



**Brian K. Cherry**  
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May 4, 2007

**Advice 2831-G**

(Pacific Gas and Electric Company ID U 39 G)

Public Utilities Commission of the State of California

**Subject: Sale of a Gas Gathering Pipeline and Assignment of an Easement to Vintage Production California, LLC - Section 851 Transaction**

**Purpose**

Pacific Gas and Electric Company ("PG&E") requests Commission approval under Public Utilities Code § 851 for the sale of a segment of operating gas gathering pipeline with associated appurtenances (the "Facilities"), and the assignment of associated easement agreements ("Assignment") to Vintage Production California, LLC ("Vintage Production").

PG&E anticipates submitting similar sales of operating gas gathering pipelines with associated appurtenances and assignments for Commission approval in the future.

**Background**

In Decision (D.) 89-12-016, the Commission "strongly encourage[d] PG&E to sell gathering plant when it is offered net book value or more for the plant, consistent with our view that PG&E should phase out its gathering operations..."<sup>1</sup> The Commission stated that its intent was to promote more efficient investments in plant and improve pricing signals among gas supplies from various sources. During the intervening period, PG&E has attempted to implement the Commission's directive.

On October 16, 2006, PG&E initiated a bidding process for PG&E's Line 302 Andreotti Gas Gathering Pipeline. PG&E accepted Vintage Production's bid to purchase PG&E's Line 302 Andreotti Gathering Pipeline with associated appurtenances, and it is this proposed sale for which PG&E now seeks Commission approval. The Pipeline Purchase and Sale Agreement ("Agreement") is attached hereto (Attachment 1).

In accordance with Resolution ALJ-186, Appendix B, Section III.B, PG&E provides the following information related to the proposed transaction:

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<sup>1</sup> California Public Utilities Commission D.89-12-016 [I.88-11-012] (December 6, 1989), page 24.

**(a) Identity of All Parties to the Proposed Transaction:**

Pacific Gas and Electric Company	Vintage Production California, LLC
Andrew L. Niven	c/o Richard W. Oringderff
Peter Van Mieghem	P.O. Box 1002
Law Department	28590 Highway 119
P.O. Box 7442	Tupman, CA 93276
San Francisco, CA 94120	Telephone: (661) 869-8023
Telephone: (415) 973-2902	Facsimile: (661) 763-6198
Facsimile: (415) 973-5520	Email: Dick_Oringderff@oxy.com
Email: PPV1@pge.com	

**(b) Complete Description of the Facilities Including Present Location, Condition and Use:**

The operating gas gathering pipeline segment PG&E proposes to sell varies from 2 to 6 inches in diameter and is approximately 13,519 feet long. It is located west of highway 45, at 14North, 01East within Sections 20, 28, 29, and 32 Mount Diablo Base and Meridian ("MDB&M"), Colusa County, California. The pipeline condition is considered poor and obsolete due to its age and lack of operational value to PG&E. Replacement or retirement would be costly. PG&E maps detailing the facilities and their location can be found in Schedule 1.1 Pipeline Purchase and Sale Agreement - Andreotti Gathering Pipeline Sale (Attachment 2) and PG&E Pipeline Survey Sheet (Attachment 3).

In addition, PG&E has 13 easements for the Facilities, pursuant to those certain Grants of Easements which can be found in the Agreement, Schedule 7, List of Easements (Attachment 1). PG&E will assign the easements to Vintage Production as part of the sale transaction, as proposed in the standard Form of Assignment attached to the Purchase and Sale Agreement.

**(c) Intended Use of the Facilities:**

There is no change in the use of the Facilities. This pipeline section is currently in operation transporting Vintage Production's gas well production, and does not impact any other PG&E customers. Upon completion of the sale, Vintage Production plans to operate the gas gathering pipeline segment and its associated appurtenances as a private pipeline. However, Vintage Production agrees that upon request it will make any capacity in excess of its requirements available to third party producers of natural gas in the area served by the subject pipeline segment for the transport of natural gas. No other PG&E customer is currently being served or will be impacted.

The sale of the Facilities is beneficial to PG&E's ratepayers because it alleviates the need for pipeline maintenance or future replacement/retirement, and improves efficiencies by promoting competition between California gas and out-of-state suppliers.

**(d) Complete Description of Financial Terms of the Proposed Transaction:**

As provided for in the Agreement (Attachment 1), Vintage Production has agreed to pay a one-time fee of Thirty Thousand, Seven Hundred Seventy-Eight Dollars and Fifty Cents (\$30,778.50) for the Facilities. PG&E is not collecting any fees associated with the Assignment of the gas gathering pipeline easement. Because of the significant maintenance and future replacement costs associated with the ownership of the Facilities, it will benefit PG&E and its customers to assign the easement and sell the Facilities.

**(e) Indication of How Financial Proceeds of the Transaction Will Be Distributed:**

In D.89-12-016, the Commission ordered PG&E to record sales of gas gathering facilities "in appropriate accounts for future consideration of gain-on-sale issues." The gain-on-sale issues were addressed in Rulemaking (R.) 04-09-003, and a final decision (D.06-05-041) was issued on May 25, 2006.<sup>2</sup> D.06-05-041 established a gain-on-sale policy for sales of depreciable assets which allocate 100% of the gain to ratepayers. Therefore, after removing Ten Thousand, Five Hundred Dollars and Fifty Cents (\$10,500.50) for transition costs in accordance with the Bill of Sale provided in the Agreement (Attachment 1 - Exhibit B), PG&E proposes to allocate the remaining financial proceeds one hundred percent to ratepayers as a credit through Accumulated Depreciation, consistent with D.06-05-041.

**(f) Sufficient Information and Documentation (Including Environmental Review Information) to Indicate that All Criteria Set Forth in Section II(A) of Resolution ALJ-186 Are Satisfied:**

PG&E has provided information in this advice letter to meet the eligibility criteria under the advice letter pilot program. The proposed transaction will not have an adverse effect on the public interest because it will not interfere in any way with the operation of PG&E's facilities, or with the provision of service to PG&E's customers. In fact, the proposed transaction will serve the public interest by eliminating significant maintenance costs and potential replacement or retirement costs associated with the ownership of the Facilities. PG&E estimates this liability at \$100,000, which would be transferred to the buyer as a result of the

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<sup>2</sup> On December 14, 2006, D.06-12-043 was issued, modifying D.06-05-051 to adopt a revised allocation for gain on sales of non-depreciable assets. The allocation of 100% of gain for sales for depreciable assets was not modified.

sale. The proposed transaction meets the financial threshold of \$5 million since PG&E is only collecting \$30,778.50 for the sale of the Facilities.

No CEQA review is required under the existing circumstances of the Facilities Assignment. The Commission previously ruled that if the Facilities "will be used in the same manner as previously, and neither applicant seeks authority from the Commission for a change in the existing use, there is no substantial evidence of any change to the environment, and no CEQA review is required." (D.99.03.033 (1999) Cal. PUC LEXIS 408).

In this instance, ownership of the Facilities is merely being transferred from PG&E to Vintage Production. There are no plans under the agreement to alter the use of the Facilities, and neither PG&E nor Vintage Production seeks authority to change its use. Therefore the transaction should be deemed exempt from CEQA review.

**(g) Complete Description of any Recent Past (Within the Prior Two Years) or Anticipated Future Transactions that May Appear To Be Related to the Present Transaction:**

PG&E is currently conducting auctions of various sections of its operating gas gathering facilities. PG&E's gas gathering system is expansive and not consolidated. Therefore, PG&E expects to conduct separate sales of multiple segments of its gas gathering facilities to various purchasers in the near future. Each proposed sale is governed by a standard Pipeline Purchase and Sale Agreement (Attachment 1), identical in form to the proposed agreement attached to this advice letter. In addition, each sale would be nearly identical, with the exception of the identity of the purchaser, description of the specific gas gathering facility, and the purchase price.

**(h) For Sales of Real Property and Depreciable Assets, the Advice Letter Shall Include the Original Cost, Present Book Value, and Present Fair Market Value, and a Detailed Description of How the Fair Market Value Was Determined (e.g., Appraisal):**

The Original Cost of the pipeline is \$1,066,351.00. The pipeline is fully depreciated, and Present Net Book Value is \$155,256.00. The estimated liability (including significant maintenance activities and possible replacement or retirement costs) of the pipeline will be transferred to Vintage Production as a result of the sale.

The Present Fair Market Value for the Facilities was determined through a bidding process conducted using Protocols and Procedures for a Standard Auction Process, details of which are provided in Attachment 4.

At the conclusion of the bidding process, PG&E accepted Vintage Production California, LLC's bid for \$30,778.50 for the Facilities.

**(i) For Leases of Real Property, the Advice Letter Shall Include the Fair Market Rental Value, and a Detailed Description of How the Fair Market Rental Value Was Determined:**

Along with the sale of the Facilities, PG&E is also assigning 13 easements associated with the property to Vintage Production, since it will no longer be needed. PG&E will not be collecting any fees associated with the Assignment as it does not rise to the level of a right that has any realizable economic value to PG&E.

**(j) Additional Information to Assist in the Review of the Advice Letter:**

No additional information is readily available, other than what is already included with this filing.

**(k) CEQA Checklist**

**Exemption**

(1) Has the proposed transaction been found exempt from CEQA by a government agency?

The proposed transaction has not been found exempt from CEQA by a government agency.

(a) If yes, please attach notice of exemption. Please provide name of agency, date of exemption, and state clearinghouse number.

Not applicable.

(b) If no, does the applicant contend that the project is exempt from CEQA? If yes, please identify the specific exemption or exemptions that apply, citing to the applicable CEQA guideline(s).

The Commission previously ruled that if the Facilities “will be used in the same manner as previously, and neither applicant seeks authority from the Commission for a change in the existing use, there is no substantial evidence of any change to the environment, and no CEQA review is required.” (D.99.03.033 (1999) Cal. PUC LEXIS 408).

**Prior or Subsequent CEQA review**

(1) Has the project undergone CEQA review by another government agency? If yes, please identify the agency, the CEQA document that

was prepared (EIR, MND, etc.) and its date, and provide one copy of any and all CEQA documents to the Director of the relevant Industry Division with a copy of the advice letter. Be prepared to provide additional copies upon request.

This project has not undergone CEQA review by another government agency.

(2) Identify any aspects of the project or its environment that have changed since the issuance of the prior CEQA document.

No aspects of the project or its environment have changed.

(3) Identify and provide section and page numbers for the environmental impacts, mitigation measures, and findings in the prior CEQA document that relate to the approval sought from the CPUC.

Not Applicable.

(4) Does the project require approval by governmental agencies other than the CPUC? If so, please identify all such agencies, and the type of approval that is required from each agency.

Not Applicable.

### **Need CEQA?**

If no exemption is applicable, and no prior review has occurred, please identify what applicant believes is the correct level of CEQA review.

Not Applicable.

### **Protests**

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, by facsimile or electronically, any of which must be received no later than **June 4, 2007**, which is 30 days after the date of this filing. Protests should be mailed to:

CPUC Energy Division  
Tariff Files, Room 4005  
DMS Branch  
505 Van Ness Avenue  
San Francisco, California 94102

Facsimile: (415) 703-2200  
E-mail: [jnj@cpuc.ca.gov](mailto:jnj@cpuc.ca.gov) and [mas@cpuc.ca.gov](mailto:mas@cpuc.ca.gov)

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or delivered to the Commission:

Brian K. Cherry  
Vice President, Regulatory Relations  
Pacific Gas and Electric Company  
77 Beale Street, Mail Code B10C  
P.O. Box 770000  
San Francisco, California 94177

Facsimile: (415) 973-7226  
E-mail: PGETariffs@pge.com

### **Effective Date**

Pursuant to the review process outlined in Resolution ALJ-186, PG&E requests that this advice filing become effective on **June 18, 2007**, which is 45 calendar days after the date of filing.

### **Notice**

In accordance with General Order 96-A, Section III, Paragraph G, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-A service list should be directed to Rose de la Torre at (415) 973-4716. Advice letter filings can also be accessed electronically at: **<http://www.pge.com/tariffs>**

A handwritten signature in black ink, appearing to read "Brian K. Cherry". The signature is written in a cursive style with a vertical line through the middle of the name.

Vice President, Regulatory Relations

Attachments 1-4

cc: Service List - Advice Letter **2831-G**

\*\*\*\*\* SERVICE LIST Advice 2831-G \*\*\*\*\*  
APPENDIX A

\*\*\*\*\* STATE EMPLOYEE \*\*\*\*\*

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Administrative Law Judge Division  
505 Van Ness Ave  
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Division Ratepayer Advocates  
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(415) 703- 2187  
bfs@cpuc.ca.gov

\*\*\*\*\* AGENCIES \*\*\*\*\*

Kathleen Moran  
County Clerk and Recorder  
546 Jay Street  
Colusa, CA 95932  
Telephone: (530) 458-0500  
ccclerk@colusanet.com

\*\*\*\*\* 3<sup>rd</sup> Party \*\*\*\*\*

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Vice President and General Manager  
Vintage Production California LLC  
9600 Ming Avenue, Suite 300  
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Telephone: (661) 869-8023  
Facsimile: (661) 763-6198  
Dick\_Oringderff@oxy.com

John Tierce  
Land Department  
Vice President and General Manager  
Vintage Production California LLC  
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Bakersfield, CA 93311  
Telephone: (661) 869-8023  
Facsimile: (661) 763-6198

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39)**

Utility type:

ELC

GAS

PLC

HEAT

WATER

Contact Person: Scott Muranishi

Phone #: (415) 973-0237

E-mail: s3m2@pge.com

### EXPLANATION OF UTILITY TYPE

ELC = Electric

GAS = Gas

PLC = Pipeline

HEAT = Heat

WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **2831-G**

Subject of AL: Sale of a Gas Gathering Pipeline and Assignment of an Easement to Vintage Production California, LLC - Section 851 Transaction

Keywords (choose from CPUC listing): Section 851

AL filing type:  Monthly  Quarterly  Annual  One-Time  Other \_\_\_\_\_

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #:

ALJ-186

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: N/A

Summarize differences between the AL and the prior withdrawn or rejected AL<sup>1</sup>: \_\_\_\_\_

Resolution Required?  Yes  No

Requested effective date: **June 18, 2007**

No. of tariff sheets: 0

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed<sup>1</sup>: N/A

Pending advice letters that revise the same tariff sheets: N/A

**Protests and all other correspondence regarding this AL are due no later than 30 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:**

**CPUC, Energy Division**

**Tariff Files, Room 4005**

**DMS Branch**

**505 Van Ness Ave.,**

**San Francisco, CA 94102**

**jnj@cpuc.ca.gov and mas@cpuc.ca.gov**

**Pacific Gas and Electric Company**

**Attn: Brian K. Cherry**

**Vice President, Regulatory Relations**

**77 Beale Street, Mail Code B10C**

**P.O. Box 770000**

**San Francisco, CA 94177**

**E-mail: PGETariffs@pge.com**

<sup>1</sup> Discuss in AL if more space is needed.

## Attachment 1

# Pipeline Purchase and Sale Agreement

## PIPELINE PURCHASE AND SALE AGREEMENT

This PIPELINE PURCHASE AND SALE AGREEMENT (this "Agreement") is made as of \_\_\_\_\_, 2006, by and between Pacific Gas and Electric Company, a California corporation ("PG&E"), and Vintage Petroleum, LLC, a Delaware corporation ("Buyer").

### RECITALS

A. PG&E owns certain pipelines and [accessory equipment] which are used for gathering natural gas, all as more particularly described in Schedule 1 "DESCRIPTION OF PIPELINE(S) TO BE SOLD," attached hereto (collectively, the "Subject Pipeline(s)") and all located as shown generally on the map attached hereto as Schedule 1.1 "PIPELINE MAP."

B. PG&E desires to sell, and Buyer desires to purchase, the Subject Pipeline(s), for the consideration and on the terms set forth in this Agreement.

### AGREEMENT

The parties, intending to be legally bound, agree as follows:

#### 1. DEFINITIONS

**1.1 Defined Terms.** For purposes of this Agreement (and the Schedules attached hereto), the following terms, and the singular or plural thereof, have the meanings specified or referred to in this Article 1:

**"Affiliate"** -- with respect to a specified Person, any other Person that (a) directly or indirectly controls the specified Person; (b) is controlled by or is under direct or indirect common control with the specified Person; or (c) is an officer, director, employee, representative, manager, partner or agent or subsidiary of the Person. For the purposes of this definition, "**control**," or "**controlled by**" when used with respect to any specified Person, means the power to direct the management or policies of the specified Person, directly or indirectly, whether through the ownership of voting securities, partnership or limited liability company interests, by contract or otherwise.

**"Agreement"** -- this Pipeline Purchase and Sale Agreement, together with the Schedules and Exhibits specified in Section 12.12 hereof.

**"Article"** -- a numbered article of this Agreement. An Article includes all the numbered sections ("Sections") of this Agreement that begin with the same number as that Article.

**"Assumed Liabilities"** -- as defined in Section 3.2.

**"Audited Financial Statements"** -- as defined in Section 4.2(f).

**"Balancing Agreement"** -- the California Production Balancing Agreement (CPBA) to be entered into by PG&E and Buyer before the Closing (Exhibit F).

**"Buyer"** -- as defined in the introductory (first) paragraph of this Agreement.

**“Buyer Group”** -- as defined in Section 8.2.

**“Capital Expenditure”** -- any additions to or replacements of property, plant and equipment and any other expenditures or repairs that would be capitalized on PG&E’s balance sheet in accordance with PG&E’s capitalization policy.

**“Certificate of Incumbency”** -- with respect to the Party delivering it, a certification satisfactory to the other Party in its discretion, from the corporate secretary (or if applicable the assistant corporate secretary) that the officer signing this Agreement has been duly authorized to sign and execute this Agreement on behalf of that Party.

**“Closing”** -- the consummation of the Transaction and transfer of the Subject Pipeline(s) contemplated by this Agreement, as set forth in Section 7.4.

**“Closing Date”** -- as defined in Section 7.4.

**“Closing Deadline”** -- as defined in Section 7.6(b).

**“Closing Document”** -- any document required to be delivered at the Closing pursuant to this Agreement.

**“Commercially Reasonable Efforts”** -- efforts which are reasonably within the contemplation of the Parties at the time of execution of this Agreement and which 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.

**“CPI”** -- The Nationwide, All Items, Consumer Price Index for all Urban Workers (CPI-U) as published by the United States Department of Labor, Bureau of Labor Statistics, using the most recent index published prior to execution of this Agreement by Buyer as the base year index.

**“CPUC”** -- the California Public Utilities Commission, or its regulatory successor, as applicable.

**“CPUC Approval”** -- the decision of the CPUC approving the sale of the Subject Pipeline(s), this Agreement and the consummation of the Transaction contemplated hereby on terms and conditions acceptable to PG&E and Buyer, in their respective sole discretion, and in a form which is final and unconditional and unappealable, including exhaustion of all administrative and judicial appeals or remedies and the running of time periods and statutes of limitation for rehearing and appeal.

**“Creditworthiness Requirements”** -- as defined in Section 12.10.

**“Dollars”** -- United States dollars.

**“Due Diligence Period”** -- as defined in Section 5.1.

**“Due Diligence Related Termination Period”** -- as defined in Section 5.3

**“Effective Date”** -- the date of execution and delivery of this Agreement by PG&E and Buyer.

**“Environmental Costs”** -- all claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any claim, whether or not such a claim is ultimately defeated, and any good faith settlement, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including reasonable attorneys fees and disbursements and consultants’ fees,

any of which are incurred as a result of the existence of Hazardous Substances upon, about or beneath the Subject Pipeline(s), emitted or released from the Subject Pipeline(s), or migrating or threatening to migrate to or from the Subject Pipeline(s), including, without limitation:

- (a) Damage for personal injury;
- (b) Damages for injury to property, both real and personal;
- (c) Environmental clean-up and remediation costs;

(d) Reasonable fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such Hazardous Substances, including the preparation of any feasibility studies, reports or the performance of any Remediation required by any Governmental Authority, and including any attorneys fees, costs and expenses incurred in enforcing this Agreement or collecting any sums due under it; and

(e) Liability for the indemnification of any Third Party or Governmental Authority for costs expended in connection with the items referenced in this definition of Environmental Costs, including oversight costs of any Governmental Authority.

**“Environmental Laws”** -- any applicable statutes, regulations or ordinances relating to storage and use of hazardous or toxic substances, generation, treatment, storage, and disposal of hazardous wastes, wastewater discharges and similar environmental matters, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.), the Clean Air Act (42 U.S.C. § 7401, et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.), the Oil Pollution Act (33 U.S.C. § 2701, et seq.) and the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001, et seq.), the Porter-Cologne Water Quality Control Act (Cal. Wat. Code § 13020, et seq.), the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5, et seq.), the Hazardous Substance Account Act (Cal. Health & Safety Code § 25300, et seq.), and the Hazardous Waste Control Act (Cal. Health & Safety Code § 25100, et seq.).

**“Environmental Requirements”** -- means all applicable present and future laws, statutes, regulations, rules, ordinances, codes, policies, rules of common law, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all Governmental Authority and all applicable judicial, legislative, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including:

(a) All requirements pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases, or threatened releases of Hazardous Substances, chemical substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes, whether solid, liquid or gaseous in nature, into the air, surface water, groundwater or land, including all Environmental Laws, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of chemical substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes, whether solid, liquid or gaseous in nature; and

(b) All requirements pertaining to the protection of the health and safety of employees or the public.

**“Existing CPIOA”** -- means the California Production Interconnection and Operating Agreement, between Buyer and PG&E, existing and entered into prior to the execution of this Agreement by Buyer and PG&E.

**“Facility,” “Facilities”** -- any of the gathering pipelines or appurtenances specified in Schedule 1 “DESCRIPTION OF PIPELINE(S) TO BE SOLD” that constitute a portion of the Subject Pipeline(s) or collectively constitute the Subject Pipeline(s).

**“Governmental Authority”** -- 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 authority with jurisdiction, but excluding Buyer and any subsequent owner of the Subject Pipeline(s).

**“Guarantor”** -- any person or entity, acceptable to PG&E, that executes a Guaranty Agreement unconditionally guaranteeing payment to PG&E of all or a portion of Buyer’s obligations as set forth in this Agreement.

**“Guaranty”** -- that certain guaranty attached hereto as Exhibit A, to be executed by Guarantor in favor of PG&E.

**“Hazardous Substances”** -- any chemical, material or substance that is listed or regulated under applicable Environmental Laws as a “hazardous” or “toxic” substance or waste, or as a “contaminant,” or is otherwise listed or regulated under applicable Environmental Laws because it poses a hazard to human health or the environment.

