasonably requested by PG&E or its counsel.

#### **ARTICLE IV OTHER AGREEMENTS**

4.1. Wildfire Investigations. In connection with any wildfire investigations by Governmental Authorities (including any such investigations for Designated Wildfires), PG&E shall be entitled to act on behalf of PacGen in connection with the investigations or any proceedings conducted by any Governmental Authority, including any investigations or proceedings relating to the cause of a wildfire or involving a determination of PG&E or PacGen's liability.

4.2. Wildfire Mitigation Plan. During the Term, PG&E and PacGen shall reasonably cooperate to jointly submit a wildfire mitigation plan ("WMP") pursuant to Section 8386 of the California Public Utilities Code, and shall jointly request that the Office of Energy and Infrastructure Safety issue a safety certificate for both PG&E and PacGen. PG&E shall perform all obligations set forth in, and otherwise comply with, the WMP for itself and on behalf of PacGen.

4.3. Wildfire Fund. Each of PG&E and PacGen shall reasonably cooperate with each other in matters related to the filing or submitting of claims for payment from the Wildfire Fund, including making available witnesses, pertinent records, materials and information in its possession or under its control relating thereto (or in the possession or control of any of its Representatives) as is reasonably requested by the other Party or its counsel. PG&E may pursue any actions on behalf of PacGen that it determines to be reasonably necessary in furtherance of such matters.

4.4. Insurance. Pursuant to the Operations and Services Agreement, PG&E and PacGen may secure and maintain in effect, in accordance with the terms set forth therein, certain liability insurance that may provide coverage for Indemnifiable Losses. If, in respect of any Indemnifiable Loss, either Party determines that any commercial insurance policies may provide coverage for such Indemnifiable Loss, such Party shall give prompt notice of the events relating to such Indemnifiable Loss to the insurer in accordance with the procedures set forth in the applicable insurance policies. Each of PG&E and PacGen shall thereafter take all necessary or desirable action to cause such insurer to pay, on behalf of the Indemnified Parties, all amounts payable as a result of such events in accordance with the terms of such insurance policies. Each of PG&E and PacGen shall reasonably cooperate in such process, including making available witnesses, pertinent records, materials and information in its possession or under its control relating thereto

(or in the possession or control of any of its Representatives) as is reasonably requested by the other Party or its counsel. PG&E may pursue any of the foregoing actions on behalf of PacGen as its agent.

4.5. Acknowledgement. PG&E and PacGen acknowledge that their intent in entering into this Agreement is to set forth procedures pursuant to which PG&E will provide indemnification to PacGen for the Indemnifiable Losses. PG&E and PacGen agree to cooperate in good faith to amend this Agreement, or enter into alternative agreements or arrangements, as may be reasonably necessary to carry out the intent of this Agreement, including in connection with any change in applicable Law during the Term.

4.6. Confidentiality.

(a) Each Party (and its officers, employees, counsel, representatives and agents) will, using the same degree of care as that Party takes to preserve and safeguard its own Confidential Information, maintain in confidence and not disclose to third persons any Confidential Information of the other Party. PG&E shall be entitled to use the Confidential Information of the other Party in the course of performance of its obligations hereunder.

(b) Either Party may provide Confidential Information to any Governmental Authority with jurisdiction as necessary to comply with applicable Law, or (b) the CPUC as may be necessary or desirable in furtherance of either party's interests in a proceeding before the CPUC. If available and customary, the disclosing Party will seek confidential treatment for the Confidential Information provided to any Governmental Authority and the disclosing Party will notify the other Party as far in advance as is reasonably practicable of its intention to release to any Governmental Authority any Confidential Information.

**ARTICLE V  
MISCELLANEOUS**

5.1. Notices. All notices, requests, consents and other communications under this Agreement must be in writing and shall be deemed to have been duly given and effective (a) immediately (or, if not delivered before 5:00 p.m. San Francisco, California time on a Business Day, the next Business Day) if delivered by electronic mail (with confirmation of transmission) and if a hard copy is delivered by overnight delivery service the next Business Day, (b) on the date of delivery if by hand delivery (with confirmation of receipt) (or, if not delivered on a Business Day, the next Business Day) or (c) on the first Business Day following the date of dispatch (or, if not sent on a Business Day, the next Business Day after the date of dispatch) if sent by overnight service with a nationally recognized overnight delivery service (all fees prepaid). All notices shall be delivered to the following addresses, or such other addresses as may hereafter be designated in writing by a party to the other party:

Notices to PG&E:

Pacific Gas and Electric Company  
300 Lakeside Drive  
Oakland, CA 94612

Attention: [●]  
Email: [●]

Notices to PacGen:

Pacific Generation LLC  
300 Lakeside Drive, 25<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: [*President of the Company*]  
E-mail: [●]

5.2. Assignment; Amendments. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned (including by operation of law) to another party. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective. This Agreement and all of the provisions hereof are binding upon and inure to the benefit of the parties hereto, and are not binding upon and do not inure to the benefit of any successors or assigns of the parties.

5.3. Severability; Interpretation. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, each of PacGen and PG&E confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party. The captions used in this Agreement and hereto are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

5.4. Complete Agreement. This Agreement contains the complete agreement between the Parties and supersedes any prior understandings, agreements, representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.

5.5. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA (WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF) AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

5.6. Dispute Resolution. The provisions of Section 12.6 “Dispute Resolution” (other than clause (c) thereof and references to Independent Engineer) and Section 12.13 “Consent to

Jurisdiction” of the Operations and Services Agreement shall apply to this Agreement and claims arising out of or relating to this Agreement, *mutatis mutandis*.

5.7. No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person that is not a party hereto any rights or remedies under or by reason of this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor give any third Persons any right of subrogation or action against any Party

5.8. No Waiver. It is understood and agreed that no delay, waiver or omission by either Party to exercise any right or power arising from any breach or default by either Party with respect to any of the terms, provisions or covenants of this Agreement will be construed to be a waiver by either Party of any subsequent breach or default of the same or other terms, provisions or covenants on the part of either Party.

5.9. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative and the exercise of one or more right or remedies shall not preclude the exercise of any other right or remedy available under this Agreement or applicable Law.

5.10. Survival. Notwithstanding any provisions herein to the contrary, the obligations set forth in Article III “Indemnification” and the provisions of Article V “Confidentiality” will survive in full force the termination of this Agreement or the expiration of the Term.

5.11. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

\* \* \* \* \*

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first above written.

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

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GENERATION LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:



**PACIFIC GAS AND ELECTRIC COMPANY**  
**CHAPTER 4**  
**ATTACHMENT G**  
**FUEL PROCUREMENT AGREEMENT**

**ATTACHMENT G**

**Draft as of March 17, 2023**

**FUEL PROCUREMENT AGREEMENT**

**by and between**

**PACIFIC GAS AND ELECTRIC COMPANY**

**and**

**PACIFIC GENERATION LLC**

**[DATE]**

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## **FUEL PROCUREMENT AGREEMENT**

THIS FUEL PROCUREMENT AGREEMENT (this “Agreement”) is made and entered into as of [●], by and between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (“PG&E”), and PACIFIC GENERATION LLC, a Delaware limited liability company (“PacGen”). Unless otherwise defined herein, capitalized terms used herein are defined in Section 1.1.