**“HSR Act”** -- as defined in Section 6.8(c).

**“Interconnection Agreement”** -- an agreement based on the standard California Production Interconnection and Operating Agreement (also referred to as “CPIOA”) to be entered into by PG&E and Buyer before the Closing, (in the form attached hereto as Exhibit E or in its then current standard form, if amended) for the purpose of interconnection of the Subject Pipeline(s) to PG&E’s gas transmission system and establishing the terms and conditions for the delivery of gas into that system.

**“Knowledge”** -- (i) in the case of PG&E, the actual, current knowledge of the PG&E officers and employees listed in Schedule 12 “SCHEDULE OF PG&E OFFICERS AND EMPLOYEES” on the Closing Date of this Agreement (or, with respect to the certificate delivered pursuant to Section 7.2(j) “PG&E’s Certificate of Compliance,” on the date of delivery of the certificate); (ii) in the case of Buyer, the actual, current knowledge of Buyer’s officers and employees listed in Schedule 13 “SCHEDULE OF BUYER OFFICERS AND EMPLOYEES” on the Closing Date of this Agreement (or, with respect to the certificate delivered pursuant to Section 7.3.(r) “Buyer’s Certificate of Compliance,” on the date of delivery of the certificate).

**“Losses”** -- all costs, losses, expenses, damages, claims, causes of action, demands, judgments, fines, penalties, assessments, attorneys’ fees, accounting expenses, and liabilities.

**“Necessary Capital Expenditure”** -- any Capital Expenditure which, in the exercise of Prudent Utility Practices, is reasonably necessary for the continued operation or maintenance of any of the Subject Pipeline(s) or that is required by applicable law (except for any Remediation required by applicable Environmental Laws).

**“Ordinary Maintenance Expenditures”** -- those expenditures which, in the exercise of Prudent Utility Practices, are reasonably necessary for the continuing day-to-day operation, maintenance, administration, and management of any of the Subject Pipeline(s) during all seasons of the year and as required by applicable law (except for any Remediation required by applicable Environmental Laws).

**“Party or Parties”** -- “Party” means either PG&E or Buyer; “Parties” means PG&E and Buyer.

**“Person”** -- includes any individual, partnership, joint venture, corporation, limited liability company, firm, trustee, association, or unincorporated organization, governmental authority, or other entity.

**“PG&E Group”** -- as defined in Section 8.1.

**“PG&E Remediation Liability Cap”** – Thirty Thousand Dollars (\$30,000.00) or the Purchase Price set forth in Section 3.1, whichever is the greater amount.

**“PG&E Remediation Time Limit –**

One (1) calendar year if the Subject Pipeline(s) consist of 15 miles or less;

Eighteen (18) months if the Subject Pipelines consist of more than 15 miles but no more than 100 miles;

Two (2) calendar years if the Subject Pipelines consist of more than 100 miles.

**“Post-Closing Environmental Conditions”** -- the presence of Hazardous Substances introduced into, on, over or about the Site(s) or the soil or groundwater at the Site(s) after the Closing, as a result of releases from the Pipeline(s) or the operation thereof by Buyer or its transferees, or successors or assignees of Buyer or its transferees, or by their respective employees, agents or contractors, including any migration of such Hazardous Substances through soil or groundwater.

**“Pre-Closing Environmental Conditions”** -- those Hazardous Substances present prior to the Closing in the soil or groundwater at or adjacent to the Pipeline(s) as a result of releases of Hazardous Substances by PG&E from the Pipeline(s) or the operation thereof by PG&E, its employees, agents or contractors, prior to the Closing, and any migration of those Hazardous Substances through soil or groundwater after the Closing. Pre-Closing Environmental Conditions do not include any molecules of Hazardous Substances that were not actually and physically present in the soil or groundwater or both at the Site(s) prior to the Closing as a result of releases of Hazardous Substances from the Pipeline(s) by PG&E or the operation thereof by PG&E, its employees, agents or contractors, except that the Pre-Closing Environmental Conditions include those molecules of Hazardous Substances which migrate onto the Site(s) after the Closing and which were actually and physically present on the property adjacent to the Site(s) prior to the Closing as a result of releases of Hazardous Substances by PG&E or the operation of such adjacent properties by PG&E, its employees, agents or contractors.

**“Prudent Utility Practices”** -- any of the practices, methods and acts required by applicable laws and regulations, or engaged in or approved by a significant portion of the natural gas industry during the relevant time period, or any of the practices, methods or 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. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the geographical region where the Subject Pipeline(s) are located.

**“Related Contracts”** -- Contracts related to the Subject Pipeline(s), or their maintenance or operation, including without limitation the contracts listed on Schedule 10 “RELATED CONTRACTS.”

**“Remediation”** -- any or all of the following activities to the extent they relate to or arise from the presence of Hazardous Substances in soil or groundwater: (i) monitoring, investigation, cleanup, abatement, closure, containment, remediation, removal, mitigation, response or restoration work; (ii) obtaining any permits, consents, approvals or authorizations of any Governmental Authority necessary to conduct any such work; and (iii) preparing and implementing any plans or studies for or related to such work.

**“Required Consents”** -- as defined in Section 6.8(b).

**“Rights-of-Way”** -- the easements, permits, licenses and other rights which are necessary for the ownership, operation and maintenance of the Subject Pipeline(s), including access thereto.

**“Site(s)”** -- the real property on or in which any portion of the Subject Pipeline(s) (or a Facility as applicable) is located.

**“Tax” or “Taxes”** -- any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Internal Revenue Code of 1986, as amended, Sect. 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property (including assessments, fees, or other charges based on the use or ownership of real property), personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated tax, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not, including such item for which liability arises as a transferee or successor-in-interest, including liability therefor as a transferee or successor-in-interest.

**“Third Party”** -- a Person that is not a Party to this Agreement.

**“Third Party Claim”** -- a claim by a Person that is not a Party to this Agreement.

**“Transaction”** -- the purchase and sale of the Subject Pipeline(s) pursuant to this Agreement.

**“Volunteered Line”** -- pipelines, valves and other appurtenances owned by PG&E, which are located between the measurement facility and a producer’s gas well(s) and are identified on Schedule 15 “Volunteered Line(s).”

## **2. SALE AND PURCHASE OF PIPELINE(S)**

**2.1 Sale and Purchase of the Subject Pipeline(s).** On the terms and subject to the conditions of this Agreement, at the Closing, PG&E will sell, convey and transfer to Buyer, and Buyer will purchase and accept from PG&E, all of PG&E’s right, title and interest in and to the following natural gas pipeline(s) (collectively, the “Subject Pipeline(s)”):

The pipeline(s) and [appurtenances] that are specifically listed and described in Schedule 1 “DESCRIPTION OF PIPELINE(S) TO BE SOLD” and located as shown on Schedule 1.1 “PIPELINE MAP”, Schedules 1 and 1.1 are attached hereto and made part of this Agreement. The Subject Pipeline(s) shall include only those Pipeline(s) which are included in both Schedule 1 and Schedule 1.1.

**2.2 No Other Pipeline(s) Transferred to Buyer.** Other than as specifically set forth in Section 2.1 “Sale and Purchase of the Subject Pipeline(s),” nothing in this Agreement shall constitute or be construed as conferring on Buyer, and Buyer shall not acquire any right, title, or interest to or in any pipelines, metering stations, properties, or assets of PG&E or any business, operation, subsidiary, or division of PG&E, or any other asset of PG&E, whether tangible or intangible, real, personal or mixed.

**2.3 Rights-of-Way and Other Permits.** Buyer acknowledges that, the Subject Pipeline(s) are located on property owned in fee by Third Parties. PG&E claims easement rights to maintain and use the Subject Pipeline(s) on some, but not necessarily all, of the property owned by Third Parties on which the Subject Pipeline(s) are located. Attached hereto as Schedule 7 “LIST OF EASEMENTS TO BE ASSIGNED” and Schedule 7.1 “LIST OF EASEMENTS TO BE PARTIALLY ASSIGNED” are descriptions of those easements of which PG&E is currently aware. PG&E

makes no representation that the information concerning such easements is complete or accurate, and makes no representation that the list of easements included on Schedules 7 and 7.1 constitute a full list of all easements which are owned by PG&E in connection with the Subject Pipeline(s). The list of easements on Schedules 7 and 7.1 may be supplemented by agreement of the parties from time to time prior to the Closing Date. To the extent that it is legally able to do so, PG&E shall assign to Buyer those easement rights listed on Schedule 7, and partially assign to Buyer rights under those easements listed on Schedule 7.1 as set forth in paragraph 2.3.1 "Easements." PG&E shall have no obligation to obtain for Buyer the Rights-of-Way or other rights, permits or approvals necessary or required for the ownership, operation, or maintenance of the Subject Pipeline(s). Buyer acknowledges the need and requirement to obtain various such Rights-of-Way and other permits and approvals.

### **2.3.1 Easements.**

(a) Subject to any restrictions that may be contained in the documents granting such easements to PG&E, PG&E will at the Closing assign to Buyer its rights and obligations under easements held by PG&E for the use, operation and maintenance of the Subject Pipeline(s), to the extent that PG&E may have the legal right to do so; such assignment will be made by instrument in substantially the same form as attached hereto as Exhibit H "FORM OF ASSIGNMENT OF EASEMENT," provided that, if PG&E at its sole option elects to retain such easements for its own operations, then PG&E has the right to do so and to provide only a partial assignment of rights under such easements to the extent necessary for Buyer to own, operate and maintain the Subject Pipeline(s). Such partial assignment will be made by instrument in substantially the same form as is attached hereto as Exhibit I "FORM OF PARTIAL ASSIGNMENT OF EASEMENT." With respect to all easements assigned or partially assigned to Buyer pursuant to this Article 2, PG&E hereby reserves the right to enter upon those easement areas in order to conduct remedial work and otherwise meet its obligations or exercise its rights set forth in Article 9. Any and all easements assigned pursuant to this Agreement will be subject to the aforesaid reservation of rights.

(b) Before the end of the Due Diligence Period, PG&E will provide to Buyer a list of easements to be conveyed to Buyer and identifying those easements under which PG&E will make a partial assignment only (retaining easement rights for PG&E's use). Such list will consist of Schedules 7 and 7.1, as confirmed or amended by additions or deletions prior to the Closing. If at the time at which such list is delivered to Buyer less than thirty-five (35) days of the Due Diligence Period remain, then Buyer shall have thirty (30) calendar days to determine whether or not the easements to be assigned by PG&E will be sufficient for Buyer's acquisition of the Subject Pipeline(s), regardless of the expiration of the Due Diligence Period. Buyer may terminate this Agreement within that thirty (30) day period if Buyer determines that such easements will be insufficient for Buyer's acquisition.

(c) Notwithstanding any other provision of this Section 2.3.1, Buyer acknowledges and agrees that any assignments of easements made by PG&E will be made without any representation or warranty by PG&E (express or implied) with respect to the validity of such assignments or in any other respect and without recourse against PG&E. PG&E shall not be obligated to obtain any consents from property owners regarding such assignments. Buyer shall indemnify and hold PG&E harmless against and from (i) all liabilities, damages, claims and costs arising out of or resulting from any assignment of such easements by PG&E to Buyer, as set forth in Section 8.1(a)(7), and (ii) any and all future liabilities and obligations under or arising from such easements. The Parties shall comply with Public Utilities Code Section 3255(b), and Buyer shall reimburse PG&E for the cost of the notifications to property owners required by Public Utilities Code 3255(b) within ten (10) calendar days of PG&E's invoice for such costs.

(d) Effective as of the date of the assignment or individual assignments ("Effective Date of Assignment") that may be made by PG&E pursuant to this Section 2.3.1, Buyer will accept and agrees to assume, pay, perform and discharge, as and when due, all of the agreements and obligations of PG&E under or related to all easements or portion thereof assigned by PG&E to Buyer pursuant to this Section 2.3.1, and Buyer agrees to be bound by all of the terms and conditions of such easements, except to the extent retained by PG&E under Section 3.3(a).

(e) Except for those easements listed pursuant to Section 2.3.1 (b) above, PG&E reserves the right to refuse to assign (or partially assign) to Buyer any of PG&E's easement rights referred to in this Section 2.3.1, if an assignment or an attempt to make such an assignment without the consent of a Third Party would (1) breach a contractual or equitable obligation owed to a Third Party, or violate any law, decree, order or regulation of any Governmental Authority, or (2) result, or potentially result, in PG&E incurring additional costs or liabilities that will not be paid by Buyer before the Closing.

**2.3.2 Franchises, Licenses and Other Rights.** Buyer acknowledges that PG&E does not intend to assign or transfer any franchise rights, licenses, or other rights or permits that it may have, other than the assignment of easements subject to the conditions set forth in Section 2.3.1 "Easements" above.

### **3. PURCHASE PRICE AND PAYMENT**

Thirty Thousand, Seven Hundred Seventy-Eight Dollars and Fifty Cents (\$30,778.50) *new*

**3.1 Purchase Price.** In consideration of the transfer of the Subject Pipeline(s), Buyer will pay ~~Sixteen Thousand and Five Hundred Dollars (\$16,500.00)~~ at the Closing, by wire transfer of immediately available funds to such account as will have been designated by PG&E (the "Purchase Price.") *PM*

**3.2 Assumption of Liabilities.** Upon the Closing, and subject to other terms of this Agreement, Buyer will assume and retain all obligations and liabilities of any kind or nature whatsoever related to, arising from or associated with any of the following (collectively, "Assumed Liabilities"):

(a) **Ownership Liabilities.** Ownership or possession of the Subject Pipeline(s) after the Closing, including without limitation: (i) liability for any Remediation determined by Buyer to be necessary or appropriate with respect to any Hazardous Substances in, on, under, about or incorporated in the Site(s) or the Subject Pipeline(s) or migrating through soil or groundwater, to or from the Site(s); (ii) liability for compliance with Environmental Requirements as well as liability for any and all Post-Closing Environmental Conditions and costs associated therewith; (iii) liability for any Hazardous Substances present in, on or incorporated into the Subject Pipeline(s), improvements, buildings, structures, containers, or equipment, or stored or contained within the Subject Pipeline(s) or in containers present at the Sites; and (iv) liability arising from the ownership or possession of the Subject Pipeline(s), equipment, structures, surface impoundments or any other facility used for the treatment, storage, handling or disposal of Hazardous Substances; excepting from Buyer's liabilities set out in this subparagraph only those obligations and liabilities expressly retained by PG&E in Section 9.1 "PG&E's Rights and Responsibilities," and Section 8.2 (a)(1), (2) and (3) "Indemnification by PG&E."

(b) **Use and Operation Liabilities.** The use or operation of the Subject Pipeline(s) or the business conducted with the Subject Pipeline(s) after the Closing, including without limitation: (i) any obligation to remove, deactivate, demolish, dispose of, or close any Facility or the Subject Pipeline(s) or any portion thereof, and any obligation to restore the Site(s) to its/their natural state, and (ii) any obligation arising from the use or operation of surface impoundments or any other facility used for the treatment, storage or disposal of Hazardous Substances, excepting only those obligations and liabilities expressly retained by PG&E in Section 9.1 "PG&E's Rights and Responsibilities," and Section 8.2 "Indemnification by PG&E."

(c) **Compliance Liabilities.** Obligations to comply with all permits, licenses and approvals that relate to the Subject Pipeline(s).

(d) **Assigned Liabilities.** Obligations arising or accruing from and after the Closing under any easements that relate to the Subject Pipeline(s) or under any Related Contracts that are assigned to Buyer. To the extent that they are assignable to Buyer and PG&E wishes to assign them, Buyer will accept the assignment of Related Contracts of which Buyer was furnished a copy during the Due Diligence Period.

(e) **Other Specified Liabilities.** All other obligations and liabilities expressly allocated to Buyer in this Agreement.

**3.3 Retention of Liabilities.** Upon the Closing and subject to other terms of this Agreement, PG&E will remain responsible for and retain all obligations and liabilities accruing prior to the Closing relating to any of the following:

(a) **Assigned Obligations.** Obligations to the extent their performance is due prior to the Closing under easements or contracts that relate to the Subject Pipeline(s). Payments that become due after the Closing for goods or services consumed by PG&E prior to the Closing or a prorated portion of such payments, as applicable. In the event that PG&E makes or is required to make any payment pursuant to this subparagraph (a) and a portion of such payment applies to a time period after the Closing, Buyer shall promptly pay to PG&E Buyer's pro rata share of such payment to the extent that it applies to such a time period. Conversely, if Buyer pays for any such goods or services consumed by PG&E prior to the Closing, PG&E shall promptly reimburse Buyer for such payments.

(b) **Other Specified Liabilities.** All other obligations and liabilities expressly allocated to PG&E in this Agreement.

#### **4. REPRESENTATIONS AND WARRANTIES**

**4.1 Representations, Warranties and Disclaimers of PG&E.** PG&E represents, warrants and, where specified, disclaims to Buyer as follows:

(a) **Organization and Existence.** PG&E is a duly organized and validly existing corporation in good standing under the Laws of the State of California.

(b) **Execution, Delivery and Enforceability.** PG&E has full corporate power to enter into and carry out its obligations under this Agreement. Except as specified in Schedule 8, "PG&E AUTHORIZATION AND ENFORCEABILITY," the execution and delivery by PG&E of this Agreement and the consummation of the Transaction contemplated by it have been duly authorized by all necessary corporate action required on the part of PG&E. Except as specified in Schedule 8, "PG&E AUTHORIZATION AND ENFORCEABILITY" and Schedule 11, "REQUIRED GOVERNMENTAL APPROVALS," and assuming Buyer's due authorization, execution and delivery of this Agreement, this Agreement constitutes a valid and legally binding obligation of PG&E enforceable against PG&E in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws of general application relating to or affecting the enforcement of creditors' rights and by general equitable principles.

(c) **No Violation.** Except as specified in Schedule 8 "PG&E AUTHORIZATION AND ENFORCEABILITY," and Schedule 11 "REQUIRED GOVERNMENTAL APPROVALS" and subject to (i) PG&E obtaining the release of the Subject Pipeline(s) from the lien imposed by PG&E's First and Refunding Mortgage, dated December 1, 1920, as supplemented through the Closing Date, and (ii) the Parties satisfying their respective obligations to obtain or process (as applicable) the consents, approvals, permits, licenses, filings and notices described in Section 6.8 "Regulatory Matters and Other Consents," neither the execution and delivery by PG&E of this Agreement, nor the compliance by PG&E with any provision hereof, nor the consummation of the Transaction contemplated hereby will: (A) violate or conflict with, or result in a breach of the Articles of Incorporation or Bylaws of PG&E, or (B) violate any material law or regulation applicable to PG&E.

(d) No Consents. Except as may be specified in Schedule 8 "PG&E AUTHORIZATION AND ENFORCEABILITY" and Schedule 11 "REQUIRED GOVERNMENTAL APPROVALS," and subject to (i) PG&E obtaining the release of the Subject Pipeline(s) from the lien imposed by PG&E's First and Refunding Mortgage, dated December 1, 1920, as supplemented through the Closing Date, and (ii) the Parties satisfying their respective obligations to obtain or process (as applicable) the consents, approvals, permits, licenses, filings and notices described in Section 6.8 "Regulatory Matters and Other Consents," no consent or approval of, filing with, or notice to any Person is required to be obtained or made by PG&E in connection with PG&E's execution, delivery and performance of this Agreement or the consummation by PG&E of the Transaction contemplated hereby, which if not so obtained or made, will prevent PG&E from performing its obligations hereunder.

(e) Litigation. As of the Closing Date and except as set forth on Schedule 9 "PG&E LITIGATION," PG&E has no Knowledge of:

(i) any action, investigation or request for information by any Governmental Authority or other Third Party which could result, or has resulted, in: (A) the institution of legal proceedings to prohibit or restrain the performance of this Agreement or the consummation of the Transaction contemplated by this Agreement, or (B) a claim for damages as a result of this Agreement or the consummation of the Transaction contemplated by this Agreement; or

(ii) any pending or threatened litigation, claim, investigation or proceeding, private or governmental, against PG&E which, if adversely determined, would have a material adverse effect on (1) PG&E's ability to perform this Agreement or (2) the ownership, use, operation or value of the Subject Pipeline(s).

(f) Compliance with Laws. To PG&E's Knowledge and except as set forth on Schedule 14, "Compliance Exceptions," as of the Closing Date PG&E has received no written notice that PG&E's current use and operation of the Subject Pipeline(s) violates in any material respect any applicable laws, orders, ordinances, rules or regulations of any Governmental Authority in existence as of execution of this Agreement.

(g) Brokers. All negotiations relative to this Agreement and the Transaction contemplated by it have been carried on by PG&E without the intervention of any Third Party that would give rise to any valid claim against Buyer (by reason of PG&E's actions) for a brokerage commission, finder's fee or other like payment to any Third Party.

(h) DISCLAIMERS REGARDING THE SUBJECT PIPELINE(S). PG&E EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE SUBJECT PIPELINE(S) OR THE PROSPECTS (FINANCIAL OR OTHERWISE), RISKS AND OTHER INCIDENTS OF THE SUBJECT PIPELINE(S), AND PG&E SPECIFICALLY DISCLAIMS ANY AND ALL REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE SUBJECT PIPELINE(S), OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP OR CONSTRUCTION THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, PG&E EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND REGARDING THE CONDITION OF THE SUBJECT PIPELINE(S) OR THE SUITABILITY OF THE SUBJECT PIPELINE(S) FOR OPERATION AS GATHERING FACILITIES. THE SUBJECT PIPELINE(S) ARE BEING SOLD "AS IS, WHERE IS, WITH ALL FAULTS" ON THE CLOSING DATE.

NO SCHEDULE OR EXHIBIT TO THIS AGREEMENT, NOR ANY OTHER MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY PG&E, ITS EMPLOYEES, AGENTS, OR CONSULTANTS, SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE SUBJECT PIPELINE(S). WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PG&E SPECIFICALLY DISCLAIMS AND BUYER ACKNOWLEDGES THE FOLLOWING:

(i) TITLE AND PROPERTY INTERESTS. PG&E expressly disclaims any and all representations and warranties as to the condition of, or PG&E's rights in, or its title to, the Subject Pipeline(s), or any part thereof, or whether PG&E possesses sufficient real property or personal property interests to own or operate the Subject Pipeline(s) or to convey the Subject Pipeline(s).

(j) HAZARDOUS SUBSTANCES. PG&E disclaims any representation or warranty regarding the absence of Hazardous Substances or liability or potential liability arising under Environmental Laws or as to compliance with Environmental Laws with regard to the Subject Pipeline(s) or any of the Site(s) on which they are located.

(k) RIGHTS-OF-WAY, OTHER PERMITS, LICENSES, ETC. PG&E makes no representation or warranty regarding the transfer or transferability of easements or any other permits or licenses, and PG&E makes no representation or warranty regarding which Rights-of-Way or other permits or licenses must be obtained by Buyer to operate the Subject Pipeline(s).

(l) REAL PROPERTY SITE(S). PG&E makes no representation or warranty as to the physical condition of the Site(s) or as to the uses of the Site(s), or any limitations thereon, including, but not limited to, zoning, Environmental Laws or other laws, regulations or governmental requirements; the conditions of the soils or groundwaters of the Site(s); the presence or absence of Hazardous Substances on or under the Site(s); or any other matter bearing on the use or condition of the Site(s).

(m) NO RECOURSE. Buyer agrees that to the extent the transfer, conveyance, assignment and delivery of the Subject Pipeline(s) or easements to Buyer as provided in this Agreement is accomplished by bills of sale, subleases, subcontracts, or other instruments of transfer, whether executed at the Closing or thereafter, such instruments shall be without representation or warranty by, or recourse against, PG&E, except as expressly provided in this Agreement.

**4.2 Representations and Warranties of Buyer.** Buyer represents and warrants to PG&E as follows:

(a) Organization and Existence. Buyer is a duly organized and validly existing corporation in good standing under the Laws of the State of Delaware. Buyer is qualified to do business in the State of California.

(b) Execution, Delivery and Enforceability. Buyer has the requisite corporate power to enter into and carry out its obligations under this Agreement. The execution and delivery by Buyer of this Agreement and the consummation of the Transaction contemplated hereby have been duly authorized by all necessary corporate action on the part of Buyer. Assuming the due authorization, execution and delivery by PG&E, this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws of general application relating to or affecting the enforcement of creditors' rights and by general equitable principles.

(c) No Violation. Subject to the Parties satisfying their respective obligations to obtain or process (as applicable) the consents, approvals, permits, licenses, filings and notices described in Section 6.8 “Regulatory Matters and Other Consents,” neither the execution and delivery of this Agreement by Buyer, nor the compliance with any provision hereof, nor the consummation of the Transaction contemplated hereby will: (i) violate or conflict with, or result in a breach of any provisions of the organizational documents of Buyer; or (ii) violate any material law or regulation applicable to Buyer.

(d) No Consents. Subject to the Parties satisfying their respective obligations to obtain or process (as applicable) the consents, approvals, permits, licenses, filings and notices described in Section 6.8 “Regulatory Matters and Other Consents,” no consent or approval of, filing with or notice to any Person is required to be obtained or made by Buyer in connection with Buyer’s execution, delivery and performance of this Agreement, or the consummation of the Transaction contemplated hereby, which, if not obtained or made will prevent Buyer from performing its obligations hereunder or thereunder.

(e) Litigation. As of the Closing Date and except as set forth on Schedule 2 “BUYER LITIGATION,” Buyer has no Knowledge of:

(i) any action, investigation or request for information by any Governmental Authority or other Third Party which could result, or has resulted, in: (A) the institution of legal proceedings to prohibit or restrain the performance of this Agreement or the consummation of the Transaction contemplated by this Agreement, or (B) a claim for damages as a result of this Agreement or the consummation of the Transaction contemplated by this Agreement; or

(ii) any pending or threatened litigation, claim, investigation or proceeding, private or governmental, against Buyer which, if adversely determined, would have a material adverse effect on Buyer’s ownership or acquisition of the Subject Pipeline(s) or Buyer’s ability to perform this Agreement.

(f) Financial Statements. Buyer has delivered to PG&E true and complete copies of the audited balance sheet of Buyer and of Guarantor as of the last day of Buyer’s most recently completed fiscal year, and the related audited statements of operations, stockholders’ equity and cash flows for the year then ended (collectively, “Audited Financial Statements”), together with the related auditors’ opinion letter, Buyer’s and Guarantor’s quarterly financial statements for each of the fiscal quarters ended after the date of its most recent Audited Financial Statements. Except as may otherwise be indicated in the auditor’s opinion letter, the Audited Financial Statements have been prepared in conformity with generally accepted accounting principles, consistently applied, and present fairly the financial position and results of Buyer’s operations and its cash flows on the dates and for the periods stated.

(g) Brokers. All negotiations relating to this Agreement and the Transaction contemplated hereby have been carried on by Buyer without the intervention of any Third Party that would give rise to any valid claim against PG&E (by reason of Buyer’s actions) for a brokerage commission, finder’s fee, or other like payment to any Third Party.

#### **4.3 Certain Acknowledgments and Risk Allocations.**

(a) Buyer’s Responsibility. Buyer is an experienced gas producer/gas well operator and investor, and is represented by counsel in connection with this Transaction. Buyer has the responsibility under this Agreement to inspect the Subject Pipeline(s) and Site(s) in sufficient detail to fully satisfy itself with respect to the environmental conditions and the physical conditions affecting the Subject Pipeline(s) and Site(s). As of the Closing Date, Buyer will have reached its conclusions based upon its own analysis and without relying upon representations by PG&E, its employees, agents, consultants or other representatives, except for the representations expressly set forth in Section 4.1, “Representations, Warranties and Disclaimers of PG&E.”

(b) Acknowledgment by Buyer. In making its decision to execute this Agreement and to purchase the Subject Pipeline(s), Buyer has relied and will rely upon the results of its own independent investigation and verification of the Subject Pipeline(s). THE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 4.1 "REPRESENTATIONS, WARRANTIES AND DISCLAIMERS OF PG&E" OF THIS AGREEMENT CONSTITUTE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES OF PG&E IN CONNECTION WITH THE TRANSACTION CONTEMPLATED HEREBY. There are no representations, warranties, covenants, understandings, or agreements among the Parties regarding the Subject Pipeline(s) or their transfer other than those incorporated in this Agreement. Except for the representations and warranties expressly set forth in Section 4.1 "Representations, Warranties and Disclaimers of PG&E" of this Agreement, Buyer disclaims reliance on any representations, warranties, or guarantees, either express or implied, by PG&E, its officers, directors, counsel, representatives or agents.

(c) **"AS IS" SALE. BUYER ACKNOWLEDGES AND AGREES THAT THE SUBJECT PIPELINE(S) ARE BEING ACQUIRED "AS IS, WHERE IS" ON THE CLOSING DATE, AND IN THEIR CONDITION ON THE CLOSING DATE, AS SET FORTH IN SECTION 4.1(h) "DISCLAIMERS REGARDING THE SUBJECT PIPELINE(S)," AND THAT BUYER IS RELYING ON ITS OWN EXAMINATION OF THE SUBJECT PIPELINE(S).**

(d) Buyer acknowledges and agrees that any easement rights in or to the Site(s) that may be assigned to and accepted by Buyer will apply to the Site(s) in its/their present condition, "AS IS, WITH ALL FAULTS;" and subject to the obligations of PG&E in Sections 9.1 and 8.2, Buyer hereby assumes the risk that adverse physical characteristics and existing conditions, including, without limitation, Hazardous Substances, may not have been revealed by its investigation.

(e) Buyer acknowledges that portions of the Site(s), or adjacent or neighboring lands, were or may have been used by present or prior owners or operators for the disposal of wastes, substances, and materials of unknown type, nature or origin, some of which may have been or may now be Hazardous Substances. As a result of such uses and activities and the seepage and leaching of materials, physical, chemical, or other changes may have occurred in, on, or under the Site(s), including, without limitation, the release of Hazardous Substances. By completing the Transaction, as of the Closing, Buyer shall be deemed to acknowledge that Buyer had the opportunity to inspect the Site(s) and observe its/their physical characteristics and existing conditions and had the opportunity to conduct such investigation and study on and of the Site(s) as it deems necessary. Consequently, as of the Closing Date, Buyer shall be deemed to have waived any and all objections to or complaints about any and all Hazardous Substances, subject to PG&E discharging its obligations under Sections 8.2 and 9.2.

#### **4.4 Survival of the Parties' Representations, Warranties, Disclaimers, and Acknowledgments.**

(a) Survival Period of Certain Representations and Warranties. The representations and warranties of PG&E contained in Section 4.1 "Representations, Warranties and Disclaimers of PG&E" will survive until the first anniversary of the Closing Date, at which time these representations and warranties will terminate; provided that the representations and warranties of PG&E contained in paragraphs (e) and (f) of Section 4.1 shall terminate upon the Closing. The representations and warranties of Buyer contained in Section 4.2 "Representations and Warranties of Buyer" will survive until the first anniversary of the Closing Date, at which time these representations and warranties will terminate.

(b) Survival of Disclaimers. All disclaimers of PG&E contained in Article 4 or in any other provision of this Agreement shall survive the Closing or termination of this Agreement without a time limitation.

(c) Survival of Buyer's Acknowledgments. All provisions of Section 4.3 "Certain Acknowledgments and Risk Allocations" shall survive the Closing or termination of this Agreement without a time limitation.

## **5. DUE DILIGENCE; PRE-CLOSING INSPECTIONS**

### **5.1 Due Diligence.**

(a) For a period not to exceed forty-five (45) days following the Effective Date of this Agreement (the "Due Diligence Period"), during normal business hours and subject to any rights of Third Parties and the conditions stated below, PG&E shall make available as may be requested by Buyer from time to time for inspection by Buyer (i) the Subject Pipeline(s), at their location, and (ii) documents in PG&E's Possession to the extent that they are reasonably available and relate materially to ownership or operation of the Subject Pipeline(s), including easement records; Related Contracts; "as-built" drawings; alignment drawings (pipeline survey sheets); engineering drawings or pipeline plat sheets; leak records; CPUC required maintenance records; environmental investigation and remediation reports relating to hazardous substances in soil or groundwater; closure reports for environmental remediation and "No Further Action" letters. Buyer acknowledges and agrees that PG&E shall have no obligation to and shall incur no liability as a result of refusing to provide access to any information which PG&E determines is either (i) subject to privilege in accordance with the California Evidence Code, or (ii) proprietary or confidential and not related exclusively to the Subject Pipeline(s), or (iii) not material or relevant to Buyer's due diligence investigation. Nothing contained in this Section 5.1 requires PG&E to develop or provide to Buyer any information or material that is not in PG&E's Possession. For purposes of this Article 5, "PG&E's Possession" shall mean the possession by employees of PG&E's Land Department and the following work groups located in PG&E's System Maintenance & Technical Support Department offices at Walnut Creek: "Pipeline Engineering & Estimating"; "Environmental, Health & Safety"; and "Operations Support," whose functional duties are directly related to the operation, maintenance or ownership of the Subject Pipeline(s). For the purposes of this Section 5.1, "reasonably available" shall mean a reasonable search of the PG&E files of documents that relate to the operation and maintenance of the Subject Pipelines. The Due Diligence Period may be extended or reduced subject to mutual agreement of the Parties, by a number of days not to exceed thirty (30) days.

(b) Notwithstanding any other provision of this Section 5.1 and its subparagraphs, Buyer shall be solely responsible for conducting an independent investigation and verification of the Subject Pipeline(s) and the Site(s). Buyer shall inspect, review and otherwise perform whatever acts Buyer deems necessary to determine the condition of the Subject Pipeline(s) and the Site(s), so as to ensure that, after the Closing Date, Buyer may use, operate, repair and maintain the Subject Pipeline(s) in their present location and condition; provided that, the activities of Buyer at the Site(s) are subject to Buyer obtaining any approvals of landowners (or lessees) that may be required; and provided further that, Buyer shall not test, collect or make environmental investigation of Site(s), or remove any soil, groundwater or other materials, until Buyer's testing plans and procedures have been approved in writing by PG&E, which approval shall not be unreasonably withheld; however, reasonable grounds for withholding such approval shall include, but not be limited to, potential exacerbation of site conditions or interference with PG&E's operations. PG&E's failure to approve, or request modification of Buyer's submittal within ten (10) business days, shall be construed as a rejection. If PG&E withholds such approval or Buyer reasonably disagrees with the conditions of approval imposed by PG&E, or if the landowner withholds an approval required for Buyer's due diligence or investigation, Buyer may terminate this Agreement pursuant to Section 5.3 "Buyer's Right to Terminate" below. Such termination rights shall constitute Buyer's sole and exclusive remedy in the event that PG&E withholds such approval.

(c) Buyer's investigation or inspection of the Site(s) or the Subject Pipeline(s) shall not unreasonably interfere with any of the business or operations of the Subject Pipeline(s) or of the owner (or the lessee or tenant) of the real property comprising the Site(s).

(d) Buyer shall bear all of its own costs, expenses, liabilities and charges incurred in connection with its access to the Subject Pipeline(s), the Site(s), or in connection with any reviews, inspections or investigations, pursuant to this Section 5.1.

(e) Buyer shall notify PG&E by telephone or facsimile, at the numbers provided for that purpose in Section 12.1 "Notices," no later than two (2) working days prior to any inspection of the Subject Pipeline(s), Site(s), or information, in each instance. PG&E shall have the right to have a representative accompany Buyer on each such inspection.

(f) Buyer shall, promptly upon receipt by Buyer, provide to PG&E copies of all reports and studies, and with respect to environmental investigations also raw data, collected or prepared by or on behalf of Buyer in connection with Buyer's due diligence or the matters addressed in this Article 5.

**5.2 Indemnification.** Buyer shall indemnify, defend (with competent independent counsel), protect and hold PG&E, its officers, directors, employees, agents and contractors harmless from and against any and all Losses arising out of or in any way connected with the Subject Pipeline(s) or Site(s) and occurring as a result of any inspection of the Subject Pipeline(s) or entry upon the Site(s) or activities conducted thereon prior to the Closing by Buyer, its agents, contractors, employees, consultants, or other representatives of Buyer. Buyer shall return the Subject Pipeline(s) and Site(s) as nearly as possible to the same condition as they were in prior to such entries or activities, or shall pay PG&E all costs of doing so.

**5.3 Buyer's Right to Terminate.** Buyer shall have the right to terminate this Agreement by written notice to PG&E given prior to the expiration of the Due Diligence Period or no later than five (5) business days thereafter (the "Due Diligence Related Termination Period"), if any of the following events occur: (i) Buyer is not satisfied with the results of its inspections, or (ii) Buyer is unable to obtain the necessary Rights-of-Way or any other consents, permits, or licenses which are necessary to own, operate, or maintain the Subject Pipeline(s), or (iii) PG&E withholds approval of or imposes conditions unacceptable to Buyer with respect to Buyer's environmental investigations regarding Hazardous Substances; or (iv) the landowner withholds an approval required for Buyer's due diligence investigation, or (v) PG&E fails or refuses to provide access to information in its possession which is reasonably deemed material by Buyer.

**5.4 Buyer's Election and Obligation to Notify PG&E.** Before the end of the Due Diligence Period or the end of the Due Diligence Related Termination Period, as applicable, Buyer shall either:

(a) notify PG&E in writing of the completion of Buyer's due diligence investigations and review, approval of the results thereof, and Buyer's intention to complete the Transaction on Buyer's part; or

(b) notify PG&E in writing of Buyer's intention to exercise its right to terminate this Agreement pursuant to Section 5.3 "Buyer's Right to Terminate," if applicable.

Buyer's notice of termination shall specify in detail the basis for Buyer's termination of this Agreement. If Buyer elects not to terminate this Agreement, in addition to all other claims waived by Buyer hereunder, Buyer shall be deemed to have waived any and all rights or claims against PG&E with respect to matters discovered during the Due Diligence Period, except with regard to PG&E's obligations under Sections 3.3, 8.2, 9.1 and 9.2. If Buyer elects to terminate this Agreement, Buyer shall promptly provide PG&E with copies of any and all inspection reports and other items, as provided in Section 5.1(f). If Buyer fails to comply with the provisions of this Section 5.4, PG&E shall be released from all of its obligations under this Agreement.

## 6. CERTAIN AGREEMENTS

### 6.1 Confidentiality.

(a) Each Party shall treat information furnished or made available to it by the other Party, pursuant to this Agreement, as confidential and use it solely for purposes of evaluation and consummation of the Transaction (i) if the document in which the information is presented is clearly marked as confidential, or (ii) if information provided orally is identified as confidential at the time of the disclosure and in a letter transmitted within two (2) weeks of the disclosure, or (iii) if the information is obtained during the course of the negotiations leading to the execution of this Agreement, or as part of due diligence (including documents and material of the type provided for in Section 5.1 "Due Diligence"), or as a result of due diligence inspections or investigations, or as a result of investigation of the other Party, the Subject Pipeline(s), or Site(s), or in the preparation of agreements, schedules or other documents relating to the consummation of the Transaction. All information referred to above in this Section 6.1 is defined as "Confidential Information" for purposes of this Agreement. The term Confidential Information will not, however, include information that (i) is or becomes publicly available other than as a result of a disclosure by the receiving Party or its representatives, (ii) is or becomes available to the receiving Party without confidentiality restrictions from a source other than the other Party or its representatives, which source, to the receiving Party's knowledge after due inquiry, is not prohibited by any legal obligation or fiduciary duty to the other Party from disclosing such information to the receiving Party, or (iii) is used by the Buyer after the Closing in the operation of the Subject Pipeline(s). If this Agreement is terminated (i) neither Party will use any Confidential Information furnished by the other Party in its own or any of its Affiliate's business or for any other purpose, and (ii) each of the Parties will return to the other all originals and copies of Confidential Information, including documents and material of the type provided for in Section 5.1 "Due Diligence" or referred to in this Section 6.1, that have been furnished in connection with this Agreement, and (iii) each Party will destroy, and certify through its corporate secretary or responsible officer, the destruction of all records containing Confidential Information of the other Party that the receiving Party may have prepared.

(b) Upon written notice to the other Party, either Party may provide the other Party's Confidential Information to the CPUC or any other Governmental Authority with jurisdiction, as required (by such Governmental Authority) to obtain any necessary regulatory approvals related to the Transaction. The disclosing Party shall seek confidential treatment for the other Party's Confidential Information so provided to a Governmental Authority unless this requirement is waived in writing by the other Party. To the extent possible, the disclosing Party shall notify the other Party within a reasonable time in advance of its intention to release to a Governmental Authority any Confidential Information that such Party has obtained from the other Party pursuant to this Agreement. Nothing in this Agreement shall preclude either Party from providing a Governmental Authority with Confidential Information that such Party is required to provide pursuant to any law, or any decree, order or regulation of any Governmental Authority.

(c) The provisions of this Section 6.1 shall survive termination of this Agreement or the Closing of the Transaction.

### 6.2 Taxes, Prorations and Closing Costs.

#### (a) Taxes.

(i) In General. Buyer shall pay all Taxes, including sales, use and transfer Taxes, arising in connection with the transfer of the Subject Pipeline(s), except that PG&E and Buyer shall each pay their own net income Taxes. State and local real and personal property Taxes relating to the Subject Pipeline(s) for the Tax year of the Closing shall be prorated between Buyer and PG&E on the following basis: PG&E shall be responsible for the payment of all such Taxes for the period up to the Closing; and Buyer shall be responsible for payment of all such Taxes for the period on and after the Closing. All such Taxes assessed on an annual basis shall be prorated on the assumption that an equal amount of Tax applies to each day of the year, regardless of how any installment payments are billed or made, except that any supplemental property Taxes or assessments which arise out of a revaluation of the Subject Pipeline(s), which revaluation would not have occurred except for the change in ownership, shall be paid by Buyer. Any payments due one

Party from the other pursuant to this Section 6.2 shall be paid at the Closing. If the Closing year's Taxes and assessments are not available as of the Closing, for purposes of apportionment between Buyer and PG&E and payment pursuant to this Section 6.2, the amount thereof shall be estimated on the basis of the final Tax statements; but, within forty-five (45) days after such statements are provided by one Party to the other, the Party owing any amount to the other hereunder shall pay that amount.

(ii) Assessment and Payment of Property Taxes. Buyer acknowledges that the property Tax on the Subject Pipeline(s) is assessed by the California State Board of Equalization as of January 1 of each year, and PG&E must pay real property Taxes on the Subject Pipeline(s) for the subsequent fiscal year. If the Closing occurs between January 1, and June 30, Buyer shall deposit with PG&E the full amount to pay real property Taxes allocable to the Subject Pipeline(s) for the tax year beginning on July 1, in addition to the prorated amount of real property Taxes allocable to the Subject Pipeline(s) for the tax year (ending June 30). PG&E shall pay the Taxes for the subsequent tax year before they become delinquent; provided, however, that PG&E shall have the right to pay such Taxes in installments as permitted by law.

(iii) Refunds and Credits. PG&E will be entitled to any and all refunds or credits of Taxes relating to the Subject Pipeline(s) for the period prior to the Closing Date. Buyer will promptly notify PG&E and forward to PG&E the amounts of any such refunds or credits within fifteen (15) days after receipt thereof.

(iv) Notices Regarding Taxes. After the Closing, Buyer will notify PG&E in writing, within fifteen (15) days after Buyer's receipt of any correspondence, notice or other communication from a taxing authority or any representative thereof, of any pending or threatened tax audit, or any pending or threatened judicial or administrative proceeding that involves Taxes relating to the Subject Pipeline(s) for the period prior to the Closing; and Buyer will furnish PG&E with copies of all correspondence received from any taxing authority in connection with any audit or information request, with respect to any such Taxes relating to the Subject Pipeline(s) for the period prior to the Closing.

(b) Rents and Fees. Any rents and fees due or payable by PG&E under any Rights-of-Way, or other permits, licenses or other agreements relating to the Subject Pipeline(s) shall be prorated as of the Closing Date. The amount due PG&E at the Closing shall be adjusted by the prorations calculated pursuant to this Section 6.2(b).

(c) Buyer's Closing Costs. Buyer will pay (i) all costs of (1) any title policy and all endorsements thereto that Buyer elects to obtain, and any other costs for title-related work charged by the title company issuing the title policy; (2) all necessary filings required of Buyer under the HSR Act; (3) compliance with CEQA requirements; (4) Buyer's Due Diligence Inspections, investigations and reviews; (5) obtaining the authorizations, consents, licenses, permits and approvals pursuant to Section 6.8(b) "Buyer Responsibility;" (ii) all document recordation costs; (iii) all documentary transfer taxes due in connection with the transfer of the Subject Pipeline(s) to Buyer; and (iv) all other closing costs as may be necessary to complete the Transaction, except to the extent that any such cost is specifically allocated to PG&E in this Agreement.

(d) PG&E's Closing Costs. PG&E will pay (i) all costs of PG&E's filing for CPUC Approval of the Transaction; (ii) all costs of necessary filings required of PG&E under the HSR Act; and (iii) all costs of any other approval or authorization that PG&E deems appropriate to seek and is not stated as one of Buyer's responsibilities under this Agreement.