WHEREAS, concurrently herewith, at the closing of the transactions contemplated by that certain Separation Agreement between PacGen and PG&E dated as of [●] (the “Separation Agreement”), among other things, PG&E is contributing to PacGen, and PacGen is accepting, all of PG&E’s right, title and interest in and to the Generation Assets, and PG&E is assigning and PacGen is assuming certain of PG&E’s obligations and liabilities related to such Generation Assets, all in accordance with the terms and conditions set forth in the Separation Agreement and the agreements contemplated thereby;

WHEREAS, in connection with such contribution and assignment and as part of the separation of the Generation Business from PG&E and the establishment of PacGen as a separate entity and regulated utility, PG&E agrees to provide services to PacGen as provided in the Operations and Services Agreement and in this agreement, among others; and

WHEREAS, PacGen and PG&E desire to enter into this Agreement, which is an Intercompany Service Agreement under the Operations and Services Agreement, to set forth the terms and conditions upon which PG&E shall provide the services described herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I DEFINITIONS**

1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below.

“Agreement” has the meaning set forth in the preamble.

“Authorized Representative” has the meaning set forth in Section 2.1.

“Business Day” means a day other than Saturday, Sunday or a day on which: (a) banks are required or permitted to be closed for business in the State of California, or (b) PG&E’s headquarters office is closed for business.

“Commencement Date” means [●].

“CPUC” means the California Public Utilities Commission, or its successor entity.

“ERRS” means PacGen’s enterprise records retention schedule, as the same may be amended from time to time.

“FERC’s Standards of Conduct” means 18 C.F.R. Part 358, as amended from time to time

“Force Majeure” means any occurrence beyond the reasonable control of the Party claiming Force Majeure that causes, in whole or in part, the Party to be delayed in performing or unable to perform its obligations. Such an occurrence may include fires, floods, severe weather, earthquakes or other acts of God, explosion, civil disorder, strike, lockout or other labor trouble, material shortages of utilities, facilities, labor, fuel, materials or equipment, delay in transportation, breakdown or accident, riot, war, epidemic or pandemic (including the COVID-19 pandemic), any Law or any actions or inactions by any Governmental Authority.

“Gas” means natural gas, which will be any mixture of hydrocarbons or of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.

“Gas Delivery Point” is the downstream flange of a Gas Meter Set.

“Gas Meter Set” means a Gas meter, service regulator, overpressure protection devices and all associated piping and fittings.

“Generation Assets” has the meaning set forth in the Separation Agreement.

“Generation Business” means PacGen’s business of the generation or emission of electricity from owned assets regulated by the CPUC on the basis of cost, including hydroelectric, natural gas-fired and solar generation facilities and the storage of electricity in battery and other energy storage systems, as conducted by PG&E immediately prior to the Commencement Date, and as conducted or permitted to be conducted by PacGen from and after the Commencement Date.

“Generation Facilities” means the electric generation facilities and energy storage systems owned by PacGen from time to time. The Generation Facilities as of the Commencement Date are set forth on Appendix I, which will be updated from time to time by PacGen, and such updated schedule will be provided by PacGen to PG&E.

“Generation Facilities’ Monthly Physical Gas” has the meaning set forth in Section 4.1(a).

“Generation Facilities’ Monthly Transportation and Storage Gas” has the meaning set forth in Section 4.1(b).

“Governmental Authority” means any Federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority.

“Intercompany Service Agreements” means, collectively, all of the contracts and agreements between PG&E and PacGen, whether now existing or entered into following the Commencement Date, providing for the provision of services by PG&E in its capacity as a contractor (and not in any other capacity, including as the operator of the PG&E System or as the

transferor of the Generation Assets and assignor of the Generation Assets, as counterparty to the Separation Agreement, or as an equity holder of PacGen). As of the Commencement Date, the Intercompany Service Agreements consist of the following agreements by and between PG&E and PacGen dated as of the Commencement Date: this Agreement, the Billing Services Agreement, the Generation Facility Operations, Scheduling and Dispatch Agreement and the Operations and Services Agreement. For the avoidance of doubt, the following agreements are being entered into between the Parties as of the Commencement Date, which are not Intercompany Service Agreements: a Forecast Realization Adjustment Agreement, a Wildfire Indemnification Agreement, a Legal and Regulatory Matters Agreement, a Benefits Agreement and Interconnection Agreements relating to Generation Facilities.

“Late Payment Rate” means PG&E’s authorized cost of long-term debt as approved by the CPUC in the most recent cost of capital proceeding.

“Law” means any statute, law, treaty, rule, regulation, applicable regulatory guidance document, ordinance, code, permit, license condition, agency agreement, 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 Commencement Date, or which become effective after the Commencement Date, or any binding interpretation of the foregoing.

“LDC” means local distribution company, a distributor of Gas for consumption.

“MMBtu” shall mean one million British thermal units, which is equivalent to one dekatherm.

“Monthly Payment Date” has the meaning set forth in Section 5.1(c).

“Natural Gas Supply” means all Gas purchased by PG&E’s Electric Gas Supply department for any electric generation facilities.

“Operations and Services Agreement” means that certain Operations and Services Agreement, dated as of the Commencement Date, by and between PacGen and PG&E.

“PacGen” has the meaning set forth in the preamble.

“PacGen Gas Cost” has the meaning set forth in Section 4.1(c).

“PacGen Total Monthly Physical Gas Cost” has the meaning set forth in Section 4.1(a).

“PacGen Total Monthly Transportation and Storage Gas Cost” has the meaning set forth in Section 4.1(b).

“Party” means PG&E or PacGen individually, as the context requires; and “Parties” means both collectively.

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization or any Governmental Authority.

“PG&E” has the meaning set forth in the preamble.

“PG&E System” means the electric transmission and distribution system and associated facilities and equipment owned by PG&E.

“Separation Agreement” has the meaning set forth in the recitals.

“Services Term” means the period commencing on the Commencement Date and ending (i) with respect to services contemplated by this Agreement provided or to be provided with respect to a Generation Facility, on the date of the divestiture, sale, transfer, disposition or decommissioning of such Generation Facility, and (ii) with respect to the provision of services contemplated by this Agreement generally to PacGen pursuant to this Agreement and the other Intercompany Services Agreements, on the date of the divestiture, sale, transfer, disposition or decommissioning of the last Generation Facility.

“Total Monthly Physical Gas” has the meaning set forth in Section 4.1(a).

“Total Monthly Physical Gas Cost” has the meaning set forth in Section 4.1(a).

“Total Monthly Transportation and Storage Gas” has the meaning set forth in Section 4.1(b).

“Total Monthly Transportation and Storage Gas Cost” has the meaning set forth in Section 4.1(b).

“Unit” means each of the generating units comprising each of the Generation Facilities, together with such generating unit’s related structures and support equipment.

1.2. Interpretation. If there exists a conflict, variation or inconsistency between the Appendices of this Agreement and the terms and conditions of this Agreement, the latter will control and be given priority. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (c) reference to any gender includes all genders;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; *provided, however*, that if the approval of a Party is required for any such amendment or modification pursuant to this Agreement, any other Intercompany Service Agreement, or any other agreement or contract between PacGen, on the one hand, and PG&E or PG&E Corporation on the other hand, references to the applicable document, instrument or agreement means only such document, instrument or agreement that has received such Party’s approval;



(e) reference to any Article, Section, or Appendix means such Article, Section, or Appendix to this Agreement, and references in any Article, Section, Appendix or definition to any clause means such clause of such Article, Section, Appendix or definition. Appendices attached hereto are deemed incorporated by reference herein;

(f) “hereunder”, “hereof”, “hereto” and words of similar import are references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;

(g) “including” (and with correlative meaning “include”) means “including without limitation”;

(h) the word “or” shall be used in the inclusive sense of “and/or” and not exclusive;

(i) reference to a 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 time and ending at 12:00:00 midnight Pacific time; provided that a day may be 23 or 25 hours on those days on which daylight savings begins and ends;

(j) when an action is required to be completed on a Business Day, such action must be completed prior to 5:00 p.m. Pacific time on such day, and actions occurring after 5:00 p.m. will be deemed to have occurred on the following Business Day;

(k) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”;

(l) reference to any Law (including statutes and ordinances) means such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder;

(m) reference to “\$” and dollars shall be deemed to refer to United States currency; and

(n) reference to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable.

## **ARTICLE II GOVERNING TERMS**

2.1. 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 Gas or make or receive other notices on behalf of such Party (“Authorized Representative”) and in connection with such notices shall specify the scope of their individual authority and responsibilities. Either Party may change its designation of such persons and the scope of their individual authorities and responsibilities from time to time in its sole discretion by providing notice to the other Party.

2.2. Separation of Functions. PG&E is required to maintain the separation of its transmission and merchant functions pursuant to FERC's Standards of Conduct. The Parties acknowledge that this Agreement is between PacGen and PG&E in PG&E's capacity as a supplier of scheduling, dispatch, and other marketing and management services relating to fuel procurement, as distinct from the function of PG&E as a transmission owner or LDC. Accordingly, the Parties further acknowledge that they have no rights against each other or obligations to each other under this Agreement with respect to any relationship between the Parties in which PG&E is acting in its capacity as owner or provider of electrical interconnection or transmission service or as an LDC.

### **ARTICLE III GAS SUPPLY**

3.1. Gas Supply. During the Services Term, PG&E will procure, supply, nominate, balance, transport, store, and deliver or otherwise make available Gas at each applicable Gas Delivery Point on behalf of PacGen.

3.2. Gas Transportation and Distribution Agreements. PacGen shall enter into such agreements as necessary and appropriate for interconnection and service by an LDC to the Units. PacGen shall assign to PG&E (or, as applicable, appoint PG&E as PacGen's balancing agent or take such other measures as needed to transfer to PG&E the authority to exercise) all of PacGen's rights under agreements with PacGen's LDCs or other gas transportation providers with respect to nominating, scheduling, balancing, park and loan services or such other arrangements for the management of gas supply and delivery; and PG&E shall assume such rights or accept such appointment, as applicable. PG&E shall be responsible for procuring, contracting for and otherwise arranging for gas transportation and storage services for all Gas to be delivered to PacGen's LDCs during the Services Term. During the Services Term, PacGen shall provide PG&E access to data, records and bills associated with Gas LDC services for the Generation Facilities.

3.3. Records and Audit.

(a) PG&E shall maintain accurate and complete records relating to the Total Monthly Physical Gas, the Generation Facilities' Monthly Physical Gas, the Total Monthly Physical Gas Cost, the Total Monthly Transportation and Storage Gas, the Generation Facilities' Monthly Transportation and Storage Gas, the Total Monthly Transportation and Storage Gas Cost, and as necessary to verify amounts due and payable by PacGen pursuant to this Agreement. All records shall be in a format sufficient to permit the verification referred to in the preceding sentence.

(b) Throughout the Services Term and for a period following the end of the Services Term equal to the period for which PG&E is required to retain documents pursuant to ERRS or as required by applicable Law, PacGen or its representative shall have the right, upon reasonable prior notice and during normal business hours, to reasonably access such records.

(c) PG&E shall maintain all records for the period defined in ERRS following the creation thereof or as required by applicable Law. In the event of a termination of this Agreement, PG&E will deliver all records, or copies thereof, to PacGen.

#### **ARTICLE IV COSTS**

4.1. PacGen Gas Cost. Beginning on the first day of Services Term, and for each subsequent month thereafter starting with the first day of the next calendar month:

(a) PG&E shall track the total amount of Natural Gas Supply in MMBtu physically procured (the “Total Monthly Physical Gas”), the amount of the Total Monthly Physical Gas in MMBtu used by the Generation Facilities (the “Generation Facilities’ Monthly Physical Gas”), and the aggregate cost in dollars of the Total Monthly Physical Gas (the “Total Monthly Physical Gas Cost”). PacGen shall be responsible for a portion of the Total Monthly Physical Gas Cost (the “PacGen Total Monthly Physical Gas Cost”) equal to the product of (a) Total Monthly Physical Gas Cost *multiplied by* (b) a percentage equal to (i) the Generation Facilities’ Monthly Physical Gas *divided by* (ii) the Total Monthly Physical Gas.

(b) PG&E shall track the total amount of Natural Gas Supply in MMBtu transported and stored (the “Total Monthly Transportation and Storage Gas”), the amount of the Total Monthly Transportation and Storage Gas in MMBtu used by the Generation Facilities (the “Generation Facilities’ Monthly Transportation and Storage Gas”), and the aggregate cost in dollars of the Total Monthly Transportation and Storage Gas (the “Total Monthly Transportation and Storage Gas Cost”). PacGen shall be responsible for a portion of the Total Monthly Transportation and Storage Gas Cost (the “PacGen Total Monthly Transportation and Storage Gas Cost”) equal to the product of (a) Total Monthly Transportation and Storage Gas Cost *multiplied by* (b) a percentage equal to (i) the Generation Facilities’ Monthly Transportation and Storage Gas *divided by* (ii) the Total Monthly Transportation and Storage Gas.

(c) PacGen shall be responsible for an amount equal to the sum of (1) the PacGen Total Monthly Physical Gas Cost *plus* (2) the PacGen Total Monthly Transportation and Storage Gas Cost (collectively, the “PacGen Gas Cost”) in accordance with Article V. For the avoidance of doubt, any LDC tariff charges related to the Generation Facilities will be handled pursuant to and in accordance with the Operations and Services Agreement.

4.2. Collateral Cost. If PG&E provides collateral to the Gas providers to secure payment for the Gas that PG&E procures, including the Gas PG&E procures on behalf of PacGen, then PG&E may require PacGen to be responsible for a portion of the cost of such collateral equal to PacGen’s proportionate share of the Gas purchases secured by such collateral.

4.3. Compensation for Services. The Parties acknowledge and agree that the PacGen Gas Cost shall not include the costs of labor and associated services and materials incurred by PG&E in its provision and administration of the services as contemplated by this Agreement, which costs shall be charged in accordance with the Operations and Services Agreement and the applicable pipeline or other tariff-related agreement.

## **ARTICLE V PAYMENT**

### 5.1. Payment Terms.

(a) PG&E will invoice PacGen on or before the fifteenth (15<sup>th</sup>) calendar day following each calendar month of the Services Term, in a format acceptable to PacGen, in arrears, for all amounts due between the Parties under this Agreement.

(b) If each Party is required to pay the other an amount in the same month pursuant to this Agreement, then the Party owing the greater aggregate amount will pay to the other Party the difference between the amounts owed. PG&E is expressly authorized to set off from any of its payments hereunder an amount owed by PacGen to PG&E in accordance with this Agreement.

(c) Payment of all undisputed amounts owed shall be due by the later of the twenty-fifth (25<sup>th</sup>) day of the month or ten (10) calendar days after receipt of invoice (the “Monthly Payment Date”). If the Monthly Payment Date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. PG&E may charge interest (at the Late Payment Rate) on any undisputed amounts owed to PG&E hereunder that remain unpaid for 60 days beyond the Monthly Payment Date. If PacGen disputes the amount and/or propriety of any invoice, PacGen may dispute such invoice under Section 6.6.