**6.3 Operation of the Subject Pipeline(s).** Except as set forth in Schedule "MODIFICATIONS OF PG&E'S SYSTEM AND/OR THE SUBJECT PIPELINE(S)," in Sections 6.4 "Modifications of PG&E's System and/or the Subject Pipeline(s)" and 6.5 "Capital Expenditures" below, and as contemplated herein or otherwise consented to by Buyer in writing, from the date of this Agreement through the Closing, PG&E will use reasonable efforts under the circumstances not to do or permit to be done anything in respect of the Subject Pipeline(s) other than in the ordinary course of business as presently conducted, or as provided in this Agreement.

**6.4 Modifications of PG&E's System and/or the Subject Pipeline(s).** PG&E will make modifications in or to PG&E's gas plant, gas transmission system and/or the Subject Pipeline(s), as specifically set forth in Schedule 6 "MODIFICATIONS OF PG&E'S SYSTEM AND/OR THE SUBJECT PIPELINE(S)," for the purpose of separating the Subject Pipeline(s) from PG&E's gas plant ("Transition Modifications"). All such Transition Modifications, as specifically set forth in Schedule 6 hereof, will be performed by PG&E at Buyer's expense ("Transition Modification Costs") after the Closing, subject to Buyer's payment to PG&E of the total sum of \$0 at the Closing, which payment shall cover all Transition Modifications specifically set forth in Schedule 6 "MODIFICATIONS OF PG&E'S SYSTEM AND/OR THE SUBJECT PIPELINE(S)," on the Effective Date, but no other modifications..

**6.5 Capital Expenditures.** Notwithstanding anything to the contrary contained in this Agreement, from the Effective Date through the Closing, PG&E may make Capital Expenditures in accordance with the Existing CPIOA. Buyer shall pay to PG&E the amount expended by PG&E on account of all Capital Expenditures made between the Effective Date and the Closing in accordance with the Existing CPIOA. If Buyer fails to authorize PG&E to make such Capital Expenditures, then PG&E shall have the right to retire the affected Facilities, and all obligations of PG&E to Buyer with respect to the affected Facilities shall be automatically extinguished and PG&E shall be released from any and all liabilities relating thereto.

**6.6 Risk of Loss.** If, prior to the Closing Date, the Subject Pipeline(s) are totally or partially damaged or destroyed, and the cost of repair is reasonably estimated to exceed fifty percent (50%) of the Purchase Price specified in Section 3.1 (a "Major Loss"), Buyer and PG&E shall each have the right to terminate this Agreement by giving to the other Party written notice of termination within ten (10) days of PG&E's notice to Buyer of such destruction or damage. In the event that neither Party elects to terminate this Agreement following such damage or destruction, or in the event of any other damage to the Subject Pipeline(s) the repair cost of which is less than a Major Loss, Buyer shall remain obligated to perform all of its obligations under this Agreement, and the provisions of Section 6.5 "Capital Expenditures" shall apply to the affected Facilities. If PG&E performs such repairs Buyer shall, within thirty (30) days of the date of PG&E's invoice, pay to PG&E the actual cost of such repairs. [The Closing Deadline, as defined in Section 7.6(b), will be extended by the estimated time period for completion of such repair or replacement plus thirty (30) days.] All other costs of repair to the Subject Pipeline(s) shall be deemed to be Capital Expenditures, with the exception of Ordinary Maintenance Expenditures, which shall be borne by PG&E.

**6.7 Buyer's Insurance Requirements.** From and after the Closing, Buyer or Guarantor shall maintain insurance coverage with respect to the acquired Subject Pipeline(s) against liabilities of the kinds customarily insured against by companies in the same or similar businesses of comparable types and scale (including self-insurance).

**6.8 Regulatory Matters and Other Consents.**

(a) **PG&E Responsibility.** PG&E will use Commercially Reasonable Efforts to obtain the CPUC Approval of the Transaction and any other authorization, consent, or approval that PG&E, in its sole discretion, deems necessary or appropriate regarding the Transaction.

(b) **Buyer Responsibility.** Except as provided in Section 6.8(a) "PG&E Responsibility," it is Buyer's responsibility to obtain the following (collectively, the "Required Consents"):

(i) all authorizations, consents, licenses, permits and approvals of Governmental Authorities and Third Parties required by applicable law or by Third Parties in connection with the consummation of the Transaction or Buyer's operation of the Subject Pipeline(s); and

(ii) without limiting the generality of clause (i) above, the specific consents to the assignment from PG&E to Buyer of (or, as applicable, the reissuance of) easements pursuant to Section 2.3.1 "Easements."

With respect to Required Consents of Third Parties, Buyer will promptly use Commercially Reasonable Efforts to obtain all Required Consents. Upon PG&E's request, Buyer will promptly provide a detailed report as to the status of each Required Consent and Buyer's efforts to obtain the same. After the Closing, Buyer will promptly notify all relevant Governmental Authorities and all Third Parties of the change in ownership of the Subject Pipeline(s) resulting from the Transaction to the extent required by applicable law or the specific underlying agreements.

(c) Hart-Scott-Rodino. The Parties will comply with the provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act") to the extent applicable to the Transaction. If applicable, the Parties will make the required filings under the HSR Act, and it will be a condition precedent to Closing for both PG&E and Buyer that all waiting periods under the HSR Act expire prior to Closing, and that no order, decree, judgment or injunction enjoining or prohibiting the consummation of the Transaction has been issued. If any Governmental Authority having jurisdiction under the HSR Act requires the filing of any additional information, each Party will provide that information in a prompt and diligent manner. Buyer and PG&E will pay their respective filing fees under the HSR Act, and each Party will bear its own costs of the preparation of any filing.

(d) CEQA Compliance. Buyer will pay for compliance with all CEQA requirements, to the extent applicable to the Transaction.

(e) Cooperation. Each Party will use Commercially Reasonable Efforts to assist the other Party in its efforts to obtain the consents, approvals, permits and licenses required pursuant to this Section 6.8 and will cooperate with the other Party in executing the applications and other documents that are reasonably required. Each Party will bear its own costs for these applications and proceedings except as otherwise provided in Section 6.2 "Taxes, Prorations and Closing Costs."

(f) No Transfer if Consent or Approval Not Obtained. PG&E is not obligated to assign or transfer any interest in the Subject Pipeline(s) or any claim, right or benefit arising under or resulting from the Subject Pipeline(s), if an assignment or transfer or an attempt to make such an assignment or transfer without the consent of a Third Party would breach a contractual or equitable obligation owed to a Third Party, or violate any law, decree, order or regulation of any Governmental Authority.

(g) No Transfer if Utility Status. It is not Buyer's intent to become or operate as a public utility. In requesting CPUC Approval of the Transaction, the Parties shall specifically request that the CPUC issue a conclusion of law or finding of fact stating that Buyer's deliveries of gas to PG&E and the provision of equal access and non-discriminatory gas gathering services to producers connected to the Subject Pipelines do not by themselves cause Buyer to be subject to CPUC regulation as a public utility defined in California Public Utilities Code, Part 1. Buyer is not obligated to accept transfer of the Subject Pipelines unless the CPUC shall have made a finding in response to the Parties' request for CPUC Approval of the Transaction regarding Buyer's status as a public utility and such finding shall be acceptable to Buyer in its sole discretion.

## 7. THE CLOSING

7.1 Conditions Precedent to the Closing. The obligations of each Party under this Agreement to complete the purchase and sale of the Subject Pipeline(s) as contemplated hereby shall be subject to the satisfaction, on or prior to the Closing, of each of the following conditions precedent:

(a) Approval of Governmental Authority. CPUC Approval shall have been obtained no later than twelve (12) months following the Effective Date of this Agreement and shall be in full force and effect. Each Party shall notify the other in writing no later than sixty (60) calendar days following the date of such approval stating whether or not such approval is in a form satisfactory and acceptable to it. If either Party notifies the other that such approval is not satisfactory, this Agreement shall automatically terminate. All approvals from the other Governmental Authorities listed on Schedule 11 "REQUIRED GOVERNMENTAL APPROVALS," as such Schedule may be amended prior to the Closing by mutual agreement of the Parties, shall have been received and been approved by both Parties no later than twelve (12) months following the Effective Date of this Agreement and shall be final and not subject to rehearing appeal or judicial review, and in full force and effect on the Closing Date.

(b) Due Diligence. Buyer shall have completed and approved the results of its due diligence inspections and review, in connection with the purchase of the Subject Pipeline(s) within the Due Diligence Period, and Buyer shall have notified PG&E in accordance with Section 5.4(a).

(c) CEQA Compliance. Any environmental review required under CEQA with respect to the Transaction contemplated hereby shall have been undertaken and completed, and the applicable statute of limitations for filing a judicial challenge to such review shall have expired without any challenge of this kind.

(d) Equal Access and Non-Discriminatory Service. Buyer shall have provided to PG&E, in a form and substance acceptable to PG&E, as Exhibit D herein, Buyer's assurance that Buyer will provide equal access and non-discriminatory services to producers, connected to the Subject Pipeline(s) at the time of Closing, and their successors, desiring to delivery their gas to the PG&E gas pipeline system.

**7.2 Additional Conditions Precedent to Obligations of Buyer.** In addition to the conditions set forth in Section 7.1 "Conditions Precedent to the Closing," the obligations of Buyer under this Agreement to complete the Transaction contemplated hereby will be subject to the satisfaction, at or prior to the Closing, of each of the conditions precedent set forth in this Section 7.2, any one or more of which may be waived by Buyer at its option:

(a) Compliance with Provisions. PG&E has performed or complied in all material respects with all covenants, agreements and conditions contained in this Agreement required to be performed or complied with by PG&E at or prior to the Closing.

(b) Approvals. Buyer has received and approved all authorizations, consents, licenses, permits and approvals of Governmental Authorities and Third Parties required by applicable law or required by any such Third Parties in connection with the consummation of the Transaction contemplated by this Agreement and with Buyer's operation of the Subject Pipeline(s) At PG&E's option, Buyer will be deemed to have received and approved all of such authorizations, consents, licenses, permits and approvals of Governmental Authorities and of Third Parties unless Buyer has notified PG&E in writing of the failure of this condition on or before the first anniversary of the Effective Date. PG&E may extend the aforesaid time period at PG&E's discretion.

(c) No Adverse Proceedings or Events. No suit, action or other proceeding against any Party or its Affiliates is pending before any court or Governmental Authority which seeks to restrain or prohibit the Transaction contemplated by this Agreement or to obtain material damages or other material relief in connection with this Agreement or the Transaction contemplated hereby.

(d) Transfer Documents. PG&E has delivered or caused to be delivered to Buyer at the Closing the documents referenced in Schedule 4 "CLOSING DELIVERIES BY PG&E."

(e) Interconnection Agreement. PG&E has executed and delivered to Buyer the Interconnection Agreement.

- (f) Balancing Agreement. PG&E has executed and delivered to Buyer the Balancing Agreement.
- (g) PG&E's Certificate of Incumbency. PG&E has delivered to Buyer PG&E's Certificate of Incumbency.
- (h) Hart-Scott-Rodino. The condition precedent set forth in Section 6.8(c) "Hart-Scott-Rodino" is satisfied.
- (i) No Termination. Neither Party has exercised any termination right such Party is entitled to exercise pursuant to Section 7.6 "Termination."
- (j) PG&E's Certificate of Compliance. PG&E shall have delivered to Buyer a certificate signed by an officer of PG&E stating that, to PG&E's Knowledge, PG&E has complied with all of its obligations and covenants under this Agreement necessary for Closing, and that all of its representations and warranties made herein are true and correct as of the Closing Date.
- (k) Public Utility Status. Buyer has received and accepted (in its sole discretion) the CPUC finding regarding Buyer's status as a public utility, pursuant to Section 6.8(g).

**7.3 Additional Conditions Precedent to Obligations of PG&E**. In addition to the conditions set forth in Section 7.1 "Conditions Precedent to the Closing," the obligations of PG&E under this Agreement to complete the Transaction contemplated hereby will be subject to the satisfaction, at or prior to the Closing, of each of the conditions precedent set forth in this Section 7.3, any one or more of which may be waived by PG&E at its option:

- (a) Compliance with Provisions: Buyer has performed or complied in all material respects with all covenants, agreements and conditions contained in this Agreement required to be performed or complied with by Buyer at or prior to the Closing.
- (b) PG&E's Receipt of Approvals of Governmental Authorities: PG&E has received and approved in form and content satisfactory to PG&E (in its sole discretion) the CPUC Approval, and each specific approval and decision requested by PG&E as part of the CPUC Approval, any other authorization, consent and approval that PG&E deems necessary or appropriate for the completion of the Transaction, and any and all other approvals from the other Governmental Authorities listed on Schedule 11 "REQUIRED GOVERNMENTAL APPROVALS," as such Schedule may be amended prior to Closing by mutual agreement of the Parties, and which approvals are in full force and effect on the Closing Date. This Agreement may be voided by either Party, by written notice delivered to the other, at any time within thirty days after (i) the effective date of a CPUC decision disapproving, in whole or in part, either (A) this Agreement or the Transaction contemplated hereby, including, but not limited to, a request for approval under Section 851 of the Cal. Pub. Util. Code or (B) any other filing made by PG&E relating to cost or rate recovery related to this Agreement or the transaction contemplated hereby; or (ii) the failure of any condition set forth in this Section 7.2(b) "Approvals"; or
- (c) Other Approvals: Buyer has received and approved, in form and content, satisfactory to PG&E in its sole discretion, all authorizations, consents, licenses, permits and approvals of Governmental Authorities and Third Parties required by applicable law or required by any such Third Parties in connection with the consummation of the Transaction contemplated by this Agreement and Buyer's ownership and operation of the Subject Pipeline(s). No adverse effect on PG&E's pre-existing rights and interest has resulted or is likely to result, in PG&E's sole judgment,

from Buyer's acquisition of such authorizations, consents, licenses, permits or approvals. At PG&E's option, Buyer will be deemed to have received and approved all of such authorizations, consents, licenses, permits and approvals of Governmental Authorities and of Third Parties unless Buyer has notified PG&E in writing of the failure of this condition on or before the first anniversary of the Effective Date. PG&E may extend the aforesaid time period at PG&E's discretion.

(d) No Adverse Proceedings or Events: No suit, action or other proceeding against any Party or its Affiliates is pending before any court or Governmental Authority which seeks to restrain or prohibit the Transaction contemplated by this Agreement or to obtain material damages or other material relief in connection with this Agreement or the Transaction contemplated hereby.

(e) No Material Adverse Change: No material adverse change in Buyer's or Guarantor's financial condition, as determined by PG&E in its sole discretion, has occurred since the Effective Date.

(f) No Adverse Effect: No adverse effect on PG&E's permits, licenses, franchises, easements or other rights or approvals has resulted or is likely to result from the sale of the Subject Pipeline(s), or the completion of the Transaction contemplated hereunder, as determined in PG&E's sole judgment.

(g) Cash Closing Payment: Buyer has delivered to PG&E the Purchase Price as required by Section 3.1 "Purchase Price."

(h) Closing Deliveries: Buyer has delivered to PG&E (i) the documents referenced in Schedule "CLOSING DELIVERIES BY BUYER;" and (ii) payments specified in Section 6.3 "Operation of the Subject Pipeline(s)," 6.4 "Modifications of PG&E's System and/or the Subject Pipeline(s)," Section 6.5 "Capital Expenditures," and Section 6.6 "Risk of Loss."

(i) Interconnection Agreement: Buyer has executed and delivered to PG&E the Interconnection Agreement.

(j) Balancing Agreement: Buyer has executed and delivered to PG&E the Balancing Agreement.

(k) Board Resolutions: Buyer has delivered to PG&E certified copies of resolutions adopted by the Board of Directors of Buyer authorizing the Transaction contemplated by this Agreement.

(l) Creditworthiness Requirements: Buyer has met the Creditworthiness Requirements as set forth in Section 12.10; and, if requested by PG&E, has delivered security in a form and amount acceptable to PG&E in accordance with Section 12.10.

(m) Guaranty: If requested by PG&E, Buyer has delivered to PG&E: (i) the Guaranty executed by Guarantor, and (ii) evidence demonstrating that Guarantor continues to meet the Creditworthiness Requirements (as set forth in Section 12.10) as of the Closing Date.

(n) Hart-Scott-Rodino: The condition precedent set forth in Section 6.8(c) "Hart-Scott-Rodino" is satisfied.

(o) Buyer's Certificate of Incumbency: Buyer has delivered to PG&E, Buyer's Certificate of Incumbency.

(p) **Buyer's Certificate of Compliance:** Buyer shall have delivered to PG&E a certificate signed by an officer of Buyer stating that, to Buyer's Knowledge, Buyer has complied with all of its obligations and covenants under this Agreement necessary for Closing, and that all of its representations and warranties made herein are true and correct as of the Closing Date.

(q) **No Termination:** Neither Party has exercised any termination right such Party is entitled to exercise pursuant to Section 7.6 "Termination."

**7.4 The Closing.** The closing of the sale of the Subject Pipeline(s) to Buyer (the "Closing") shall take place at the offices of PG&E, 77 Beale Street, San Francisco, California, at the date and time determined by the Parties, which date shall be as soon as reasonably practicable following the date on which all of the conditions set forth in this Article 7 have been satisfied or waived by the Parties. The day and time of the Closing is herein also referred to as the "Closing Date."

(a) At the Closing, PG&E will deliver to Buyer the following, at the expense of PG&E:

(i) Appropriate transfer documents consisting of Bill(s) of Sale with respect to the Subject Pipeline(s), substantially in the form of Exhibit B;

(ii) Any other documents required to be delivered on or prior to the Closing, if such delivery has not already occurred.

(b) At the Closing, Buyer will deliver to PG&E, at the expense of Buyer:

(i) An amount equal to the purchase price as specified in Section 3.1 "Purchase Price," as adjusted pursuant to Sections 6.2 "Taxes, Prorations and Closing Costs", 6.4 "Modifications of PG&E's System and/or the Subject Pipeline(s)," Section 6.5 "Capital Expenditures," Section 6.6 "Risk of Loss," and Section 12.2 "Costs and Expenses";

(ii) Any other documents required to be delivered on or prior to the Closing, if such delivery has not already occurred.

**7.5 Passage of Title.** Legal title with respect to the Subject Pipeline(s) shall not pass to Buyer until the Subject Pipeline(s) are transferred at the Closing.

**7.6 Termination.** Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated at any time prior to or on the Closing Date:

(a) By the mutual written consent of the Parties; or

(b) By either Party, upon ten (10) days written notice delivered to the other Party, if the Closing shall not have occurred within 365 days from the execution of this Agreement by PG&E, (the "Closing Deadline"), and either Party may exercise this right at any time after the Closing Deadline but before the Closing Date has been determined by the Parties in accordance with Section 7.4; or

(c) By either Party, immediately upon written notice delivered to the other Party, if there has been any material misrepresentation, or any material breach of any covenant or warranty contained in this Agreement on the part of the other Party which that Party has not cured by the earlier of the Closing Date or the date thirty (30) days after receipt of a written notice specifying such breach or misrepresentations; or

(d) By either Party in accordance with Section 6.7 "Risk of Loss;" or

(e) By either Party, immediately upon notice delivered to the other, if there has been entered a final, nonappealable order or injunction of any Governmental Authority restraining or prohibiting the consummation of the Transaction contemplated by this Agreement or any material part hereof; or

(f) By Buyer, prior to the expiration of the Due Diligence Period, under the conditions set forth in Section 5.3 "Buyer's Right to Terminate;" or

(g) By PG&E on thirty (30) days' written notice any time after a CPUC decision approving this Agreement and the consummation of the Transaction contemplated hereby, or approving any other request related hereto filed separately by PG&E, if PG&E in its sole discretion does not accept one or more of the terms or conditions of the CPUC decision, including, without limitation, terms and conditions relating to PG&E's ability to recover its costs of Remediation, or relating to the purchase price (as set forth in Section 3.1 "Purchase Price"), or to any matter for which PG&E may request specific approval of the CPUC.

(h) By Buyer on thirty (30) days' written notice any time after a CPUC decision approving this agreement and the consummation of the Transaction contemplated hereby, or approving any other request related hereto, if Buyer in its sole discretion does not accept one or more of the terms or conditions of the CPUC decision, including, without limitation, terms and conditions relating to Buyer's status as a public utility (as described in Section 6.8(g) hereof.

## 8. INDEMNIFICATION

### 8.1 Indemnification by Buyer.

(a) **PG&E Claims.** From and after the Closing Date, Buyer shall assume the entire responsibility and liability for and will indemnify, defend and hold harmless PG&E, its Affiliates, successors and assigns (collectively, the "PG&E Group") from and against all Losses which arise out of or relate to the following (collectively, the "PG&E Claims"):

(1) any Third Party Claims for personal injury or property damage (other than the Third Party Claims described in subsections (2), (4), (6) and (7) below) resulting from or arising out of the ownership, maintenance or operation of the Subject Pipeline(s), regardless of any prior active or passive negligence of PG&E in the construction, maintenance or operation of the Subject Pipeline(s), but only where the alleged personal injury or property damage giving rise to the claim occurs after the Closing Date;

(2) any Third Party Claims: (i) for personal injury caused by any Post-Closing Environmental Condition; (ii) for personal injury caused by any Pre-Closing Environmental Condition for exposure occurring after the Closing; (iii) for property damage caused by any Post-Closing Environmental Condition; or (iv) for property damage resulting from or arising out of any Pre-Closing Environmental Condition where the alleged property

damage occurred after the Closing or after Buyer or its transferees, or their successors, assignees, or respective employees, agents or contractors took an action that exacerbated such Pre-Closing Environmental Condition, as described in Section 9.3 (d) (1).

(3) beginning on the first anniversary of the Closing Date, any and all Environmental Costs regardless of when the release occurred or whether the injury, damage, claim, demand or cost is caused by or results from Pre-Closing Environmental Conditions or Post-Closing Environmental Conditions, subject to PG&E's obligations under Section 9.1 (c).

(4) any and all Environmental Costs for which PG&E is not expressly liable.

(5) the failure, after the Closing Date, of Buyer to pay or otherwise discharge when due the Assumed Liabilities or Buyer's obligations under Article 9 "ENVIRONMENTAL MATTERS;"

(6) any loss or damages resulting from or arising out of the ownership or operation of the Subject Pipeline(s) after the Closing (other than the Third Party Claims described in subsections (1), (2) (3) and (4) above); provided that loss or damages resulting from PG&E's failure to comply with its obligations under Section 3.3 shall not be included in this provision; and

(7) any assignment of easements or other land rights by PG&E to Buyer including, but not limited to, obligations to remove pipelines or other Facilities, or to restore the Site(s), or any claims of landowners against PG&E or the PG&E Group or against Buyer or the Buyer Group, arising out of or in connection with any such assignment by PG&E to Buyer.