5.2. Collateral. In the event that PG&E determines, in its sole discretion consistent with PG&E internal policies and risk management standards, that collateral is needed to secure PacGen’s payment obligations hereunder or otherwise in connection with PG&E’s provision of fuel procurement services hereunder, then PG&E may require PacGen, upon reasonable prior notice, to provide and maintain a letter of credit, cash or other reasonably acceptable collateral, including in the form of prepayments of the estimated Gas cost (which would be subject to a mutually agreeable periodic true-up mechanism), with PG&E or with the Gas provider, as the case may be.

## **ARTICLE VI MISCELLANEOUS**

6.1. Notices. All notices, requests, consents and other communications under this Agreement must be in writing and shall be deemed to have been duly given and effective (a) immediately (or, if not delivered before 5:00 p.m. San Francisco, California time on a Business Day, the next Business Day) if delivered by electronic mail (with confirmation of transmission) and if a hard copy is delivered by overnight delivery service the next Business Day, (b) on the date of delivery if by hand delivery (with confirmation of receipt) (or, if not delivered on a Business Day, the next Business Day) or (c) on the first Business Day following the date of dispatch (or, if not sent on a Business Day, the next Business Day after the date of dispatch) if sent by overnight service with a nationally recognized overnight delivery service (all fees prepaid). All notices shall

be delivered to the following addresses, or such other addresses as may hereafter be designated in writing by a party to the other party:

Notices to PG&E:

Pacific Gas and Electric Company  
300 Lakeside Drive  
Oakland, CA 94612  
Attention: [●]  
Email: [●]

Notices to PacGen:

Pacific Generation LLC  
300 Lakeside Drive, 25<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: [*President of the Company*]  
E-mail: [●]

6.2. Successors and Assigns; Amendments. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective.

6.3. Severability; Interpretation. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, each of PacGen and PG&E confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Person. The captions used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

6.4. Complete Agreement. This Agreement and the other Intercompany Service Agreements contain the complete agreement between the Parties and supersede any prior understandings, agreements, representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.

6.5. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA

(WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF) AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

6.6. Dispute Resolution. The provisions of Section 12.6 “Dispute Resolution” (other than clause (c) thereof and references to Independent Engineer) and Section 12.13 “Consent to Jurisdiction” of the Operations and Services Agreement shall apply to this Agreement and claims arising out of or relating to this Agreement, *mutatis mutandis*.

6.7. No Third Party Beneficiaries; Independent Parties.

(a) No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person that is not a party hereto any rights or remedies under or by reason of this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor give any third Persons any right of subrogation or action against any Party.

(b) Independent Parties. The relationship of the Parties is that of independent parties and not as agents of each other (except as expressly provided herein or in another Intercompany Service Agreement) or as joint venturers or partners. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership, or impose a trust or partnership duty, obligation or liability on or with regard to any of the Parties. Each Party shall be individually responsible for its own duties and obligations under this Agreement, and shall maintain sole and exclusive control over its respective personnel and operations. Neither Party shall be under the control of or shall be deemed to control the other Party. Except as expressly provided in this Agreement or another Intercompany Service Agreement, neither Party shall have a right or power to bind the other Party without its express written consent.

6.8. No Waiver. It is understood and agreed that no delay, waiver or omission by either Party to exercise any right or power arising from any breach or default by either Party with respect to any of the terms, provisions or covenants of this Agreement will be construed to be a waiver by either Party of any subsequent breach or default of the same or other terms, provisions or covenants on the part of either Party.

6.9. Cumulative Remedies. All rights and remedies of the Parties under this Agreement and the other Intercompany Service Agreements shall be cumulative and the exercise of one or more right or remedies shall not preclude the exercise of any other right or remedy available under this Agreement, the other Intercompany Service Agreements or applicable Law.

6.10. [Reserved].

6.11. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for

purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

\* \* \* \* \*



**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first above written

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

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GENERATION LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:

## Appendix I

### Generation Facilities

| <b>Facility Type / Area</b>             | <b>Project Name</b>             |
|---|---------------------------------|
| Hydroelectric / Shasta Area             | Hat Creek                       |
|   | Pit #1                          |
|   | Pit #3, #4, #5                  |
|   | McCloud Pit                     |
|   | Battle Creek                    |
|   | Kilarc-Cow Creek                |
| Hydroelectric / DeSabra Area            | DeSabra-Centerville             |
|   | Miocene                         |
|   | Hamilton Branch                 |
|   | Upper North Fork Feather River  |
|   | Rock Creek-Cresta               |
|   | Bucks Creek                     |
|   | Poe                             |
|   | Potter Valley                   |
| Hydroelectric/Drum Area                 | Drum Spaulding                  |
| Hydroelectric / Motherlode Area         | Mokelumne River                 |
|   | Spring Gap-Stanislaus           |
|   | Phoenix                         |
| Hydroelectric / Kings-Crane Valley Area | Crane Valley                    |
|   | Kerckhoff                       |
|   | Haas-King                       |
|   | Balch                           |
| Hydroelectric / Helms Area              | Helms                           |
| Natural Gas                             | Colusa Generating Station       |
|   | Gateway Generating Station      |
|   | Humboldt Bay Generating Station |
| PV Solar                                | Vaca Dixon Solar Station        |
|   | Five Points Solar Station       |
|   | Stroud Solar Station            |
|   | Westside Solar Station          |
|   | Huron Solar Station             |
|   | Cantua Solar Station            |
|   | Giffen Solar Station            |
|   | Gates Solar Station             |
|   | West Gate Solar Station         |
|   | Guernsey Solar Station          |
| AT&T Park Solar Arrays                  |                                 |
| Battery                                 | Elkhorn Battery Storage         |

**PACIFIC GAS AND ELECTRIC COMPANY**

**CHAPTER 4**

**ATTACHMENT H**

**BENEFITS AGREEMENT**

**ATTACHMENT H**

**Draft as of March 17, 2023**

**BENEFITS AGREEMENT**

**by and among**

**PACIFIC GAS AND ELECTRIC COMPANY,**

**PG&E CORPORATION**

**and**

**PACIFIC GENERATION LLC**

**[DATE]**

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## **BENEFITS AGREEMENT**

THIS BENEFITS AGREEMENT (this “Agreement”) is made and entered into as of [●], by and among PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (“PG&E”), PG&E Corporation, a California corporation (“PG&E Corporation”) and PACIFIC GENERATION LLC, a Delaware limited liability company (“PacGen”). Unless otherwise defined herein, capitalized terms used herein are defined in Section 1.1.

WHEREAS, concurrently herewith, at the closing of the transactions contemplated by that certain Separation Agreement between PacGen and PG&E dated as of [●] (the “Separation Agreement”), among other things, PG&E is contributing to PacGen, and PacGen is accepting, all of PG&E’s right, title and interest in and to the Generation Assets, and PG&E is assigning and PacGen is assuming certain of PG&E’s obligations and liabilities related to such Generation Assets, all in accordance with the terms and conditions set forth in the Separation Agreement and the agreements contemplated thereby;

WHEREAS, in connection with such contribution and assignment and as part of the separation of the Generation Business from PG&E and the establishment of PacGen as a separate entity and regulated utility, PG&E agrees to provide services to PacGen as provided in the OSA, among others;

WHEREAS, PG&E will provide such services to PacGen using PG&E’s employees and contractors, but PacGen will directly employ some employees (the “PacGen Employees”), the number of which is not anticipated to be significant;

WHEREAS, the Parties desire that certain employee benefits (as described herein) that PG&E and PG&E Corporation extend to some or all of their employees be available for PacGen to offer to PacGen Employees pursuant to the terms of the applicable employee benefit plans; and

WHEREAS, PacGen, PG&E and PG&E Corporation desire to enter into this Agreement to set forth the terms and conditions upon which PG&E and PG&E Corporation shall provide PacGen Employees with such employee benefits.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I DEFINITIONS**

1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below.