(b) **Buyer Exceptions.** PG&E Claims will not include Losses, for which PG&E has agreed to provide indemnification pursuant to Section 8.2 "Indemnification by PG&E," or those which PG&E has agreed to retain pursuant to other provisions of this Agreement. PG&E Claims will not include any Losses arising out of property damage or injury to person caused by PG&E's operations after the Closing Date at or adjacent to the Site(s).

(c) **Buyer Limitations.** The PG&E Group will not in any event be entitled to any punitive or consequential damages resulting from or arising out of any PG&E Claim.

## 8.2 **Indemnification by PG&E.**

(a) **Buyer Claims.** PG&E will indemnify, defend and hold harmless Buyer, its successors and assigns (collectively, the "Buyer Group"), from and against all Losses, which arise out of or relate to the following (collectively, "Buyer Claims"):

(1) any Third Party Claims for personal injury or property damage (other than the Third Party Claims described in subsections (2) or (3) below) resulting from or arising out of the ownership, maintenance or operation of the Subject Pipeline(s) by PG&E prior to the Closing, but only if the alleged personal injury or property damage giving rise to the claim occurred before the Closing Date;

(2) any Third Party Claims (i) for personal injury caused by Pre-Closing Environmental Conditions or (ii) for property damage caused by Pre-Closing Environmental Conditions, but only if the personal injury or property damage occurred prior to the Closing; and

(3) any Third Party Claims resulting from or arising out of the disposal, by PG&E or at PG&E's direction at an Offsite Disposal Facility, before the Closing Date, of Hazardous Substances generated by PG&E at a Facility.

(b) **PG&E Exceptions.** Buyer Claims will not include any Losses, with respect to which Buyer has agreed to provide indemnification pursuant to Section 8.1 "Indemnification by Buyer" or which Buyer has agreed to assume pursuant to other Sections of this Agreement, or which (i) relate, are associated with, or arise in any manner out of a Volunteered Line or Volunteered Lines or the operation thereof, or (ii) relate to Hazardous Substances which are present at any time on Site(s) where a Volunteered Line is located; and for clarity of intention, it is expressly agreed that PG&E's liability for Remediation related to Third Party Claims for property damage under this Section 8.2 shall be subject to and limited by the provisions of Section 9.3 and the same PG&E Remediation Time Limit and PG&E Remediation Liability Cap as provided in Section 9.1.

(c) **PG&E Limitations.** The Buyer Group will not in any event be entitled to any punitive or consequential damages resulting from or arising out of any Buyer Claims, including damages for lost revenues, income, or profits, diminution in value of the Site or the Subject Pipeline(s) or any other damage or loss resulting from the disruption to or loss of operation of the Subject Pipeline(s).

(d) **BUYER'S RELEASE OF PG&E.** BUYER, FOR ITSELF AND ON BEHALF OF THE BUYER GROUP, DOES HEREBY RELEASE, HOLD HARMLESS AND FOREVER DISCHARGE EACH MEMBER OF THE PG&E GROUP 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 LAWS), DESTRUCTION, LOSS OR DAMAGE OF ANY KIND OR CHARACTER, WHETHER KNOWN OR UNKNOWN, HIDDEN OR CONCEALED, TO THE PERSON OR PROPERTY OF ANY MEMBER OF THE BUYER GROUP INCLUDING THOSE RESULTING FROM OR ARISING OUT OF ANY HAZARDOUS SUBSTANCE, AT, ON, UNDER, IN OR ABOUT THE SITE, AND FROM ALL ENVIRONMENTAL COSTS, EXCEPT AS TO PG&E'S OBLIGATIONS UNDER SECTION 9.1 "PG&E'S RIGHTS AND RESPONSIBILITIES," SECTION 9.2 "PG&E'S REMEDIATION OBLIGATION," SECTION 8.2 "INDEMNIFICATION BY PG&E," AND SECTION 3.3 "RETENTION OF LIABILITIES." BUYER'S RELEASE DOES NOT INCLUDE ENVIRONMENTAL COSTS FOR WHICH BUYER IS NOT RESPONSIBLE UNDER PARAGRAPH 9.3(g). BUYER 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 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

IN THIS CONNECTION, BUYER 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 MEMBER OF THE PG&E GROUP FROM THE CLAIMS, DEMANDS AND LIABILITIES DESCRIBED IN THE FIRST SENTENCE OF THIS SECTION 8.2(d).

Initials of Buyer's authorized representative

Initials of PG&E's authorized representative

**8.3 Notice of Claim.** Subject to the terms of this Agreement and upon obtaining knowledge of a claim for which it is entitled to indemnity under this Article 8, the Party seeking indemnification hereunder (the "Indemnitee") will promptly notify the Party against whom indemnification is sought (the "Indemnitor") in writing of any damage, claim, loss, liability or expense which the Indemnitee has determined has given or could give rise to a claim under Section 8.2 "Indemnification by PG&E" or Section 8.1 "Indemnification by Buyer." (The written notice is referred to as a "Notice of Claim.") A Notice of Claim will specify, in reasonable detail, the facts known to the Indemnitee regarding the claim. Subject to the terms of this Agreement, the failure to provide (or timely provide) a Notice of Claim will not affect the Indemnitee's rights to indemnification, except as otherwise provided by the specific time frames set forth in Section 8.2 "Indemnification by PG&E" and Section 8.1 "Indemnification by Buyer;" provided, however, that the Indemnitor is not obligated to indemnify the Indemnitee for the increased amount of any claim which would otherwise have been payable, to the extent that the increase resulted from the failure to deliver a timely Notice of Claim.

**8.4 Defense of Third Party Claims.** The Indemnitor will defend, in good faith and at its expense, any claim or demand set forth in a Notice of Claim relating to a Third Party Claim for which the Indemnitee is entitled to indemnity pursuant to this Article 8; and the Indemnitee, at its expense, may participate in the defense with counsel of its choice. The Indemnitee shall not settle or compromise any Third Party Claim so long as the Indemnitor is defending it in good faith. If the Indemnitor elects not to contest a Third Party Claim, the Indemnitee may undertake its defense, and the Indemnitor will be bound by the result obtained by the Indemnitee. If the Indemnitor confirms its indemnity obligation with respect to the claim or claims, then the Indemnitor may at any time request the Indemnitee to agree to the abandonment of the contest of the Third Party Claim or to the payment or compromise by the Indemnitor of the asserted claim or demand. If the Indemnitee does not object in writing within fifteen (15) days of the Indemnitor's request, the Indemnitor may proceed with the action stated in the request. If within that fifteen (15) day period the Indemnitee notifies the Indemnitor in writing that it has determined that the contest should be continued, the Indemnitor will be liable under this Article 8 only for an amount up to the amount which the Third Party to the contested Third Party Claim had agreed to accept in payment or compromise as of the time the Indemnitor made its request. This Section 8.4 is subject to the rights of any Indemnitee's insurance carrier that is defending the Third Party Claim.

**8.5 Cooperation.** The Party defending the Third Party Claim will (a) consult with the other Party throughout the pendency of the Third Party Claim regarding the investigation, defense, settlement, trial, appeal or other resolution of the Third Party Claim; and (b) afford the other Party the opportunity to be associated in the defense of the Third Party Claim. The Parties will cooperate in the defense of the Third Party Claim. The Indemnitee will make available to the Indemnitor or its representatives all records and other materials reasonably required by them for use in contesting any Third Party Claim (subject to obtaining an agreement to maintain the confidentiality of confidential or proprietary materials in a form reasonably acceptable to Indemnitor and Indemnitee). If requested by the Indemnitor, the Indemnitee will cooperate with the Indemnitor and its counsel in contesting any Third Party Claim that the Indemnitor elects to contest or, if appropriate, in making any counterclaim against the Person asserting the claim or demand, or any cross-complaint against any Person. The Indemnitor will reimburse the Indemnitee for any expenses incurred by the Indemnitee in cooperating with or acting at the request of the Indemnitor.

**8.6 Mitigation and Limitations on Claims.** As used in this Agreement, the term "Indemnifiable Claim" means any Buyer Claims or PG&E Claims. Notwithstanding anything to the contrary contained herein:

(a) **Reasonable Steps to Mitigate.** The Indemnitee will take all reasonable steps to mitigate all losses, damages and the like relating to an Indemnifiable Claim, including availing itself of any defenses, limitations, rights of contribution, claims against third Persons and other rights at law or equity, and will provide such evidence and documentation of the nature and extent of the Indemnifiable Claim as may be reasonably requested by the Indemnitor.

The Indemnitee's reasonable steps include the reasonable expenditure of money to mitigate or otherwise reduce or eliminate any loss or expense for which indemnification would otherwise be due under this Article 8, and the Indemnitor will reimburse the Indemnitee for the Indemnitee's reasonable expenditures in undertaking the mitigation.

(b) **Net of Benefits.** Any Indemnifiable Claim is limited to the amount of actual damages or Losses sustained by the Indemnitee, net of the dollar amount of any insurance proceeds receivable by the Indemnitee (or any member of the PG&E Group or Buyer Group indemnified hereunder, as applicable) with respect to the Indemnifiable Claim.

## 9. ENVIRONMENTAL MATTERS

### 9.1 PG&E's Rights and Responsibilities.

(a) From the Closing Date until the expiration of "the PG&E Remediation Time Limit" or until a total aggregate cost to PG&E of an amount equal to the "PG&E Remediation Liability Cap", whichever of these limits is reached first, PG&E agrees to pay for Remediation of any Pre-Closing Environmental Condition to the extent it is required by a Governmental Authority with jurisdiction to require Remediation under Environmental Laws and subject to the following conditions:

(i) Buyer has provided PG&E with a Notice, either during the Due Diligence Period or during the PG&E Remediation Time Limit;

(ii) Buyer shall pay for Remediation of Pre-Closing Environmental Conditions up to and including an aggregate limit of [Ten Thousand Dollars (\$10,000.00) as escalated by the CPI, ("the PG&E Remediation Liability Floor"), and Buyer shall not be entitled to assert any rights under this Article 9 unless and until the aggregate of all such Remediation costs paid by Buyer is equal to or exceeds the PG&E Remediation Liability Floor.

(iii) For purposes of this Section 9.1 (a), "Notice" shall mean a notice of the existence of Pre-Closing Environmental Conditions, which notice shall include the results of laboratory tests evidencing the presence of Hazardous Substances.

(b) PG&E has the right, but not the obligation, at its sole option, to undertake: (1) the Remediation described in Section 9.1(a) above; (2) any Remediation that PG&E reasonably determines is required under Environmental Laws; and (3) any additional Remediation relating to Pre-Closing Environmental Conditions as PG&E reasonably deems necessary or appropriate.

(c) PG&E has no obligation to pay for or undertake Remediation of: (1) any Post-Closing Environmental Condition; or (2) any Pre-Closing Environmental Condition of which PG&E does not receive Notice during the Due Diligence Period or the PG&E Remediation Time Limit, or to the extent that it causes PG&E's total aggregate Remediation costs to exceed the PG&E Remediation Liability Cap; or (3) any environmental condition beneath, about, around, or resulting from operation of a Volunteered Line or Volunteered Lines; however, for a Pre-Closing Environmental Conditions where Remediation was commenced or as to which a Notice (including laboratory test results) was provided by Buyer to PG&E during the PG&E Remediation Time Limit, solely with respect to such Pre-Closing Environmental Condition, PG&E's obligation shall extend until the PG&E Remediation Liability Cap has been reached.

(d) PG&E shall have no obligation with respect to any Environmental Costs or environmental conditions for which PG&E is not expressly liable pursuant to this Agreement.

**9.2 PG&E's Remediation Obligation.** PG&E's agreement under Section 9.1 "PG&E's Rights and Responsibilities" to pay for certain Remediation is subject to the terms and conditions set forth in Schedule 5 "ENVIRONMENTAL REMEDIATION."

**9.3 Buyer's Responsibilities.**

(a) Buyer will comply with all Environmental Laws and Environmental Requirements and directives of all Governmental Authorities, including those concerning the presence of Hazardous Substances in, on, at, near or about the Subject Pipeline(s) or the Site(s), including Hazardous Substances in soil or groundwater, and including all Governmental Authorities' directives requiring Remediation. Should PG&E opt to undertake (instead of to pay for) Remediation related to a Facility in accordance with Section 9.1, Buyer's obligation under this Section is excused only to the extent of the Remediation undertaken by PG&E.

(b) Buyer agrees that it will not develop the Site(s) or any adjacent land or any portion thereof for use as a permanent or temporary lodging (including hotels, motels, and the like), hospital or other health-care facility, school, day care center for children, park, playground or other recreational use, or other use that: (1) could cause a Governmental Authority with jurisdiction over the Subject Pipeline(s) or Site(s) under Environmental Laws to require more extensive or additional Remediation of any Pre-Closing Environmental Condition than the Remediation appropriate for the Facility under its current use; or (2) could enhance the risks of human exposure to or movement of Hazardous Substances. Buyer will indemnify, defend and hold harmless each member of the PG&E Group from and against all damages, claims, losses, liabilities and expenses, including reasonable legal, accounting and other expenses, which arise out of or relate to any breach of this Section. Any defense of PG&E under this provision shall be by attorneys satisfactory to PG&E. Buyer will incorporate its obligations under this Section into any sales or lease agreement hereafter executed by Buyer for the Subject Pipeline(s) or the Site(s) (or any portion thereof) and any tenant, operator, or subsequent purchaser or transferee will be required to comply with all obligations of Buyer relating to use of the Subject Pipeline(s) and Site(s) set forth in this Section.

(c) Buyer agrees to assume and pay for all costs of Remediation relating to the Subject Pipeline(s) or Site(s) that (i) are incurred by anyone after the PG&E Remediation Time Limit (except as set forth in the last sentence of Section 9.1(c); or (ii) exceed the PG&E Remediation Liability Cap (as defined in Section 9.1 (a)); or (iii) are costs of Remediation, or a portion of such costs, up to the PG&E Remediation Liability Floor specified in that Section 9.1(a); or (iv) relate to or result from or in connection with any Post-Closing Environmental Condition(s); or (v) for which PG&E is not expressly liable.

(d) Buyer agrees to pay for all losses, damages, and costs incurred by PG&E due to or arising out of the Pre-Closing Environmental Conditions or Post-Closing Environmental Conditions to the extent such loss, damage, or cost results from or arises out of any of the following:

- (1) the exacerbation of a Pre-Closing Environmental Condition due to any acts or omissions of Buyer or its transferees, or their successors, assignees, or respective employees, agents or contractors;
- (2) the relocation at Buyer's request of the equipment used by PG&E for the Remediation of any Pre-Closing Environmental Condition, including the relocation costs and any increased costs or expenses in conducting such Remediation; or
- (3) any Post-Closing Environmental Conditions.

(e) Buyer shall also have the obligations specified in Schedule 5 "ENVIRONMENTAL REMEDIATION."

(f) Except for PG&E's obligations under Section 8.2 with respect to personal injury occurring prior to the Closing, Buyer expressly agrees that beginning on the first anniversary of the Closing Date, Buyer will be liable for and shall indemnify, defend and hold PG&E harmless against all Environmental Costs, regardless of when the release of Hazardous Substances occurred and whether they constitute Post-Closing Environmental Conditions or Pre-Closing Environmental Conditions, except as set forth in the last clause of Section 9.1 (c). Any defense of PG&E under this provision shall be by attorneys satisfactory to PG&E.

(g) Buyer's responsibilities under this Section 9.3 shall not include costs of Remediation or Environmental Costs to the extent caused by PG&E's operation of pipelines or other facilities after the Closing at Sites to which Buyer received a shared easement pursuant to Section 2.3.1(a) hereof.

## **10. LIMITATION OF LIABILITY**

**10.1** The total aggregate liability of PG&E, if any, arising out of or in connection with this Agreement, whether based on contract, tort (including negligence) warranty or otherwise, shall in no event exceed: (i) ten percent (10%) of the Purchase Price paid by Buyer pursuant to Section 3.1, or (ii) if PG&E has not received the Purchase Price when its liability arises then the lesser of Ten Thousand Dollars (\$10,000.00) or ten percent (10%) of the Purchase Price (the "Contract Liability Cap"), excepting solely PG&E's liability as specifically set forth in Article 8 "INDEMNIFICATION" and in Article 9 "ENVIRONMENTAL MATTERS;" provided that, PG&E's total aggregate liability under Article 9, "ENVIRONMENTAL MATTERS," shall in no event exceed the PG&E Remediation Liability Cap as defined in Section 1.1.

**10.2** IN NO EVENT SHALL PG&E BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST REVENUES, LOST PROFITS, COST OF CAPITAL AND DAMAGES ARISING OUT OF CLAIMS BY THIRD PARTIES INCLUDING BUT NOT LIMITED TO CLAIMS BY ANY TRANSFEREES, ASSIGNEES, OR SUCCESSORS IN INTEREST OF BUYER, REGARDLESS OF WHETHER SUCH DAMAGES ARE FORESEEABLE, AND REGARDLESS OF ANY NEGLIGENCE OF PG&E WHETHER ACTIVE OR PASSIVE.

BUYER SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST REVENUES, LOST PROFITS, OR COST OF CAPITAL.

NOTHING IN THIS SECTION 10.2 SHALL LIMIT OR AFFECT THE OBLIGATIONS OF THE PARTIES AS SET FORTH IN THIS AGREEMENT.

## **11. CERTAIN POST-CLOSING COVENANTS**

**11.1 Release of Subject Pipeline(s) from First and Refunding Mortgage.** Within a reasonable time following the Closing, PG&E shall seek from the trustee the release of the Subject Pipeline(s) from PG&E's First and Refunding Mortgage. A failure of the trustee to release the Subject Assets from PG&E's First and Refunding Mortgage shall not be construed as a breach by PG&E of this Agreement, and in the event of such a failure of the trustee, Buyer's right to terminate this Agreement and PG&E's obligation to return the Purchase Price specified in Section 3.1, paid by Buyer at the Closing, shall constitute Buyer's sole and exclusive remedy.

**11.2 Transfer or Disposition of Subject Pipeline(s) by Buyer.** Any transfer or other disposition by Buyer, or by its assignee or transferee, or by any subsequent assignee or transferee, of all or any portion of the Subject Pipeline(s) after the Closing shall not in any way alter or affect the applicability of this Agreement or release Buyer from any of its obligations under this Agreement and Buyer shall continue to be subject to its obligations hereunder and under the this Agreements regardless of any action or omission of any future transferee(s).

**12. MISCELLANEOUS AGREEMENTS AND ACKNOWLEDGMENTS**

**12.1 Notices.** All notices and other communications required or permitted under this Agreement shall be in writing and, unless otherwise provided in this Agreement, shall be deemed to have been duly given (i) when delivered in person, or (ii) when dispatched by telegram or electronic facsimile transfer (confirmed in writing by mail simultaneously dispatched), or (iii) one (1) business day after dispatch by a nationally recognized overnight courier service, to the appropriate Party at the address specified below:

(a) If to Buyer, to: Vintage Production California LLC  
9600 Ming Avenue, Suite 300  
Bakersfield, CA 93311  
Dick Oringderff, Vice President and General Manager

with a copy to: Vintage Production California LLC  
9600 Ming Avenue, Suite 300  
Bakersfield, CA 93311  
Land Dept: John Tierce

(b) If to PG&E, to: Steve Whelan  
Director, Wholesale Marketing and  
Business Development  
245 Market Street, N15A  
San Francisco, CA 94105

with a copy to: Rod Boschee  
Manager, Business Development  
245 Market Street, N15A  
San Francisco, CA 94105

Notices to PG&E regarding due diligence investigations, pursuant to Section 5.1(c):

Rod Boschee  
Manager, Business Development  
245 Market Street, Mail Code N15A  
San Francisco, CA 94105

Telephone: (415) 973-2908  
Facsimile: (415) 973-6112

or to such other address or addresses as a Party may designate from time to time.

**12.3 Successors and Assigns.** This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns, but neither Party may assign or delegate its rights or its obligations hereunder without the prior written consent of the other Party in its sole discretion; provided that, PG&E may, upon notice to Buyer, assign its rights concurrently with a delegation of its obligations under this Agreement to an Affiliate of PG&E or to another Person in conjunction with the transfer of the Subject Pipeline(s) or the business function to which this Agreement pertains.

In the event of an assignment or delegation of Buyer's rights or obligations under this Agreement, Buyer shall remain liable for all of Buyer's obligations hereunder and for the performance of those obligations, regardless of any such assignment or delegation or of PG&E's consent thereto. Any assignment or delegation by Buyer of Buyer's rights or obligations under this Agreement is expressly conditioned on (i) execution by a guarantor acceptable to PG&E and delivery to PG&E of the Guaranty attached hereto as Exhibit A and (ii) compliance with the Creditworthiness Requirements (as stated in Section 12.10). Any assignment or delegation without the execution and delivery of the Guaranty by Buyer to PG&E shall be void and of no force or effect.

In the event of an assignment of PG&E's rights or obligations under this Agreement, PG&E shall remain liable for all of PG&E's obligations hereunder and for the performance of those obligations, regardless of Buyer's consent thereto.

**12.4 Entire Agreement.** This Agreement (including the Schedules and Exhibits hereto) and the Guaranty, constitute the entire agreement between the Parties with respect to the Transaction contemplated hereby, and supersede any other agreements, negotiations, representations, warranties, commitments, offers, or contracts, whether written or oral, that may have been made or entered into by either Party hereto or any of its respective Affiliates (or by any director, officer, employee, or representative of such Party or Affiliate) relating to the matters contemplated hereby.

**12.5 Amendments and Waivers.** No waiver, modification, or amendment of any provision of this Agreement shall be effective unless specifically made in writing and signed by authorized representatives of the Parties.

**12.6 No Third Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended or will be construed to confer upon or give any Person, other than the Parties hereto, any rights or remedies under or by reason of this Agreement or any transaction contemplated hereby.

**12.7 Dispute Resolution.**

(a) Applicable Law. This Agreement and the legal relations between the Parties hereto will be governed by and construed in accordance with the substantive laws of the State of California, without giving effect to any principles of conflict of laws.

(b) Venue and Jurisdiction. PG&E and Buyer hereby irrevocably submit to the exclusive jurisdiction of any State of California or federal court sitting in the City of San Francisco over any suit, action or proceeding arising out of or related to this Agreement or any of the documents or instruments referred to herein. Each of PG&E and Buyer hereby waives any objection to jurisdiction or venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based on forum non conveniens.

**12.8 Execution in Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

**12.9 Certain Interpretive Matters.**

(a) Titles and headings to Articles and Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. Ambiguities or uncertainties in the wording of this Agreement will not be construed for or against any Party, but will be construed in the manner that most accurately reflects the Parties' intent as of the date they executed this Agreement.

(b) The inclusion of any matter on any Exhibit attached hereto will not be deemed an admission by PG&E that such listed matter has or would have a material adverse effect.

(c) Nothing contained in this Contract shall be construed as an agreement by the Parties as to whether Buyer should file for public utility status.

(d) Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership, or joint venture, or impose a trust or partnership duty, obligation, or liability on or with regard to any Party.

**12.10 Creditworthiness Requirements.** In order for PG&E to evaluate Buyer's Credit Worthiness, Buyer shall provide to PG&E's Credit Risk Management Unit the following financial information:

- (1) Buyer's most recent audited annual report, or
  - (2) Buyer's most recent U.S. Securities and Exchange Commission (SEC) Form 10-K, or
  - (3) Buyer's most recent audited annual financial statement (including a balance sheet, income statement, notes to financial statements and cash flow statement).
- (a) **Requirement for Security.** If in PG&E's assessment, Buyer fails to meet the Credit Worthiness Requirements, Buyer shall furnish to PG&E security in a form and amount that is acceptable to PG&E. Acceptable forms of security are:
- (1) Corporate Guaranty in the form attached hereto as Exhibit A, or
  - (2) Irrevocable Standby Letter of Credit, in the form attached hereto as Exhibit A.1 or
  - (3) Evidence of Insurance, in the form attached hereto as Exhibit A.2 or
  - (4) cash deposit
- (b) The corporate Guarantor executing the Guaranty to be provided to PG&E as a condition precedent to the Closing shall as of the Date of Closing have a demonstrable current rating of its long-term unsecured debt by Moody's, Investor Service, Inc. (Moody's), Standard and Poor's Rating Service ("S & P"), or an equivalent rating service, of Baa2 or higher by Moody's, or BBB or higher by S & P, or an equivalent credit rating by an equivalent rating service. In the event of an assignment of this agreement by the Buyer, the Buyer's assignee shall as of the Date of Closing or of the assignment, whichever is the later date, meet the same Creditworthiness Requirements as stated in this paragraph.

The issuing bank of the Irrevocable Standby Letter of Credit shall, as of the Date of Closing, have a demonstrable current rating of its long-term unsecured debt by Moody's Investor Service, Inc. (Moody's), Standard and Poor's Rating Service ("S&P"), or an equivalent rating service, of A2 or higher by Moody's, or A or higher by S&P, or an equivalent credit rating by an equivalent rating service.

The insurance company issuing the Insurance Policy shall, as of the Date of Closing, have a demonstrable current rating of its long-term unsecured debt by Moody's Investor Service, Inc. (Moody's), Standard and Poor's Rating Service ("S&P"), or an equivalent rating service, of A2 or higher by Moody's or A or higher by S&P, or an equivalent credit rating by an equivalent rating service.

**12.11 Survival.** The representations and warranties of PG&E contained in Section 4.1 "Representations, Warranties and Disclaimers of PG&E" of this Agreement, and the representations and warranties of Buyer contained in Section 4.2 "Representations and Warranties of Buyer" of this Agreement, shall (except as otherwise stated in this Agreement) survive the Closing and continue for a period of twelve (12) months thereafter and shall thereupon expire and be of no further force and effect. Any claim for breach of any such surviving representations or warranties must be made within such twelve month period or shall be waived. The following Articles and Sections shall survive the Closing: Sections 2.3.1, 2.3.2, 3.2, 4.1, 4.2, 4.3, 4.4, 5.2, 6.1, 6.2, 6.4, 6.5, 6.7, 6.8, Articles 8, 9 and 10 in their entirety, and Sections 11.1, 11.2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.9, 12.10, 12.11, and 12.12, as applicable. The following Articles and Sections shall survive the termination of this Agreement: Sections 4.3, 4.4(b) and (c), 5.1(d) and (f), 5.2, 5.4, 6.1, and Article 10 in its entirety. In addition, all provisions of this Agreement which by their purpose or nature are intended to survive the Closing or the termination of this Agreement shall survive the Closing and/or the termination of this Agreement.

**12.12 Effect of Closing On Known Unsatisfied Conditions or Breached Representations, Warranties or Covenants.** If PG&E or Buyer elects to proceed with the Closing knowing of any failure of any condition in its favor to be satisfied by the other Party, or of the breach of any representation, warranty or covenant by the other Party, the condition that is unsatisfied or the representation, warranty or covenant which is breached will be deemed waived by such Party on the Closing Date, and such Party will be deemed to fully release and forever discharge the other Party on account of any and all claims, demands or charges, known or unknown, with respect to the same.

**12.13 Schedules and Exhibits.** The following Schedules and Exhibits are attached hereto and incorporated by reference into this Agreement:

Schedule 1	"DESCRIPTION OF PIPELINE(S) TO BE SOLD"
Schedule 1.1	"PIPELINE MAP"
Schedule 2	"BUYER LITIGATION"
Schedule 3	"CLOSING DELIVERIES BY BUYER"
Schedule 4	"CLOSING DELIVERIES BY PG&E"
Schedule 5	"ENVIRONMENTAL REMEDIATION"
Schedule 6	"MODIFICATIONS OF PG&E'S SYSTEM AND/OR THE SUBJECT PIPELINE(S)"
Schedule 7	"LIST OF EASEMENTS"
Schedule 8	"PG&E AUTHORIZATION AND ENFORCEABILITY"
Schedule 9	"PG&E LITIGATION"

- Schedule 10 "RELATED CONTRACTS"
- Schedule 11 "REQUIRED GOVERNMENTAL APPROVALS"
- Schedule 12 "SCHEDULE OF PG&E OFFICERS AND EMPLOYEES"
- Schedule 13 "SCHEDULE OF BUYER OFFICERS AND EMPLOYEES"
- Schedule 14 "COMPLIANCE EXCEPTIONS"

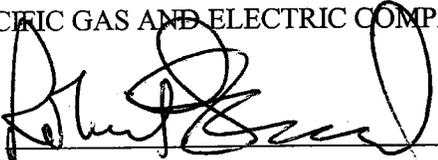
EXHIBIT

- EXHIBIT A "FORM OF GUARANTY"
- EXHIBIT A.1 "FORM OF LETTER OF CREDIT"
- EXHIBIT A.2 "FORM OF EVIDENCE OF INSURANCE"
- EXHIBIT B "FORM OF BILL OF SALE"
- EXHIBIT C "FORM OF FIRPTA CERTIFICATE"
- EXHIBIT D "EQUAL ACCESS AND NON-DISCRIMINATORY SERVICE"
- EXHIBIT E "CALIFORNIA PRODUCTION INTERCONNECTION AND OPERATING AGREEMENT" ("CPIOA")
- EXHIBIT F "CALIFORNIA PRODUCTION BALANCING AGREEMENT"
- EXHIBIT H "FORM OF ASSIGNMENT OF EASEMENT"

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below.

PG&E:

PACIFIC GAS AND ELECTRIC COMPANY

By: 

Name: Robert Howard

Title: Vice President

Date: 10/16/06

BUYER:

VINTAGE PETROLEUM, LLC

By: 

Name: RICHARD ORINGDEWER

Title: VP & General Manager

Date: 6/19/06

**Schedule 1**  
**Description of Pipeline(s) to be Sold**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

See Schedule 1.1 of this Agreement for description and location of pipeline to be sold.

**Schedule 2**  
**Buyer Litigation**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

Vintage Petroleum, LLC has no knowledge of any litigation involving the subject transaction or the subject matter thereof.

**Schedule 3**  
**Closing Deliveries by Buyer**  
**Pipeline Purchase and Sale Agreement**  
**Dated** \_\_\_\_\_

Upon execution of the Closing Documents by Pacific Gas & Electric Company (PG&E), Vintage Petroleum, LLC will wire transfer the balance of the purchase price to PG&E in accordance with PG&E's instructions.

**Schedule 4**  
**Closing Deliveries by PG&E**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

All documentation pertaining to this section of pipeline will be provided to Buyer.

ENVIRONMENTAL REMEDIATION

1. **PG&E'S REMEDIATION OBLIGATION**

(a) PG&E shall have the exclusive right to negotiate and enter into agreements with any Person regarding the nature, technical remediation approach, scope, cleanup objectives or any other aspect of any Remediation undertaken by PG&E.

(b) PG&E agrees that prior to proposing any work plan for Remediation to a Governmental Authority with jurisdiction over the Facility or Site(s) under Environmental Laws, PG&E will provide Buyer with a copy of the work plan. The work plan will set forth the type and nature of the Remediation, the specific locations at the Site(s) where the Remediation will be conducted, and the type and nature of any equipment that will be used on or installed for purposes of conducting the Remediation.

(c) PG&E will consult in good faith with Buyer regarding the nature, technical Remediation approach, scope, and cleanup objectives of any Remediation and the placement of and the location of PG&E's remediation and testing equipment. PG&E will avoid, to the extent reasonably practicable and consistent with sound Remediation practices, proposing a method for Remediation that: (i) is materially inconsistent with any planned expansion of the Facility that has been disclosed in writing by Buyer to PG&E; or (ii) will materially decrease the economic value of the Facility.

(d) If PG&E is undertaking the Remediation under the supervision of a Governmental Authority, PG&E will use Commercially Reasonable Efforts to obtain written evidence of such Governmental Authority's approval of such work plan and, if and when obtained, will provide Buyer with such evidence.

(e) PG&E will use reasonable efforts to inform Buyer orally at least twenty-four (24) hours in advance of all material actions to be taken near the Facility, which notice may be in the form of a schedule of activities. No notice will be required for any action taken in connection with an emergency.

(f) Buyer understands that the Remediation may interfere with the use of the Facility after the Closing. PG&E will, to the extent reasonably practicable and consistent with sound Remediation practices, undertake the Remediation in a manner that will not unreasonably disrupt Buyer's operations of the Facility. All Remediation work will be done in substantial compliance with Environmental Laws.

## 2. BUYER'S RESPONSIBILITIES

(a) Should PG&E opt to perform Remediation near a Facility, Buyer will grant to PG&E a non-exclusive license for the purpose of conducting Remediation, subject to the terms and conditions of this Agreement, and Buyer agrees to cooperate to enable Remediation work to be performed, to assist PG&E in obtaining access to the Facility and the Site(s), and to off-site property if necessary (including consents of the respective landowners), for the implementation of the Remediation work, and support PG&E in its negotiations with any Governmental Authority with respect to the Remediation. Buyer agrees that it will comply, and will cause other Persons (other than any member of the PG&E Group) at the Facility and Site(s) to comply, with any requirements, directives, instructions, or plans issued by any Governmental Authority or PG&E for the purpose of protecting the health and safety of Persons during Remediation activities conducted on or in the vicinity of the Facility or Site(s).

(b) Buyer acknowledges that PG&E will have the right, but not the obligation, to undertake the Remediation of the Pre-Closing Environmental Conditions and therefore Buyer will not initiate or permit the initiation of any Remediation of the Pre-Closing Environmental Conditions, or submit, or cause to be submitted, orally or in writing, any information or comments to any Governmental Authority concerning the Pre-Closing Environmental Conditions or Remediation thereof (other than documents or information routinely and customarily submitted to such Governmental Authority) without the prior consent of PG&E, unless in the reasonable judgment of Buyer such actions are required by Environmental Laws or Environmental Requirements or to protect the immediate health and safety of individuals or the environment. Buyer will notify PG&E as soon as reasonably possible of any information developed by Buyer or received by Buyer from any Person other than PG&E regarding the presence or suspected presence of Hazardous Substances that Buyer believes to be a Pre-Closing Environmental Condition. Buyer may submit such information to a Governmental Authority, if in the reasonable judgment of Buyer such submission is required by Environmental Laws or Environmental Requirements, or to protect the immediate health and safety of individuals or the environment.

(c) Buyer will not relocate, disturb or interfere with, or permit the relocation, disturbance, or interference with, the equipment used by PG&E or PG&E's agent for any Remediation without obtaining PG&E's prior written consent. Upon written request from Buyer, PG&E will relocate such equipment to accommodate Buyer's operations of the Facility, to the extent such relocation can be accomplished without materially delaying or disrupting the Remediation.

(d) Buyer will notify PG&E at least ten (10) business days in advance, and will consult in good faith with PG&E, before commencing any planned extraction, excavation or removal of any soil or groundwater near the Facility, or commencing any other action that could disrupt or disturb any soil or groundwater near the Facility. Without derogating from or otherwise modifying Buyer's obligations in Section 8.1 "Indemnification by Buyer" and Section 9.3 "Buyer's Responsibilities," Buyer will make Commercially Reasonable Efforts to avoid taking any action, and to cause other Persons (other than any member of the PG&E Group) to avoid taking any action, that could: (1) increase the risk that a Governmental Authority would require any Remediation relating to any Pre-Closing Environmental Condition; (2) increase the cost of any such Remediation; (3) increase the risk of human exposure to or movement of Hazardous Substances; or (4) increase the risk that a Third Party Claim with respect to a Pre-Existing Environmental Condition, or the Remediation thereof, could arise.

(e) With respect to a Pre-Closing Environmental Condition, PG&E and Buyer will, upon the written request of the other Party, provide to the requesting Party copies of all material reports, correspondence, notices and communications regarding any Pre-Closing Environmental Condition or the Remediation thereof sent to or received from any Governmental Authority with jurisdiction under Environmental Laws over such Remediation.

**Schedule 6**  
**Modifications of PG&E's System**  
**and/or the Subject Pipeline(s)**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

None

Schedule F, List  
of Easements

# Title Review

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## gas line review

**name** Sale of Andreotti Gas Gathering lines, Line 302E  
**county** Colusa County  
**analyst** Bruce Hardy  
**charge #** Order# 8072724  
**date** Friday, March 16, 2007

See Last page for General Comments

For more info, please contact the Title Analysts in PGE, BLS, Land Rights Services:

Ann Johnston: [adj4@BlsNb@Gsv](mailto:adj4@BlsNb@Gsv) (adj4@pge.com) 223-5897  
Margaret O'Day: [mfo1@BlsNb@Gsv](mailto:mfo1@BlsNb@Gsv) (mfo1@pge.com) 223-5523  
Al Soller: [ads2@BlsNb@Gsv](mailto:ads2@BlsNb@Gsv) (ads2@pge.com) 223-8234



# Gas Line Review

**name:** Sale of Andreotti Gas Gathering lines, Line 302E  
**county(ies):** Colusa County

**title analyst:** Bruce Hardy  
**charge #:** Order# 8072724

<b>R/W #</b>	<b>Drawing Number:</b>	<b>Land Document #</b>	<b>Type of Document:</b>	<b>Type of Facilities:</b>	<b>Type of Description:</b>	<b># of Lines:</b>	<b>Access:</b>	<b>Strip Width:</b>	<b>Building of Line:</b>	<b>Length of Line:</b>	<b>Gas Pressure:</b>	<b>Standard Rights to Replace:</b>	<b>Special Conds:</b>	<b>Install Gates:</b>	<b>Mark RW:</b>	<b>Can Assign Rights?</b>	<b>Aband non-use</b>
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1	B-5199, sh 4 of 6, B-5790, B-6015	2114-01-0442	modification agreement	G	strip	multiple general	20 feet	20 feet	12367 feet			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<b>Doc.Date:</b>	06/10/1988															
	<b>Rec.Info:</b>	Book 614, Page 9	Colusa County														
	<b>Grantor:</b>	Arthur Andreotti and Beverly Andreotti, h & w															
	<b>Remarks:</b>	This easement modification agreement modifies the location of the easement referred to in R/W #s 1a through 1c															

1a	B 5790, B 5199, sh 4 of 4	2114-01-0361	easement	G	strip	multiple general	20 feet	20 feet	n/a			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<b>Doc.Date:</b>	01/24/1985															
	<b>Rec.Info:</b>	Book 556, Page 7	Colusa County														
	<b>Grantor:</b>	Arthur Andreotti and Beverly Andreotti, et al															
	<b>Remarks:</b>	See R/W # 1 for easement description															

1b	B 6015	2114-01-0373	easement	G	strip	multiple general	20 feet	20 feet	n/a			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<b>Doc.Date:</b>	11/27/1985															
	<b>Rec.Info:</b>	Book 566, Page 82	Colusa County														
	<b>Grantor:</b>	Arthur Andreotti and Beverly Andreotti, et al															
	<b>Remarks:</b>	See R/W # 1 for easement description.															

**Legend for Type of Facilities**

<b>G</b>	Communications	<b>B</b>	Regulator Lot
<b>CaPr</b>	Catholic Protection	<b>UG</b>	Underground
<b>G</b>	Gas Line	<b>V</b>	Valve Lot
<b>P</b>	Pipe Line		

# Gas Line Review

**name:** Sale of Andreotti Gas Gathering lines, Line 302E  
**county(ies):** Colusa County

**title analyst:** Bruce Hardy  
**charge #:** Order# 8072724

<b>R/W #</b>	<b>Drawing Number:</b>	<b>Land Document #</b>	<b>Type of Document:</b>	<b>Type of Facilities:</b>	<b>Type of Description:</b>	<b>Type of Lines:</b>	<b>Access:</b>	<b>Strip Width:</b>	<b>Building of Line:</b>	<b>Length of Line:</b>	<b>Gas Pressure:</b>	<b>Standard Rights to Replace:</b>	<b>Special Conds:</b>	<b>Install Gases:</b>	<b>Mark RW:</b>	<b>Can Assign Rights?</b>	<b>Aband non-use</b>
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<b>1</b>	<b>C</b>	B 5790, B 6015	2114-01-0354	esement	G	strip	multiple general	20 feet	20 feet	n/a		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<b>Doc Date:</b>	08/02/1985														
		<b>Rec Info:</b>	Book 560, Page 348														
		<b>Grantor:</b>	Colusa County														
		<b>Grantor:</b>	Arthur Andreotti and Beverly Andreotti, et al														
		<b>Remarks:</b>	See R/W # 1 for esement description														

<b>2</b>	<b>B</b>	B 5199	2114-01-0279	permit	G	strip	single general	n/a	None	n/a		<input type="checkbox"/>					
		<b>Doc Date:</b>	12/15/1982														
		<b>Rec Info:</b>	Not Recorded														
		<b>Grantor:</b>	Reclamation District 108														
		<b>Remarks:</b>	This permit is for pipe line installation across two Reclamation District facilities in conjunction with the installation of Andreotti Wells No. 1 and No. 2.														

<b>3</b>	<b>B</b>	B 5790	2114-01-0400	esement	G	strip	multiple general	20 feet	20 feet	n/a		<input checked="" type="checkbox"/>	<input type="checkbox"/>				
		<b>Doc Date:</b>	09/03/1986														
		<b>Rec Info:</b>	Book 578, Page 474														
		<b>Grantor:</b>	Colusa County														
		<b>Grantor:</b>	Arthur Andreotti and Beverly Andreotti, h & w														
		<b>Remarks:</b>	This esement was granted to connect Andreotti No. 12 Gas Well. The esement authorized PG&E's installation of the gas line. PG&E to further define the route by recording a Notice of Final Description based on an "As Built" survey (see R/W # 3a)														

**Legend for Type of Facilities**

<b>C</b>	Communications	<b>R</b>	Regulator Lot
<b>CaPr</b>	Catholic Protection	<b>UG</b>	Underground
<b>G</b>	Gas Line	<b>V</b>	Valve Lot
<b>Pp</b>	Pipe Line		

# Gas Line Review

**name:** Sale of Andreotti Gas Gathering lines, Line 302E  
**county(es):** Colusa County

**title analyst:** Bruce Hardy  
**charge #:** Order# 8072724

R/W #	Drawing Number:	Land Document #	Type of Document:	Type of Facilities:	Type of Description:	G	strip	# of Lines:	Access:	Strip Width:	Building of	Length of Line:	Gas Pressure:	Standard Rights to Replace	Special Conds	Install Gates	Mark RW	Can Assign Rights?	Aband non-use
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3a	B 5790	2114-01-0456	Notice of Final Description	G	strip		multiple general	20 feet	20 feet	67 feet				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**Doc.Date:** 12/15/1988

**Rec.Info:** Book 624, Page 63  
Colusa County

**Grantor:** Arthur Andreotti and Beverly Andreotti, h & w

**Remarks:**

4	B 6015	2114-01-0302	permit	G	strip		single general	n/a	n/a	n/a				<input type="checkbox"/>					
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**Doc.Date:** 12/15/1982

**Rec.Info:** Not Recorded

**Grantor:** Reclamation District 108

**Remarks:** This permit is for the gas line interconnection between Andreotti No. 5 gas well and Andreotti No. 6 gas well

5	B 5790, B 6141	2114-01-0445	esement	G	strip		multiple general	20 feet	20 feet	n/a				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**Doc.Date:** 04/08/1988

**Rec.Info:** Book 617, Page 56  
Colusa County

**Grantor:** Arthur Andreotti and Beverly Andreotti, h & w

**Remarks:** This easement was granted to connect Andreotti No. 14 Gas Well. The easement authorized PG&E's installation of the gas line. PG&E to further define the route by recording a Notice of Final Description based on an "As Built" survey (see RW # 4a).

### Legend for Type of Facilities

<b>C</b>	Communications	<b>R</b>	Regulator Lot
<b>CaPr</b>	Catholic Protection	<b>UG</b>	Underground
<b>G</b>	Gas Line	<b>V</b>	Valve Lot
<b>PR</b>	Pipe Line		



# Gas Line Review

**name:** Sale of Andreotti Gas Gathering lines, Line 302E  
**county(ies):** Colusa County

**title analyst:** Bruce Hardy  
**charge #:** Order# 8072724

<b>R/W #</b>	<b>Drawing Number:</b>	<b>Land Document #</b>	<b>Type of Document:</b>	<b>Type of Facilities:</b>	<b>Type of Description:</b>	<b>G</b>	<b>strip</b>	<b>multiple general</b>	<b>20 feet</b>	<b>20 feet</b>	<b>1105 feet</b>	<b>Gas Pressure:</b>	<b>Standard Rights to Replace</b>	<b>Special Conds</b>	<b>Install Gates</b>	<b>Mark RW</b>	<b>Can Assign Rights?</b>	<b>Aband non-use</b>
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**7 a** B 6015, B 6132 2114-01-0411 Notice of Final Description G strip multiple general 20 feet 20 feet 1105 feet

**Doc Date:** 05/02/1990

**Rec Info:** Book 656, Page 425  
Colusa County

**Grantor:** Arthur Andreotti and Beverly Andreotti, h & w

**Remarks:** This instrument documented the final location of the easement for the gas line installed to connect Andreotti No. 10 Gas Well.