“Agreement” has the meaning set forth in the preamble.

“Benefits Costs” means the incremental cost of providing the PacGen Employees benefits under the PG&E Plans.

“Business Day” means a day other than Saturday, Sunday or a day on which: (a) banks are required or permitted to be closed for business in the State of California, or (b) PG&E’s headquarters office is closed for business.

“CBAs” means, collectively, those collective bargaining agreements between PG&E and the unions representing any of PG&E’s employees that provide or will provide services under the OSA. A list of such CBAs will be provided by PG&E to PacGen from time to time at PacGen’s request.

“Commencement Date” means [●].

“CPUC” means the California Public Utilities Commission, or its successor entity.

“Generation Assets” has the meaning set forth in the Separation Agreement.

“Generation Business” means PacGen’s business of the generation or emission of electricity from owned assets regulated by the CPUC on the basis of cost, including hydroelectric, natural gas-fired and solar generation facilities and the storage of electricity in battery and other energy storage systems, as conducted by PG&E immediately prior to the Commencement Date, and as conducted or permitted to be conducted by PacGen from and after the Commencement Date.

“Generation Facilities” means the electric generation facilities and energy storage systems owned by PacGen from time to time. The Generation Facilities as of the Commencement Date are set forth on Schedule [D] attached to the OSA, which will be updated from time to time by PacGen, and such updated schedule will be provided by PacGen to PG&E.

“Governmental Authority” means any Federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority.

“Intercompany Service Agreements” means, collectively, all of the contracts and agreements between PG&E and PacGen, whether now existing or entered into following the Commencement Date, providing for the provision of services by PG&E in its capacity as a contractor (and not in any other capacity, including as the operator of the PG&E System or as the transferor of the Generation Assets and assignor of the Generation Assets, as counterparty to the Separation Agreement, or as an equity holder of PacGen). As of the Commencement Date, the Intercompany Service Agreements consist of the following agreements by and between PG&E and PacGen dated as of the Commencement Date: the OSA, the Billing Services Agreement, the Generation Facility Operations, Scheduling and Dispatch Agreement and the Fuel Procurement Agreement. For the avoidance of doubt, the following agreements are being entered into between the Parties as of the Commencement Date, which are not Intercompany Service Agreements: a Forecast Realization Adjustment Agreement, a Wildfire Indemnification Agreement, a Legal and Regulatory Matters Agreement, a Benefits Agreement and Interconnection Agreements relating to Generation Facilities.

“Late Payment Rate” means PG&E’s authorized cost of long-term debt as approved by the CPUC in the most recent cost of capital proceeding.



“Law” means any statute, law, treaty, rule, regulation, applicable regulatory guidance document, ordinance, code, permit, license condition, agency agreement, 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 Commencement Date, or which become effective after the Commencement Date, or any binding interpretation of the foregoing.

“OSA” means that certain Operations and Services Agreement, dated [●], by and between PG&E and PacGen.

“PacGen” has the meaning set forth in the preamble.

“PacGen Employees” has the meaning set forth in the recitals.

“Party” means PG&E Corporation, PacGen or PG&E individually, as the context requires; and “Parties” means PG&E Corporation, PacGen and PG&E collectively.

“Payment Date” has the meaning set forth in Section 2.2(b).

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization or any Governmental Authority.

“PG&E” has the meaning set forth in the preamble.

“PG&E Corporation” has the meaning set forth in the preamble.

“PG&E Plans” means the employee benefit plans that PG&E or PG&E Corporation offers to its own employees, or any of them, from time to time including:

- (i) Short-term incentive plan;
- (ii) Long-term incentive plan;
- (iii) retirement and supplemental retirement plans or programs;
- (iv) medical, dental, vision and other healthcare coverage;
- (v) relocation assistance;
- (vi) stipends;
- (vii) pensions; and
- (viii) life and disability insurance benefits;

in all cases other than benefits provided directly to any one employee or pursuant to an employment agreement between PG&E or PG&E Corporation with any of their employees. In no event will “PG&E Plans” include any salary, deferred compensation, severance, accrued leave, vacation, sick pay, sick leave, or unemployment benefits.

“PG&E System” means the electric transmission and distribution system and associated facilities and equipment owned by PG&E.

“Separation Agreement” has the meaning set forth in the recitals.

“Term” means the period commencing on the Commencement Date and ending on the date of the divestiture, sale, transfer, disposition or decommissioning of the last Generation Facility.

1.2. Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (c) reference to any gender includes all genders;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; *provided, however*, that if the approval of a Party is required for any such amendment or modification pursuant to this Agreement, any Intercompany Service Agreement, or any other agreement or contract between PacGen, on the one hand, and PG&E or PG&E Corporation on the other hand, references to the applicable document, instrument or agreement means only such document, instrument or agreement that has received such Party’s approval;
- (e) reference to any Article or Section means such Article or Section of this Agreement, and references in any Article, Section or definition to any clause means such clause of such Article, Section or definition;
- (f) “hereunder”, “hereof”, “hereto” and words of similar import are references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;
- (g) “including” (and with correlative meaning “include”) means “including without limitation”;
- (h) the word “or” shall be used in the inclusive sense of “and/or” and not exclusive;
- (i) when an action is required to be completed on a Business Day, such action must be completed prior to 5:00 p.m. Pacific time on such day, and actions occurring after 5:00 p.m. will be deemed to have occurred on the following Business Day;
- (j) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”;

(k) reference to any Law (including statutes and ordinances) means such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder;

(l) reference to “\$” and dollars shall be deemed to refer to United States currency; and

(m) reference to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable.

## **ARTICLE II EMPLOYEE BENEFITS; PAYMENT**

### 2.1. Employee Benefit Plans.

(a) From time to time and upon the request of PacGen, PG&E and PG&E Corporation, as applicable, will provide to PacGen a list of the PG&E Plans and, to the extent then known, whether the terms of each such PG&E Plan permits a PacGen Employee to participate therein. PG&E and PG&E Corporation hereby agree that, to the extent consistent with applicable Law and the terms of the applicable PG&E Plan, and subject to the CBAs, to permit PacGen Employees to participate in, or to be covered under, any such PG&E Plan at the request of PacGen.

(b) The Parties will cooperate to determine the process by which to include PacGen Employees in each PG&E Plan and PacGen agrees to comply, and to cause the PacGen Employees to comply, with applicable enrollment terms, conditions and schedules.

(c) PG&E and PG&E Corporation agree to use reasonable efforts to provide relevant benefit notices to PacGen Employee reasonably concurrently with delivery of such notices to other PG&E Plan participants.

(d) Each of PG&E and PG&E Corporation reserves the right to amend or terminate any of its PG&E Plan at any time in its sole discretion, subject to the terms of such PG&E Plan, applicable Law and the CBAs.

(e) Notwithstanding anything to the contrary herein, the Parties do not intend to, nor shall anything contained in this Agreement, establish PG&E or PG&E Corporation as an employer (or co- or joint employer) of the PacGen Employees. PacGen shall in all events exercise complete control over the terms and conditions of each PacGen Employee’s employment, including job titles and descriptions, duties and compensation of each PacGen Employee, all of which will be determined in the sole discretion of PacGen.

### 2.2. Payment Terms.

(a) Within ninety (90) days after the last day of each calendar year, PG&E will charge PacGen the Benefits Costs for the prior calendar year and shall deliver to PacGen a statement of such charges.

(b) Payment of all undisputed Benefits Costs owed shall be due by the later of the one-hundred and fifteenth (115<sup>th</sup>) after the last day of each calendar year or ten (10) calendar days after PacGen's receipt of the statement of charges ("Payment Date"). If the Payment Date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day.

(c) PG&E may charge interest (at the Late Payment Rate) on any undisputed amounts owed to PG&E hereunder that remain unpaid for 60 days beyond the Payment Date. If PacGen disputes the amount and/or propriety of any statement of charges, PacGen may dispute such statement pursuant to the terms of Section 4.6.

(d) The Parties acknowledge and agree that the Benefit Costs shall not include the costs of labor and associated services and materials incurred in the provision and administration of the benefits under the PG&E Plans to the PacGen Employees, which costs shall be charged pursuant to the OSA.

### **ARTICLE III END OF TERM**

3.1. Transition. At the end of the Term, the Parties will reasonably cooperate to transition each PacGen Employee from coverage under the PG&E Plans and PG&E will have no further obligation or liability to PacGen or any PacGen Employee for the provision of employee benefits.

### **ARTICLE IV MISCELLANEOUS**

4.1. Notices. All notices, requests, consents and other communications under this Agreement must be in writing and shall be deemed to have been duly given and effective (a) immediately (or, if not delivered before 5:00 p.m. San Francisco, California time on a Business Day, the next Business Day) if delivered by electronic mail (with confirmation of transmission) and if a hard copy is delivered by overnight delivery service the next Business Day, (b) on the date of delivery if by hand delivery (with confirmation of receipt) (or, if not delivered on a Business Day, the next Business Day) or (c) on the first Business Day following the date of dispatch (or, if not sent on a Business Day, the next Business Day after the date of dispatch) if sent by overnight service with a nationally recognized overnight delivery service (all fees prepaid). All notices shall be delivered to the following addresses, or such other addresses as may hereafter be designated in writing by a party to the other party:

Notices to PG&E:

Pacific Gas and Electric Company  
300 Lakeside Drive  
Oakland, CA 94612  
Attention: [●]  
Email: [●]

Notices to PacGen:

Pacific Generation LLC  
300 Lakeside Drive, 25<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: [*President of the Company*]  
E-mail: [●]

4.2. Successors and Assigns; Amendments. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective.

4.3. Severability; Interpretation. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, each of PacGen and PG&E confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Person. The captions used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

4.4. Complete Agreement. This Agreement and the Intercompany Service Agreements contain the complete agreement between the Parties and supersede any prior understandings, agreements, representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.

4.5. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA (WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF) AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

4.6. Dispute Resolution. The provisions of Section 12.6 “Dispute Resolution” (other than clause (c) thereof and references to Independent Engineer) and Section 12.13 “Consent to Jurisdiction” of the OSA shall apply to this Agreement and claims arising out of or relating to this Agreement, *mutatis mutandis*.

4.7. No Third Party Beneficiaries; Independent Parties.

(a) No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person that is not a party hereto any rights or remedies under or by reason of this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor give any third Persons any right of subrogation or action against any Party.

(b) Independent Parties. The relationship of the Parties is that of independent parties and not as agents of each other (except as expressly provided herein or in another agreement between the Parties) or as joint venturers or partners. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership, or impose a trust or partnership duty, obligation or liability on or with regard to any of the Parties. Each Party shall be individually responsible for its own duties and obligations under this Agreement, and shall maintain sole and exclusive control over its respective personnel and operations. Neither Party shall be under the control of or shall be deemed to control the other Party. Except as expressly provided in this Agreement or another agreement between the Parties, neither Party shall have a right or power to bind the other Party without its express written consent.

4.8. No Waiver. It is understood and agreed that no delay, waiver or omission by either Party to exercise any right or power arising from any breach or default by either Party with respect to any of the terms, provisions or covenants of this Agreement will be construed to be a waiver by either Party of any subsequent breach or default of the same or other terms, provisions or covenants on the part of either Party.

4.9. Cumulative Remedies. All rights and remedies of the Parties under this Agreement and the Intercompany Service Agreements shall be cumulative and the exercise of one or more right or remedies shall not preclude the exercise of any other right or remedy available under this Agreement, the other Intercompany Service Agreements or applicable Law.

4.10. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

\* \* \* \* \*

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first above written

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

By: \_\_\_\_\_  
Name:  
Title:

**PG&E CORPORATION,**  
a California corporation

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GENERATION LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:



**PACIFIC GAS AND ELECTRIC COMPANY**  
**CHAPTER 4**  
**ATTACHMENT I**  
**FORECAST REALIZATION ADJUSTMENT AGREEMENT**

**ATTACHMENT I**

**Draft as of March 17, 2023**

**FORECAST REALIZATION ADJUSTMENT AGREEMENT**

**by and between**

**PACIFIC GAS AND ELECTRIC COMPANY**

**and**

**PACIFIC GENERATION LLC**

**[DATE]**

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## **FORECAST REALIZATION ADJUSTMENT AGREEMENT**

THIS FORECAST REALIZATION ADJUSTMENT AGREEMENT (this “Agreement”) is made and entered into as of [●] by and between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (“PG&E”), and PACIFIC GENERATION LLC, a Delaware limited liability company (“PacGen”). Unless otherwise defined herein, capitalized terms used herein are defined in Section 1.1.

WHEREAS, concurrently herewith, at the closing of the transactions contemplated by that certain Separation Agreement between PacGen and PG&E dated as of [●] (the “Separation Agreement”), among other things, PG&E is contributing to PacGen, and PacGen is accepting, all of PG&E’s right, title and interest in and to the Generation Assets, and PG&E is assigning and PacGen is assuming certain of PG&E’s obligations and liabilities related to such Generation Assets, all in accordance with the terms and conditions set forth in the Separation Agreement and the agreements contemplated thereby; and

WHEREAS, in connection with such contribution and assignment, the Parties have determined to enter into this Agreement in order to help reduce short term cash flow fluctuations for PacGen and PG&E due to market forecast inaccuracies associated with PacGen’s CAISO market revenues and fuel costs, and to provide a monthly true-up mechanism when PacGen’s CAISO market revenues and fuel costs deviate from forecasted amounts.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I DEFINITIONS**

1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below.

“Agreement” has the meaning set forth in the preamble.

“Business Day” means a day other than Saturday, Sunday or a day on which: (a) banks are required or permitted to be closed for business in the State of California, or (b) PG&E’s headquarters office is closed for business.

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

“Commencement Date” means [●].<sup>1</sup>

“CPUC” means the California Public Utilities Commission, or its successor entity.

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<sup>1</sup> NTD: to be the “Closing Date” under the Separation Agreement, which is the date of the contribution of the Generation Assets.

“ERRA” means, with respect to either Party, such Party’s Energy Resource Recovery Account maintained pursuant to applicable CPUC regulations.