### Legend for Type of Facilities

<b>C</b>	Communications	<b>R</b>	Regulator Lot
<b>CaPr</b>	Cathodic Protection	<b>UG</b>	Underground
<b>G</b>	Gas Line	<b>V</b>	Valve Lot
<b>Pp</b>	Pipe Line		

## General Comments

This line review was performed for the purpose of identifying the land rights requiring transfer/assignment upon the purchase of the pipeline facilities

### gas line review report

**name:** Sale of Andreotti Gas Gathering lines, Line 302E

**county(ies):** Colusa County

**title analyst:** Bruce Hardy

**charge #:** Order# 8072724

**Schedule 8**  
**PG&E Authorization and Enforceability**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

NONE

**Schedule 9**  
**PG&E Litigation**  
**Pipeline Purchase and Sale Agreement**  
**Dated** \_\_\_\_\_

PG&E has no knowledge of any litigation involving the subject transaction or the subject matter thereof.

**Schedule 10**  
**Related Contracts**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

None

**Schedule 11**  
**Required Governmental Approvals**  
**Pipeline Purchase and Sale Agreement**  
**Dated** \_\_\_\_\_

Will require approval from the California Public Utilities Commission (CPUC) of an 851 Filing covering the sale of the subject pipeline in this Agreement.

**Schedule 12**  
**Schedule of PG&E Officers and Employees**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

Thomas B. King  
President and CEO

Robert T. Howard  
Vice President  
Energy Delivery, Gas Transmission and Distribution

Steve Whelan  
Director, Wholesale Marketing and Business Development

**Schedule 13**  
**Schedule of Buyer Officers and Employees**  
**Pipeline Purchase and Sale Agreement**  
**Dated** \_\_\_\_\_

Richard W. Oringderff  
Vice President and General Manager

Dan Szymanski  
Manager – Asset

Denny Brown  
Leader Production

Bruce Johnson  
Field Supervisor

John Tierce  
Land Negotiator

Rocky Rasley  
Land Advisor

**Schedule 13**  
**Schedule of Buyer Officers and Employees**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

Richard W. Oringderff  
Vice President and General Manager

Dan Szymanski  
Manager – Asset

Denny Brown  
Leader Production

Bruce Johnson  
Field Supervisor

John Tierce  
Land Negotiator

Rocky Rasley  
Land Advisor

**Exhibit A**  
**Form of Guaranty**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

**GUARANTY**

**1. Guarantee of Payment and Performance.** For valuable consideration, Vintage Petroleum, LLC (“Principal”) and Occidental Petroleum Corporation (“Guarantor”) jointly and severally unconditionally guarantee payment to Pacific Gas and Electric Company (“PG&E”), its successors and assigns, of all amounts owed to PG&E by Principal and of the performance of all obligations of Principal under that certain “Pipeline Purchase and Sale Agreement” (the “Agreement”) between Principal and PG&E dated \_\_\_\_\_, 2006 (the “Obligations”). The joint and several liability of Principal and Guarantor hereunder is a continuing guaranty of payment and performance when any amount is owing or when any provision of the Agreement is breached, without regard to whether such payment or performance obligation is contingent or absolute, liquidated or not, or whether recovery may be or has become barred by any statute of limitations or otherwise may be unenforceable. In addition to the amounts for which payment is guaranteed hereunder, Guarantor agrees to (a) pay reasonable attorneys’ fees and all other costs and expenses incurred by PG&E in enforcing this Guaranty or any action or proceeding arising out of or relating to this Guaranty and (b) to perform any and all of Principal’s Obligations upon demand for the same by PG&E.

**2. Guarantor’s Creditworthiness.** If at any time during the term of this Guaranty PG&E determines that Guarantor’s creditworthiness has materially changed, PG&E may declare Guarantor and Principal to be in default under this Guaranty and Principal to be in default of the Obligations and may exercise its remedies under the Obligations and relevant provisions of PG&E’s filed tariffs.

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

**4. Term.** The term of this Guaranty is coincident with the term of any Obligation of Principal under the Agreement, and this Guaranty may not be terminated early for any reason.

**5. Waivers of Defenses by Guarantor.** (a) Guarantor waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability under this Guaranty or the enforcement of this Guaranty. (b) Guarantor waives any right to require PG&E to (i) proceed against Principal, (ii) proceed against or exhaust any security held from Principal or any other party acting under a separate agreement, or (iii) pursue any other remedy available to PG&E. (c) Guarantor waives any defense based on or arising out of any defense of Principal other than payment in full of the amount(s) owed or full and satisfactory performance of Principal's obligations under the Agreement, including without limitation any defense based on or arising out of the disability of Principal, the unenforceability of the indebtedness from any cause, or the cessation from any cause of the liability of Principal other than payment in full of the amount(s) owed or full and satisfactory performance of Principal's obligations. (d) PG&E may, at its election, foreclose on any security held by PG&E, whether or not the means of foreclosure is commercially reasonable, or exercise any other right or remedy available to PG&E without affecting or impairing in any way the liability of Guarantor under this agreement, except to the extent the amount(s) owed to PG&E by Principal have been paid. (e) Guarantor waives all rights and defenses arising out of an election of remedies by PG&E, even though that election of remedies may impair or destroy Guarantor's rights of subrogation and reimbursement against Principal by operation of Section 580d of the California Code of Civil Procedure or otherwise. (f) Until all amounts owed by Principal to PG&E are paid in full, even though such amounts may in total exceed Guarantor's liability hereunder, Guarantor shall have no right of subrogation, waives any right to enforce any remedy that PG&E has or may have against Principal, and waives any benefit of and any right to participation in any security from Principal now or later held by Guarantor. (g) Guarantor assumes all responsibility for keeping itself informed of Principal's financial condition and all other factors affecting the risks and liability assumed by Guarantor hereunder, and PG&E shall have no duty to advise Guarantor of information known to it regarding such risks.

**6. Liens and Setoffs.** PG&E shall have a right of setoff against any amounts owed by PG&E to Guarantor under any agreement or judgment and a lien against any money or other security of Principal held by Guarantor, without regard whether such money or security is held in relation to this Guaranty or otherwise, and every such lien and setoff may be exercised by PG&E without notice to or demand on Guarantor.

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

**8. Governing Law.** This Guaranty is made under and shall be governed in all respects by the laws of the State of California, and its provisions may not be waived, altered, modified or amended except in writing executed by an officer of each of Guarantor and PG&E. If any provision of this Guaranty is held invalid under the laws of California, this Guaranty shall be construed as though the invalid provision has been deleted, and the rights and obligations of the parties shall be construed accordingly.

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

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

**For Occidental Petroleum Corporation:**  
(Guarantor)

**For Vintage Petroleum, LLC:**  
(Principal)

By: *Nicholas Oringhoff* - Attorney  
Date: 6/19/06 IN FACT

By: *Nicholas Oringhoff* - VP GEN CRAC  
Date: 6/19/06 MANAGE

Agreed to by PG&E for purposes of establishing the creditworthiness of Principal, as security for the Agreement.

**For PG&E:**

By: *Robert [Signature]*  
Date: 10/16/06

**ISSUING BANK LETTERHEAD  
ADDRESS**

Date: \_\_\_\_\_  
Irrevocable Standby Letter of Credit Number: \_\_\_\_\_

Beneficiary: Pacific Gas and Electric Company  
77 Beale Street, Mail Code B28L  
San Francisco, CA 94105  
Attn: Credit Risk Management Unit

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

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

At the request of [insert name of Applicant], we, [insert name of Issuing Bank] hereby issue our Irrevocable Standby Letter of Credit No. [insert Letter of Credit number] ("Letter of Credit") effective immediately in your favor for the account of [insert name of account party] ("Account Party") in the amount of United States Dollars [spell out amount followed by (US\$ \_\_\_\_\_)] (hereinafter, as may be reduced from time to time in accordance with provisions hereof, referred to as the "Stated Amount"). This Letter of Credit can be drawn against presentation of the following documents:

1. Your sight draft, in the form of Annex A.

AND

A Beneficiary Certificate signed by an authorized officer of Pacific Gas and Electric Company in the form of either Annex B or Annex C.

Special Conditions:

1. Partial and multiple drawings are permitted.
2. All banking charges associated with this Letter of Credit are for the account of the Applicant.
3. This Letter of Credit expires at our counters located at [address] on \_\_\_\_\_, \_\_\_\_\_, (the "Expiration Date") but such Expiration Date shall be automatically extended without amendment for a period of one year and on each successive Expiration Date, unless at least sixty (60) days before the then current Expiration Date, we notify you by registered mail or courier that we elect not to extend the Expiration Date of this Letter of Credit for such additional period.

4. Documents are to be presented at our office located at the address below no later than the Expiration Date.
5. This Letter of Credit is not transferable.
6. Each drawing request honored by us shall reduce the Stated Amount by the amount honored.
7. A drawing for an amount greater than the Stated Amount of the Letter of Credit is allowed, however, payment shall not exceed the Stated Amount of the Letter of Credit.

We hereby engage with you that draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored if drawn and presented for payment at any time before the close of business [insert time] at our counters located at [insert address] on the then current Expiration Date or in the event of a Force Majeure, as defined under Article 17 of the Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500 ("UCP 500"), that interrupts our business, within thirty (30) days after resumption of our business, whichever is later.

Except as otherwise stated herein, this Letter of Credit is subject to UCP 500 and, with respect to matters not so covered by UCP 500, this Letter of Credit is subject to and governed by the laws of the State of New York.

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

By: \_\_\_\_\_  
Authorized Signature

Name: \_\_\_\_\_

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



OCCIDENTAL PETROLEUM CORPORATION

Exhibit A.2  
Form of Evidence of Insurance  
Pipeline Purchase and Sale Agreement  
Dated \_\_\_\_\_

10889 WILSHIRE BOULEVARD  
LOS ANGELES, CALIFORNIA 90024

TELEPHONE (310) 443-6588

FACSIMILE (310) 443-6520

E-MAIL JIM\_GARRETT@OXY.COM

JAMES E. GARRETT  
ASSISTANT DIRECTOR-PROPERTY INSURANCE

March 15, 2006

Pacific Gas and Electric Company  
Mr. Rod Boschee, Manager Contract Development  
77 Beale Street, Mail Code B16A  
San Francisco, CA 94105

RE: Andreotti Pipeline

Dear Mr. Boschee:

Vintage Petroleum, LLC (VPL) is a wholly owned subsidiary of Occidental Petroleum Corporation which is a multi-national corporation with assets in excess of \$21 billion dollars and stockholders' equity in excess of \$10.5 billion. Occidental, like other multi-national corporations, self-insures, directly or indirectly, through deductibles and other risk finance alternatives, the majority of its primary layers of casualty and property insurance. This letter will serve as evidence that Occidental agrees to self-insure any insurable liabilities assumed by VPL relative to the captioned and will recognize its insurable contractual liability obligations as if we were insured.

Sincerely,

cc: John Tierce



Bill of Sale and Sale Agreement

Exhibit B 8671
Form of Bill of Sale
Pipeline Purchase and Sale Agreement
Dated

SELLER: Pacific Gas and Electric Company
Materials Department
Investment Recovery Group
245 Market Street, Mail Code N5F
San Francisco, CA 94105

BUYER: Vintage Petroleum
Attn: John Tierce
4550 California Ave, 4th floor
Bakersfield, CA 93309

We offer to purchase the following items for the Purchase Price shown and subject to the attached Terms and Conditions.

Table with columns: ITEM, QTY, UNIT, DESCRIPTION, PURCHASE PRICE. Includes items for pipe and gas gathering lines, and a summary row for Sub Total, Tax @ 0.00%, and Total.

REMARKS:

Disposition Number: 88634
Bid Number:
Sales Location: NO TAX
Ref Order Number: 9702041

Seller shall add State of California sales tax for property delivered in California OR the appropriate sales tax of the state to which shipment is sent UNLESS Buyer claims exemption of such tax.

TAX EXEMPT BECAUSE:

Form with fields: RESALE PERMIT #, TYPE OF PAYMENT RECEIVED (CHECK ONE - Cash not accepted), COMPANY/PERSONAL CHECK, CASHIER'S CHECK, MONEY ORDER.

THE ATTACHED TERMS AND CONDITIONS ARE PART OF THIS OFFER AS EFFECTIVELY AS THOUGH THEY PRECEDE THE SIGNATURE OF BUYER BELOW

Signature table with columns: SELLER (Signature), BUYER (Signature) and rows for TITLE, TELEPHONE, DATE OF ACCEPTANCE, DATE OF OFFER.

Buyer's Copy (not valid without Investment Recovery's initial in non-black ink) WS
Buyer retains along with Terms and Conditions as proof of payment.

**Exhibit C**  
**Form of FIRPTA Certificate**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Pacific Gas and Electric Company (PG&E), the undersigned hereby certifies the following on behalf of PG&E: 1. PG&E is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations); 2. PG&E's U.S. employer identification number is 94-0742640; and 3. PG&E's office address is 77 Beale Street, San Francisco, California 94105. PG&E understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both. Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of PG&E

PACIFIC GAS AND ELECTRIC COMPANY.

By: \_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

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

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

**Exhibit D**

**Equal Access and Non-Discriminatory Service**

**Pipeline Purchase and Sale Agreement**

**Dated** \_\_\_\_\_

Operations Proposal – PG&E Line 302  
Andreotti Gas Gathering System  
Grimes Gas Field, Colusa County, CA

May 10, 2006

In connection with its purchase of the subject pipeline segment from Pacific Gas and Electric Company (PG&E), Vintage Petroleum, LLC (Vintage Petroleum) proposes to operate said pipeline segment as a non-regulated pipeline. Vintage Petroleum also agrees upon request to make any capacity in excess of its actual production requirements available to third party producers of natural gas in the area served by the subject pipeline segment for the gathering of natural gas. Prior to the gathering of any third party natural gas, Vintage Petroleum and said third party producer shall in good faith enter into a mutually acceptable written gathering agreement that shall provide for the prompt payment of revenues to the third party producer and which shall include among its terms and conditions, provisions that accomplish the following:

- a. Vintage Petroleum shall use commercially reasonable efforts to market any such third party natural gas and said third party producer shall be responsible for producing the quantities of natural gas he/she/it nominates. Vintage Petroleum shall not be held liable to said third party producer with respect to marketing decisions under any theory of liability with the exception of any harm which is determined to be the result of the gross negligence or willful misconduct of Vintage Production.
- b. Should the BTU content of such third party producer natural gas be of such quality that when blended with Vintage Petroleum natural gas jeopardizes deliveries to the custody transfer point, then prior to the acceptance of such gas for gathering, said third party producer shall be responsible at his/her/its sole risk and expense to make his/her/its gas compatible with the requirements of the custody transfer point. In addition, the third party gas shall not have a sulphur, carbon dioxide, oxygen, water, and other contaminant content more than the natural gas then moving through the subject pipeline segment, such that the transmission, corrosion, and marketability characteristics of the natural gas stream moving through the pipeline segment shall not be degraded.
- c. All third party gas will be gathered on an interruptible service basis. In the event of capacity constraints, the shortages will be allocated on a through put basis among the third party natural gas producers such that Vintage Petroleum gas shall have a priority right to the pipeline capacity. In the event of any such constraint, Vintage Petroleum shall not have any obligation to enlarge the lines, install compression, or do any other act to increase capacity. Vintage Petroleum obligations shall be strictly limited to fairly allocating between the third party producers the gathering capacity remaining after Vintage Petroleum pipeline capacity requirements have been satisfied.

- d. Gathering services for all third parties will be priced at a value per thousand cubic feet of natural gas gathered at a rate calculated to recover: (i) the direct actual costs of operating and maintaining the pipeline segment; (ii) the purchase price of the initial transaction and any capitalized items installed on or connected to said pipeline, or otherwise reasonably associated with said segment, by way of a depreciation charge in accordance with generally accepted accounting standards; and (iii) a delivery fee not to exceed 12% of the above mentioned costs.
- e. This statement of operation shall have no application to or create any obligation in Vintage Petroleum with regard to any Vintage Petroleum owned pipelines that have not been acquired from PG&E pursuant to this transaction to which this statement is a part.
- f. Vintage Petroleum agrees the obligations undertaken herein shall run with the pipeline segment and bind it and its successors and assigns, if any.

**Exhibit E**  
**California Production Interconnection**  
**and Operating Agreement ("CPIOA")**  
**Pipeline Purchase and Sale Agreement**  
**Dated \_\_\_\_\_**

**CALIFORNIA PRODUCTION**  
**INTERCONNECTION AND OPERATING AGREEMENT**

**No. \_\_\_\_\_**

between

**PACIFIC GAS AND ELECTRIC COMPANY**

and

---

**PRODUCER**

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California Production Interconnection and Operating Agreement

This Agreement, (hereafter "Agreement") dated \_\_\_\_\_  
is between \_\_\_\_\_  
"Producer" and PACIFIC GAS AND ELECTRIC COMPANY (PG&E), individually and  
collectively also referred to as "Party" or "Parties":

**PURPOSE:**

1. Producer owns or otherwise controls, or may hereafter own or otherwise control, natural gas ("Gas") produced from the Well(s) specified in Appendix A, located in \_\_\_\_\_ County; and
2. PG&E is willing to connect Producer's Gas Delivery Facilities to accept Producer's Gas into PG&E's Gas Plant for transportation to PG&E's customers ("Customers"); however, this Agreement is not intended to be an agreement for transportation services, and it does not entitle Producer to deliver or obligate PG&E to receive Producer's Gas for transportation. PG&E provides transportation services pursuant to applicable rules, schedules, tariffs, and agreements.
3. This Agreement establishes the terms and conditions for the installation, operation, and maintenance of certain facilities (which may include taps, tie-ins, measurement facilities, valves, associated piping, and other such equipment as may be required from time to time) to connect Producer's Gas Delivery Facilities to and accept Gas into PG&E's Gas Plant; and
4. This Agreement also establishes the terms and conditions for the delivery of Gas into PG&E's Gas Plant (including gas quality, pressure, and measurement) and other conditions intended to govern the contractual relationship of the Parties.

**NOW THEREFORE**, in consideration of the covenants set forth herein, the Parties agree as follows:

**Definitions:** The following terms when used in this Agreement shall mean:

**“Article”** - A numbered Article of this Agreement. An Article includes all the numbered sections of this Agreement that begins with the same number as that Article.

**“British Thermal Unit” or “Btu”** - The amount of energy required to raise the temperature of one pound of water one degree Fahrenheit. Of the several precise definitions of a Btu, this agreement shall use the gas industry accepted International Table Btu (Btu<sub>IT</sub>) which is equal to 1,055.05585262 joules (exact) or rounded to 1,055.056 joules for most applications. (A joule is approximately equal to one watt-second.)

**“CPUC”** - The California Public Utilities Commission or any successor regulatory body.

**“Cubic Foot”** - (Also a Standard Cubic Foot of Gas) The volume of Gas which occupies one cubic foot when the Gas is at the standard reference conditions of sixty degrees Fahrenheit and fourteen and seventy-three hundredths (14.73) pounds per square inch absolute.

**“Delivery Facilities”** - Producer's facilities at which Gas is transferred from Producer to PG&E's Gas Plant.

**“Facilities”** - General term which includes all Measurement Facilities, Odorization Facilities, and Gas Sampling Facilities used to receive Producer's Gas into PG&E's Gas Plant.

**“FERC”** - The Federal Energy Regulatory Commission or any successor regulatory body.

**“Gas”** - Natural gas produced from gas wells or casing head gas produced in association with crude oil.

**“Gas Plant”** - The gas pipeline system, and all related facilities which are owned and operated by PG&E within the state of California.

**“Sampling Facilities”** - Equipment used to monitor the quality of Producer's Gas.

**“Heating Value”** - The amount of heat, measured in Btu per standard cubic feet, produced by the complete combustion of a dry Cubic Foot of Gas. The Heating Value shall be the gross or higher Heating Value which is obtained when all of the products of combustion are cooled to 60 degrees Fahrenheit.

**“Master Meter”** - The Meter which measures volumes of Gas consolidated from two or more Meters.

**“Measurement Facilities”** - Equipment associated with the measurement of Gas, which may include but is not limited to the block valves, back-flow check valve, relief valves, straightening vanes, orifice tube, orifice plate, orifice fitting, flow meter, solar panel, and associated fittings, tubing and piping.

**“Meter”** - A measurement device used to determine the quantity of Gas that flows from Producer’s Well(s) into the PG&E Gas Plant.

**“Odorization Facilities”** - Equipment used to inject odorant into PG&E’s Gas Plant.

**“Producer”** - Person or persons (legal or natural) owning a Working Interest in, or otherwise controlling a Well and having the right to deliver or sell Gas from such Well. If more than one Producer are signatories to this Agreement, the term “Producer” shall mean the Producers signatories to this Agreement jointly and severally.

**“Physical Operator”** - May be designated under the terms of this agreement as Producer’s duly authorized representative for the purposes stated in Paragraph 3.2 hereof.

**“PSIG”** - Pounds per Square Inch Gauge gas pressure, measured with reference to the local atmospheric pressure.

**“Receipt Point”** - The interconnection point between Producer’s Gas Delivery Facilities and PG&E’s Gas Plant, where Gas is measured by PG&E for delivery into PG&E’s Gas Plant.

**“Section”** - A numbered section of this Agreement included within the Article that begins with the same number as that section.

**“Specifications”** - PG&E’s General Specifications for Producer Installation of Measurement Facilities and Related Equipment for Gas Gathering Interconnections, Appendix C to this Agreement, as required, and/or other specifications provided by PG&E for the installation of Facilities by Producer.

**“Volunteered Line”** - Pipelines, valves, and other attached appurtenances owned by PG&E, as listed on Appendix E, which are located between the Measurement Facility and Producer’s Gas Well(s).

**“Well(s)”** - Well(s) listed on Appendix A, attached hereto and made a part of this Agreement.

**“Working Interest”** - Percentage of ownership of production from a Well(s) under a gas lease.

**Article 1**

1. **Warranty of Title:** Producer hereby warrants that Producer has the right to nominate and deliver all Gas to be delivered to PG&E at the Receipt Point(s) and that such right is free and clear of all liens and adverse claims of any kind. Producer will hold harmless, indemnify and defend PG&E against all claims, suits, actions, debts, accounts, damages, liabilities, costs (including reasonable attorneys fees), losses, and expenses, for or arising from or out of any: (1) adverse claims of any and all persons to the Gas; (2) royalties, overriding royalties, or other payments with respect to the Gas; and (3) taxes, licenses, fees or charges, relating to the Gas or its delivery or sale, which are or may be applicable.

**Article 2**

2. **Well Connection and Facilities**

2.1. **Existing Facilities:** If there are existing Facilities for receipt of Producer's Gas into PG&E's Gas Plant and PG&E has determined that they are adequate for receipt of Gas for transportation purposes, then these Facilities may, in PG&E's sole discretion, be used for such purposes. Existing Facilities will not be used for the measurement of Gas that does not meet the quality requirements as provided in Section 4.1 of this Agreement. If Producer and PG&E determine or PG&E determines that additional Facilities, modifications or upgrades are required, then the conditions set forth in Sections 2.2, 2.3 and 2.5 below shall apply.

2.2. **New Facilities:** If new Facilities are required to connect a new Well or Wells, the following conditions shall apply:

2.2.1. **Request for Tie-In Connection Location:** Producer shall request PG&E to identify a specific tie-in connection location. At the time such request is made, Producer shall: (1) pay to PG&E a non-refundable application fee in the amount specified in Appendix F, as amended from time to time; (2) identify the exact well-site location; and (3) provide proof of mineral rights and the assignment of applicable easements, rights of way, and other necessary land rights to PG&E.

California Production Interconnection and Operating Agreement

2.2.2. Connection Location(s): PG&E shall identify the tie-in connection location(s) with compatible Gas quality and available capacity for the receipt of Producer's Gas, after PG&E has: (1) received all items described in Section 2.2.1 above; (2) performed or witnessed a back pressure test; and (3) collected or received Gas sample(s). The back pressure test and collection or receipt of gas samples shall take place within thirty (30) days of the receipt of the items described in Section 2.2.1 above.

PG&E may refuse to accept Producer's Gas if the Gas quality is not compatible, PG&E does not have available system capacity, or in PG&E's reasonable judgment the delivery of Producer's Gas may have other adverse effects on PG&E's operations, Gas Plant or Facilities, or on the operations or property of Customers or other producers.

2.2.3. PG&E Installs Measurement Facilities, Odorization Facilities and/or Gas Sampling Facilities: If Producer requests PG&E to install Facilities at the Receipt Point and PG&E in its sole discretion agrees to install such Facilities at Producer's expense, the following conditions shall apply:

(a) Upon identification of the tie-in connection location(s), PG&E shall inform Producer of the cost to install the Facilities contemplated hereunder. Such costs may include, but not be limited to, engineering, PG&E's land survey and land rights acquisition, and/or equipment costs. Identification of the tie-in connection location(s) shall not obligate PG&E to maintain capacity available on its Gas Plant for Producer's Gas.

(b) Producer shall pay PG&E for PG&E's actual costs to provide and install Facilities pursuant to this Agreement, including all direct and overhead costs as allocated to such Facilities by PG&E. PG&E shall provide PG&E's estimate of these costs to Producer and Producer shall pay this estimated amount to PG&E prior to construction. After completion of the Facilities, PG&E will provide a statement to Producer showing the difference, if any, between such estimated costs and the actual costs. If the actual costs exceed the estimated costs paid by

California Production Interconnection and Operating Agreement

Producer, Producer shall submit payment to PG&E within thirty (30) calendar days of the date of PG&E's invoice. If the actual costs are less than the estimated costs paid by Producer, PG&E will refund the difference to Producer within the same time period.

All payments shall be made referencing account number UZB \_\_\_\_\_ on Producer's check, to the following address:

Mailing Address:  
PACIFIC GAS & ELECTRIC COMPANY  
C/O Payment Processing  
Mail Code B5C  
Box 770000  
San Francisco, CA 94177

Street Address:  
PACIFIC GAS & ELECTRIC COMPANY  
C/O Payment Processing  
Mail Code B5C  
77 Beale Street  
San Francisco, CA 94105

(c) After PG&E and Producer have reached agreement on the specific tie-in location(s) as stated in Section 2.2.3.(a) above, Producer may not change the location without PG&E's written concurrence. Producer shall pay to PG&E any additional costs associated with a change in location.

2.2.4. Producer Installs Measurement Facilities, Odorization Facilities and/or Gas Sampling Facilities: If Producer elects to install Facilities, the following shall apply:

(a) Producer may furnish and/or install Facilities in accordance with specifications, plans, standards and procedures provided by PG&E and subject to PG&E's inspection for compliance with PG&E's specifications, plans, standards and procedures. Producer shall use qualified licensed contractors for such work. Producer shall ensure that the Facilities meet all of the applicable requirements of all governmental authorities having jurisdiction.

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(b) Prior to construction, Producer shall pay PG&E for PG&E's estimated cost of labor, material and overhead to provide engineering review, identification of the required tie-in connection location(s), Facilities, and inspections and tap installation. After PG&E has performed these activities, Producer shall pay to PG&E the difference, if any, between the estimated cost and the actual cost of these activities and any other actual costs to PG&E associated therewith. PG&E shall provide a statement to Producer, and Producer shall pay PG&E for such actual costs as provided in Section 2.2.3(b).

(c) After Producer has completed the installation of the Facilities, Producer shall request in writing that PG&E connect the Facilities to PG&E's Gas Plant. At the time of this connection request, Producer shall provide: (1) an assignment to PG&E of all applicable easements, rights of way, and other necessary land rights; (2) engineering specifications; (3) an "as-built" drawing with survey location of the Facilities and pipeline(s); and (4) Producer's warranty that the Facilities were constructed in conformance with CPUC General Order No. 112-E, or any successor regulations, and the Specifications.

2.2.5. Contributions in Aid of Construction:

(a) If PG&E determines that an amount with respect to Producer's Contributions in Aid of Construction (CIAC) is includable in PG&E's gross income, PG&E will calculate the CIAC gross up amount based on the methodology approved by the CPUC from time to time for that purpose; and Producer agrees to pay this CIAC gross up amount to PG&E, within thirty (30) days from PG&E's demand for payment, plus interest; the interest will be computed at the "CPUC Rate" from the due date (without extensions) of the federal tax return for the taxable year in which such amount is includable until the date Producer pays to PG&E the total amount described herein; the "CPUC Rate" is interest at the average three-month commercial paper rate as published in the Federal Reserve Bulletin, or such other rate as the CPUC may establish from time to time to replace the rate in paragraph 18 of its conclusions of law in Decision 87-09-026.

California Production Interconnection and Operating Agreement

(b) The CIAC gross up amounts, if demanded, shall be paid in addition to Producer's reimbursements to PG&E, or Producer's expenditures, for the costs of facilities and their installation as provided in this Agreement.

(c) The payment of the CIAC gross up amount shall be made by Producer, pursuant to Section 2.2.5(a), when PG&E reasonably determines that an amount with respect to Producer's contribution is includable in PG&E's gross income based upon IRS ruling, regulation, court decision (including tax court), or other pertinent tax authority, or when an IRS revenue agent issues a notice of proposed adjustment or other notice indicating that such an amount is so includable.

2.2.6. Facility Inspection and Connection:

(a) PG&E will make reasonable efforts to inspect the Facilities during construction and as soon as practicable after construction. However, due to possible emergency situations or manpower constraints, PG&E's inspection within thirty (30) days after Producer's notice of completion shall constitute compliance with the provisions of this Section 2.2.6(a).

(b) PG&E will connect Facilities to PG&E's Gas Plant after PG&E has inspected the Facilities and has verified that the Facilities meet PG&E's applicable standards and the Specifications.

(c) All connections to and from the PG&E system shall be performed solely by PG&E or PG&E's contractor. For tap installations, Producer shall pay PG&E's actual cost of materials, equipment and labor (which labor charge shall include wages, benefits, and payroll taxes).

2.2.7. Failure to Request Connection: If Producer fails to request connection to PG&E's Gas Plant of the Facilities installed by Producer within one-hundred and twenty (120) days following the date of PG&E's identification of a specific tie-in connection location (pursuant to Section 2.2.2 above), then Producer shall request the following before requesting connection of the Facilities to PG&E's Gas Plant: (1) verification and a written statement from PG&E that capacity remains available at the identified tie-in connection location for the receipt of Producer's Gas; and (2)

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that Producer's gas is still compatible with PG&E's gas plant. If, at the time Producer requests such verification, capacity is no longer available at that tie-in connection location and Producer still desires to connect the Facilities to PG&E's Gas Plant, then Producer shall request a new tie-in connection location pursuant to Section 2.2.1 above.

2.2.8. Failure to Connect: If Producer's Well is not connected to PG&E's Gas Plant within six (6) months from the date of Producer's request for a tie-in connection location, then PG&E shall render to Producer an itemized invoice for all unpaid costs of the work undertaken to identify a specific tie-in connection location in excess of the non-refundable application fee paid to PG&E pursuant to Section 2.2.1 hereof. If such failure to connect is not caused by PG&E, Producer agrees to reimburse PG&E for the actual cost of such work.

2.2.9. Payments: All amounts invoiced by PG&E, pursuant to this Article 2, shall be due and paid within thirty (30) calendar days following the date of PG&E's invoice, except as otherwise stated herein.

2.3. Ownership of Facilities: PG&E shall have sole ownership, custody and control of all Facilities, regardless of which Party installed the Facilities. Upon completion of construction, installation, inspection, and PG&E's finding that the Facilities conform to PG&E's specifications, title to the Facilities shall immediately transfer into the name of PG&E, whether or not the Parties have executed any documentation formalizing such transfer.

PG&E may at any time while this agreement is in effect transfer ownership of Facilities to Producer. In that event, Producer agrees to accept the ownership of such Facilities and the obligation to maintain and operate such Facilities at Producer's expense. PG&E shall have the right, at any time to access Facilities to do any of the following: (1) inspect Facilities to verify the proper maintenance and operation thereof to the extent PG&E deems it necessary; and (2) test and calibrate the Measurement

Facilities to verify the accuracy of instruments as provided in Article 5. If Producer does not grant access to the Facilities as provided herein, PG&E shall have the right to refuse to accept Producer's Gas until such access is granted in accordance with this Agreement.

2.4. No Dedication of Facilities: Nothing in this Agreement shall be construed as a dedication by either PG&E or Producer of its respective facilities to the other Party.

2.5. Repairs, Upgrades, Modifications and Replacements: If PG&E determines that Facilities, or the gas gathering pipeline(s) used to transport Producer's Gas to PG&E's transmission system, are in need of repairs, upgrades, modifications or replacements, PG&E shall notify Producer accordingly. If Producer requests PG&E to make the necessary repairs, upgrades, modifications or replacements, and PG&E agrees to do so, Producer shall pay PG&E for all (or a prorated portion if more than one Producer is served by the pipeline(s) and/or Facilities) of PG&E's actual costs of such work in accordance with the same provisions as applicable to Facilities under Section 2.2.3(b) above. If Producer fails to request that PG&E make the repairs, upgrades, modifications or replacements at Producer's expense, or if not all producers served by the pipeline(s) and/or Facilities request PG&E to perform such work at their expense, PG&E shall have the right to refuse to accept Producer's Gas. However, if Producer wishes to build its own pipeline, Producer may enter into a new CPIOA for a new connection and delivery of Gas at an appropriate Receipt Point.

If Producer takes ownership of Facilities, PG&E will not perform repairs, upgrades, modifications or replacements of such transferred Facilities.

2.6. Specific Equipment:

2.6.1. Pressure Regulations: Producer shall install (upstream of the Measurement Facilities), test, and maintain in good working condition the necessary pressure regulation equipment to protect PG&E's Gas Plant from exposure to pressures in excess of the specified maximum pressure. Such Facilities and the installation and maintenance thereof shall conform with CPUC General Order No. 112-E, or any successor regulations.

2.6.2. Odorization and/or Gas Sampling: If under the laws, rules or regulations of any local government or regulatory body having jurisdiction, or in PG&E's sole judgment as a public utility, it is required that all or any of Producer's Gas be odorized or that Producer's gas be monitored for quality, then Sections 2.2, 2.3, 2.4, and 2.5 above shall apply as they relate to such Odorization Facilities. Producer agrees to obtain a grant of easement at a suitable location and to grant PG&E a non-exclusive license to exercise the rights conveyed to Producer under said grant of easement for the purpose of installing, operating and maintaining said Odorization Facilities or Gas Sampling Facilities.

2.7. Future Well Additions

2.7.1. New Well Connection and Well Recompletions: PG&E may or may not accept Gas from a reworked, recompleted, or new well, at the same interconnection point and/or through the meters identified in Appendix A. PG&E will determine the tie-in location, and may refuse to accept such Gas, based upon the same criteria as set forth in Section 2.2.2.

2.7.2. Acceptance of New Gas: If PG&E refuses to accept new Gas at the existing Receipt Point, the Producer may request a new tie-in connection location for the Additional Well(s) by executing a separate CPIOA.

2.8 Certain Costs Payable By Producer: Charges payable by Producer pursuant to Sections 2.2.1, 2.2.3, 2.2.4, 2.2.6, 2.2.8, 2.5, 3.5.3 and 5.3 shall be based on the costs stated in Appendix F, which is subject to Section 7.7. Appendix F will be amended from time to time when PG&E reviews and recalculates its actual costs to keep the charges current.

**Article 3**

**3. Operations and Maintenance**

3.1. Appointment of Producer's Nominations Agent: As a condition of interconnection of Producer's Gas Delivery Facilities with PG&E's Gas Plant, under this Agreement, Producer shall appoint one authorized representative as Producer's sole agent with exclusive authority to place nominations for Producer on PG&E's system, for transportation of Producer's Gas to be delivered at the Receipt Point(s). That agent shall also be referred to as "Producer's Nominations Agent"; and the appointment shall be made pursuant to Appendix B "Appointment of Producer's Nominations Agent." The executed Appointment of Producer's Nominations Agent shall be returned to PG&E, addressed as follows:

PACIFIC GAS AND ELECTRIC COMPANY  
Gas System Operations Department  
Scheduling and Accounting Director  
Mail Code B16A  
P. O. Box 770000  
San Francisco, CA 94177

Producer may change its Producer's Nominations Agent, by providing a new Appointment of Producer's Nominations Agent to PG&E pursuant to PG&E's applicable procedures. If Producer and PG&E enter into a separate agreement regarding nominations, balancing and other issues relating to the transportation of the Gas delivered under this Agreement, with respect to the Well(s), it shall govern with respect to the procedures for the appointment and/or change of Producer's Nominations Agent.

Producer acknowledges and agrees that Producer's failure to appoint an agent with exclusive authority to make nominations for Producer may cause Producer, PG&E, or third parties to incur damages or liabilities; therefore, Producer agrees that if Producer fails to comply with this Section 3.1, Producer will hold PG&E harmless and will indemnify PG&E from and against any and all damages and liabilities that may be incurred by PG&E, Producer or third parties as a result of or in connection with the nominations of Producer's Gas made by anyone.

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3.2. Appointment of Physical Operator: Producer may appoint an authorized representative to serve as Physical Operator for the Well(s). Except as set forth in Section 3.1 above, the Physical Operator shall be duly authorized to act for Producer as follows: to give and receive notices and requests, make and witness tests, deliver quantities of Gas hereunder; and do and receive all things as provided herein regarding the physical operation of the Well(s). Producer shall notify PG&E in writing of the appointment and change of the Physical Operator. Producer expressly agrees that PG&E may rely on any and all acts and notices of the Physical Operator to the same extent as if they were performed or provided by Producer.

Producer hereby appoints as Physical Operator: \_\_\_\_\_

Physical Operator's Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: _____	Telephone: _____
Telecopier: _____	Attention: _____

3.3. Maintenance of Facilities: Maintenance of Facilities owned or controlled by PG&E will, in PG&E's sole discretion, be provided by PG&E at PG&E's expense, subject to Section 2.3 above. Producer acknowledges that PG&E intends to submit to the CPUC for approval an operating and maintenance fee (O&M Fee) to be charged to Producer, based on PG&E's actual costs to operate and maintain facilities, pipelines and equipment, for the receipt of Gas, as determined from time to time by PG&E pursuant to Appendix D. Such O&M Fee may include, without limitation, meter reading, gas sampling and analysis, gas odorization, equipment maintenance and calibration, direct and indirect expenses, and administrative and general office allocated costs. Producer agrees to start paying the O&M Fee when it is approved by the CPUC.

## California Production Interconnection and Operating Agreement

3.3.1. After the approval of the O&M Fee by the CPUC, PG&E will mail to Producer a statement (on or before the 15th day of each month), setting forth the applicable O&M Fee for the previous month. Producer shall pay the O&M Fee to PG&E on or before the twenty-fifth (25th) calendar day of the month or the tenth (10th) calendar day following receipt of PG&E's statement, whichever is later. Any late payments by Producer to PG&E shall accrue interest at the rate prescribed for pipeline refunds as provided in Section 154.67(c)(2) of the Federal Energy Regulatory Commission's Regulations under the Natural Gas Act (or any successor thereto).

### 3.4. Rights and Obligations

3.4.1. Operations: PG&E shall retain the full and exclusive right to operate its Gas Plant in a manner which, in PG&E's sole judgment, is consistent with safe and proper operating conditions, obligations of PG&E to others, laws, and regulations of governmental authorities having jurisdiction, without incurring any liability to Producer.

3.4.2. Tampering: Producer shall not alter, or in any manner disturb, manipulate, or tamper with any Facilities owned or controlled by PG&E.

3.4.3. Gas Pressures: Producer shall deliver Gas at the Receipt Point(s) at the Gas well pressure required by PG&E, which may be up to, but not to exceed the maximum allowable operating pressure (MAOP) in PG&E's Gas Plant downstream of the Receipt Point. PG&E shall have the right to upgrade the MAOP of PG&E's Gas Plant, and in such event Producer shall increase the pressure of its Gas if and to the extent required by PG&E, upon ninety (90) days' written notice to Producer.

3.4.4. Refusal of Gas: PG&E shall have the right, without incurring any liability to Producer, to refuse acceptance of Gas at the Receipt Point(s) when:

(a) Producer is operating Gas Delivery Facilities in a manner which in PG&E's reasonable judgment has or may have an adverse effect on PG&E's operations, Gas Plant or Facilities, or on PG&E's customer's operations or property; or

(b) Producer's handling or failure to properly collect or dispose of liquids of Producer's Gas Well(s) affects PG&E's operations, Gas Plant, or real property (leased or owned) or any other property of PG&E; or

(c) It is necessary or desirable to test, maintain, modify, enlarge, or repair any facility or property that is part of PG&E's Gas Plant, or related to its operation.

PG&E shall give reasonable notice to Producer prior to the date on which shut-in of Well(s) is required, except for emergency repair which may require an immediate shut-in.

In addition to the rights stated above in this Section 3.4.4., PG&E shall have the right to retire and/or remove all or any portion of PG&E's Facilities at the Receipt Point and to terminate this Agreement effective upon notice to Producer if:

(i) Producer has not delivered Gas, which meets the specifications set forth in this Agreement, through the Measurement Facilities at an average quantity of at least 50 Mcf per day for a period of ninety (90) consecutive days; PG&E may extend the shut-in date if the Producer provides to PG&E in writing reasons acceptable to PG&E as to why production should not be shut-in; or

(ii) Producer has not remedied, within thirty (30) days of PG&E's notice of refusal to accept the Gas, the conditions stated in Paragraphs (a) and/or (b) above, as applicable.

3.5. Volunteered Lines: This Section 3.5 shall apply only if Producer has been delivering Gas through a Volunteered Line. If Producer has been delivering Gas through PG&E's pipeline, specified in Appendix E, PG&E shall have the right to terminate this Agreement for cause at any time with thirty (30) days notice, unless a mutually acceptable arrangement for the delivery of Producer's Gas into PG&E's system has been made prior to such termination.

3.5.1. Control & Possession of Gas: Producer shall be deemed to be in control and possession of Gas produced into the Volunteered Line(s) from the gas well to the upstream fitting where Gas is delivered to PG&E. PG&E shall be deemed in control and possession of the Gas at the downstream fitting of Producer's Gas Delivery Facilities.

3.5.2. Operation of Lines: Notwithstanding the above, if PG&E in its sole discretion desires to operate the Volunteered Line(s) or any portion thereof at a higher pressure, or to have the direction of flow changed, Producer shall shut-in the Well(s) connected thereto during any such work on the Volunteered Line(s), upon thirty (30) days prior written notice to Producer.

3.5.3. Repair and Replacement: If PG&E determines that the Volunteered Line(s) require repair or replacement, PG&E shall provide Producer with a written description of such work and a statement detailing the costs to perform that work, including materials, direct, indirect, and overhead costs. If Producer desires PG&E to proceed with such work, Producer shall, within fifteen (15) business days from the date of PG&E's notice, pay PG&E the amount set forth therein. If Producer does not pay PG&E within fifteen (15) business days of PG&E's notice, PG&E shall have the right to refuse to accept Producer's Gas and to remove or retire all or any portion of the Volunteered Line(s).

3.6. Volume Report: PG&E shall provide Producer, once a month, a report containing the volume of Gas received by PG&E at the Receipt Point(s) for each day of the previous calendar month. If a future separate agreement between Producer and PG&E regarding nominations, balancing, and other issues relating to transportation of the Gas delivered under this Agreement, contains a provision that addresses the subject matter of this Section 3.6, the provision of such other agreement shall supersede this Section 3.6.

**Article 4**

**4. Gas Quality**

4.1. Gas Quality Requirements: Producer represents, warrants and guarantees that the Gas delivered to PG&E for transportation under this Agreement shall meet the following requirements:

4.1.1. Rule 21: Gas shall be merchantable pipeline quality Gas and shall conform to the quality specifications as prescribed in Rule 21(C) of PG&E's CPUC approved Tariff Schedule (Rule 21), as amended from time to time; and

4.1.2. Unnatural Substances: Gas shall not contain any substances that are not naturally contained in natural gas, excepting only those substances which PG&E specifies as additives for operating or Gas compatibility reasons; and

4.1.3. Heating Value: Gas shall have a Heating Value within the Operation BTU level required by PG&E for its pipeline system at the Receipt Point. PG&E may refuse to accept all or any portion of Gas of which the Btu content has significantly changed since the back pressure test and gas sample collections referred to herein.

4.1.4. Indemnity: If the Gas delivered to PG&E under this Agreement fails to meet the requirements of this Article, Producer shall indemnify and hold PG&E harmless against and from all losses, costs, damages, claims, suits, and liabilities arising out of or in connection with such failure.

4.2. Gas Quality Testing: Tests to determine the quality of the Gas delivered to PG&E may be performed by PG&E at any time. If Gas delivered by Producer fails to fully conform to the Gas quality specifications as stated herein, then PG&E may refuse to accept the Gas upon notice to Producer of any such failure. Producer shall revise any outstanding nominations for the affected Receipt Points to reflect no deliveries. Producer shall not resume deliveries of Gas until PG&E is satisfied that the problems

have been corrected and that the Gas conforms to the applicable quality specifications. PG&E's acceptance of Gas that does not conform to the specifications stated herein shall not constitute a waiver of the Gas quality