“ERRA Forecast” means, with respect to either Party, the forecast for the relevant year approved by the CPUC in the proceeding related to such Party’s Energy Resource Recovery Account Forecast application (or, for the initial period following the Commencement Date in the event the CPUC has not yet approved PacGen’s first Energy Resource Recovery Account Forecast application, the portion of the relevant PG&E ERRA Forecast that the CPUC approves for PacGen) and any subsequent changes thereto approved by the CPUC.

“Gas” means natural gas, which will be any mixture of hydrocarbons or of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.

“Generation Assets” has the meaning set forth in the Separation Agreement.

“Generation Facilities” has the meaning set forth in the Operations and Services Agreement.

“Governmental Authority” means any Federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority.

“Late Payment Rate” means PG&E’s authorized cost of long-term debt as approved by the CPUC in the most recent cost of capital proceeding.

“Law” means any statute, law, treaty, rule, regulation, applicable regulatory guidance document, ordinance, code, permit, license condition, agency agreement, 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 Commencement Date, or which become effective after the Commencement Date; or any binding interpretation of the foregoing.

“Monthly Actual Fuel Cost Amount” means, with respect to any calendar month, the aggregate amount of PacGen’s actual Gas costs for such month, as set forth on the report of PacGen’s fuel costs for such month prepared by PG&E on PacGen’s behalf.

“Monthly Fuel Cost Adjustment Amount” has the meaning set forth in Section 2.2.

“Monthly Fuel Cost Forecast Amount” means, with respect to any calendar month, the amount of forecasted aggregate Gas costs set forth in PacGen’s ERRA Forecast for such month.

“Monthly Payment Amount” has the meaning set forth in Section 2.3.

“Monthly Revenue Adjustment Amount” has the meaning set forth in Section 2.1.

“Monthly Revenue Forecast Amount” means, with respect to any calendar month, the amount of net CAISO market revenue set forth on PacGen’s ERRA Forecast for such month.

“Monthly Revenue Receivable Amount” means, with respect to any calendar month, the amount of net CAISO market revenue payable to PacGen for such month, as set forth on the report of PacGen’s net CAISO market revenue for such month prepared by PG&E on PacGen’s behalf.

“NSGBA” means, with respect to either Party, such Party’s New System Generation Balancing Account maintained pursuant to applicable CPUC regulations.

“Operations and Services Agreement” means that certain Operations and Services Agreement, dated as of the Commencement Date, by and between PG&E and PacGen.

“PABA” means, with respect to either Party, such Party’s Portfolio Allocation Balancing Account maintained pursuant to applicable CPUC regulations.

“PacGen” has the meaning set forth in the preamble.

“Party” means PG&E or PacGen individually, as the context requires; and “Parties” means both collectively.

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization or any Governmental Authority.

“PG&E” has the meaning set forth in the preamble.

“Separation Agreement” has the meaning set forth in the recitals.

“Term” means the period commencing on the Commencement Date and ending on and including the date on which PG&E no longer owns a majority of the equity of PacGen.

1.2. Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (c) reference to any gender includes all genders;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; provided, however, that if the approval of a Party is required for any such amendment or modification pursuant to this Agreement, any other Intercompany Service Agreement (as defined in the Operations and Services Agreement), or any other agreement or contract between PacGen, on the one hand, and PG&E or PG&E Corporation, a California corporation, on the other hand, references to the applicable document, instrument or agreement means only such document, instrument or agreement that has received such Party’s approval;

(e) reference to any Article or Section means such Article or Section to this Agreement, and references in any Article, Section or definition to any clause means such clause of such Article, Section or definition;

(f) “hereunder”, “hereof”, “hereto” and words of similar import are references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;

(g) “including” (and with correlative meaning “include”) means “including without limitation”;

(h) the word “or” shall be used in the inclusive sense of “and/or” and not exclusive;

(i) reference to a 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 time and ending at 12:00:00 midnight Pacific time; provided that a day may be 23 or 25 hours on those days on which daylight savings begins and ends;

(j) when an action is required to be completed on a Business Day, such action must be completed prior to 5:00 p.m. Pacific time on such day, and actions occurring after 5:00 p.m. will be deemed to have occurred on the following Business Day;

(k) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”;

(l) reference to any Law (including statutes and ordinances) means such Law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder;

(m) reference to “\$” and dollars shall be deemed to refer to United States currency; and

(n) reference to a day or days shall be deemed to refer to a calendar day or calendar days, as applicable.

## **ARTICLE II TRUE-UP AND PAYMENT**

PG&E agrees to pay PacGen and PacGen agrees to pay PG&E, as the case may be, the amounts determined pursuant to the terms of this Article II for the Term.

2.1. Determination of Monthly Revenue Adjustment Amount. For each calendar month of the Term, PG&E shall calculate the Monthly Revenue Adjustment Amount for such month in accordance with the terms of this Article II. The “Monthly Revenue Adjustment Amount” for any month means the amount equal to the Monthly Revenue Forecast Amount for such month less the Monthly Revenue Receivable Amount for such month. For each calendar month of the Term, the Monthly Revenue Adjustment Amount shall be payable as follows:



(a) If the Monthly Revenue Adjustment Amount is positive (i.e., the Monthly Revenue Forecast Amount is greater than the Monthly Revenue Receivable Amount), then PG&E will pay PacGen the Monthly Revenue Adjustment Amount (i.e., the difference between the Monthly Revenue Forecast Amount and the Monthly Revenue Receivable Amount).

(b) If the Monthly Revenue Adjustment Amount is negative (i.e., the Monthly Revenue Forecast Amount is less than the Monthly Revenue Receivable Amount), then PacGen will pay PG&E the absolute value of the Monthly Revenue Adjustment Amount (i.e., the difference between the Monthly Revenue Receivable Amount and the Monthly Revenue Forecast Amount).

(c) If the Monthly Revenue Adjustment Amount is zero, then no payments are due to either Party in respect of the Monthly Revenue Adjustment Amount.

(d) In the event that the first or last calendar month of the Term is not a full calendar month, PG&E shall make a pro-rata calculation of the Monthly Revenue Adjustment Amount for such partial month in a fair and equitable manner.

2.2. Determination of Monthly Fuel Cost Adjustment Amount For each calendar month of the Term, PG&E shall calculate the Monthly Fuel Cost Adjustment Amount for such month in accordance with the terms of this Article II. The “Monthly Fuel Cost Adjustment Amount” for any month means the amount equal to the Monthly Actual Fuel Cost Amount for such month less the Monthly Fuel Cost Forecast Amount for such month. For each calendar month of the Term, the Monthly Fuel Cost Adjustment Amount shall be payable as follows:

(a) If the Monthly Fuel Cost Adjustment Amount is positive (i.e., the Monthly Actual Fuel Cost Amount is greater than the Monthly Fuel Cost Forecast Amount), then PG&E will pay PacGen the Monthly Fuel Cost Adjustment Amount (i.e., the difference between the Monthly Actual Fuel Cost Amount and the Monthly Fuel Cost Forecast Amount).

(b) If the Monthly Fuel Cost Adjustment Amount is negative (i.e., the Monthly Actual Fuel Cost Amount is less than the Monthly Fuel Cost Forecast Amount), then PacGen will pay PG&E the absolute value of the Monthly Fuel Cost Adjustment Amount (i.e., the difference between the Monthly Fuel Cost Forecast Amount and the Monthly Actual Fuel Cost Amount).

(c) If the Monthly Fuel Cost Adjustment Amount is zero, then no payments are due to either Party in respect of the Monthly Fuel Cost Adjustment Amount.

(d) In the event that the first or last calendar month of the Term is not a full calendar month, PG&E shall make a pro-rata calculation of the Monthly Fuel Cost Adjustment Amount for such partial month in a fair and equitable manner.

2.3. Determination, Invoicing and Payment of Monthly Payment Amount. For each calendar month of the Term, PG&E shall calculate the Monthly Payment Amount for such month in accordance with the terms of this Article II. The “Monthly Payment Amount” for any month means the amount equal to the sum of the Monthly Revenue Adjustment Amount for such month and the Monthly Fuel Cost Adjustment Amount for such month. For each calendar month of the Term, the Monthly Payment Amount shall be payable as follows:

(a) As soon as practicable after the end of each calendar month during the Term but not later than thirty (30) Business Days after the end of such month, PG&E shall provide PacGen with an invoice for the Monthly Payment Amount. The invoice will include detailed calculations of the Monthly Revenue Adjustment Amount for such month, the Monthly Fuel Cost Adjustment Amount for such month, and the aggregate Monthly Payment Amount for such month determined in accordance with the provisions of this Article II.

(b) If the Monthly Payment Amount positive, then PG&E will pay PacGen the Monthly Payment Amount. If the Monthly Payment Amount is negative, then PacGen will pay PG&E the absolute value of the Monthly Payment Amount. If the Monthly Payment Amount is zero, then no payments are due to either Party in respect of the Monthly Payment Amount.

#### 2.4. Timeliness and Form of Payment.

(a) All invoices submitted pursuant to Section 2.3 shall bear the date of rendering, and the undisputed portion of the Monthly Payment Amount set forth on such invoice shall be due and payable on or before the later of: (a) forty (40) Business Days after the end of the month, or (b) ten (10) Business Days following the date on which PacGen received the invoice (the "Monthly Payment Date"). Any undisputed amount remaining unpaid for more than 60 days beyond the Monthly Payment Date shall bear interest at the Late Payment Rate.

(b) All payments sent by PG&E to PacGen shall be sent by electronic funds transfer to the bank account specified by PacGen.

(c) All payments sent by PacGen to PG&E shall be sent by electronic funds transfer to the bank account specified by PG&E.

#### 2.5. Adjustments to Monthly Payment Amount.

(a) In the event that CAISO makes any adjustment to the Monthly Revenue Receivable Amount for any calendar month following PG&E's calculation and invoicing of the Monthly Payment Amount for such month, such adjustment shall be reflected and applied in PG&E's invoice for the Monthly Payment Amount for the calendar month in which such CAISO adjustment was made and communicated to the Parties.

(b) This Agreement is intended to manage certain cash flow fluctuations faced by the Parties without affecting the recoverability of the underlying costs from customers. Accordingly, the Parties acknowledge that Pacific Generation will be subject to an annual reasonableness review by the CPUC related to the operation of its Generation Facilities. In the event that such a reasonableness review results in a disallowance by the CPUC related to one or more of Pacific Generation's Generation Facilities and for which payments were previously made by PG&E to PacGen pursuant to this Agreement, unless otherwise directed by the CPUC, PacGen shall pay to PG&E the aggregate amount of such disallowance for PG&E to credit back to customers. The timing of such payment from PacGen to PG&E, and whether it is paid as a lump sum or in installments, will be in accordance with the CPUC's decision ordering a disallowance and may be reflected and applied as a credit owed and payable to PG&E by PacGen in the Monthly Payment Amount invoice process described in Section 2.3.

2.6. Payment Obligation with Netting. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing under this Agreement to each other on the same date, in which case all amounts owed by each Party to the other Party during the monthly invoicing period under this Agreement, including any related interest, and payments or credits, shall be netted (to the extent possible) so that only the excess amount remaining due shall be paid by the relevant Party.

2.7. Recording. All payments made and received by each Party pursuant to this Agreement will be recorded in such Party's PABA, NSGBA, or other applicable memorandum or balancing account, as the case may be, in accordance with applicable Law.

### **ARTICLE III MISCELLANEOUS**

3.1. Notices. All notices, requests, consents and other communications under this Agreement must be in writing and shall be deemed to have been duly given and effective (a) immediately (or, if not delivered before 5:00 p.m. San Francisco, California time on a Business Day, the next Business Day) if delivered by electronic mail (with confirmation of transmission) and if a hard copy is delivered by overnight delivery service the next Business Day, (b) on the date of delivery if by hand delivery (with confirmation of receipt) (or, if not delivered on a Business Day, the next Business Day) or (c) on the first Business Day following the date of dispatch (or, if not sent on a Business Day, the next Business Day after the date of dispatch) if sent by overnight service with a nationally recognized overnight delivery service (all fees prepaid). All notices shall be delivered to the following addresses, or such other addresses as may hereafter be designated in writing by a party to the other party:

Notices to PG&E:

Pacific Gas and Electric Company  
300 Lakeside Drive  
Oakland, CA 94612  
Attention: [●]  
Email: [●]

Notices to PacGen:

Pacific Generation LLC  
300 Lakeside Drive, 25<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: [*President of the Company*]  
E-mail: [●]

3.2. Successors and Assigns; Amendments. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective.

3.3. Severability; Interpretation. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. Notwithstanding the fact that this Agreement has been drafted or prepared by one of the Parties, each of PacGen and PG&E confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Person. The captions used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement shall be enforced and construed as if no caption had been used in this Agreement.

3.4. Complete Agreement. This Agreement contains the complete agreement between the Parties and supersedes any prior understandings, agreements, representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way.

3.5. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA (WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF) AS TO ALL MATTERS, INCLUDING MATTERS OF VALIDITY, CONSTRUCTION, EFFECT, PERFORMANCE AND REMEDIES.

3.6. Dispute Resolution. The provisions of Section 12.6 “Dispute Resolution” (other than clause (c) thereof and references to Independent Engineer) and Section 12.13 “Consent to Jurisdiction” of the Operations and Services Agreement shall apply to this Agreement and claims arising out of or relating to this Agreement, *mutatis mutandis*.

3.7. No Third Party Beneficiaries; Independent Parties.

(a) No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person that is not a party hereto any rights or remedies under or by reason of this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor give any third Persons any right of subrogation or action against any Party.

(b) Independent Parties. The relationship of the Parties is that of independent parties and not as agents of each other (except as expressly provided herein or in another agreement between the Parties) or as joint venturers or partners. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership, or impose a trust or partnership duty, obligation or liability on or with regard to any of the Parties. Each Party shall be individually responsible for its own duties and obligations under this Agreement, and shall maintain sole and exclusive control over its respective personnel and operations. Neither Party shall be under the control of or shall be deemed to control the other Party. Except as expressly

provided in this Agreement or another agreement between the Parties, neither Party shall have a right or power to bind the other Party without its express written consent.

3.8. No Waiver. It is understood and agreed that no delay, waiver or omission by either Party to exercise any right or power arising from any breach or default by either Party with respect to any of the terms, provisions or covenants of this Agreement will be construed to be a waiver by either Party of any subsequent breach or default of the same or other terms, provisions or covenants on the part of either Party.

3.9. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative and the exercise of one or more right or remedies shall not preclude the exercise of any other right or remedy available under this Agreement or applicable Law.

3.10. Reserved.

3.11. Counterparts. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the date of this Agreement. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

\* \* \* \* \*

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first above written

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

By: \_\_\_\_\_  
Name:  
Title:

**PACIFIC GENERATION LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title: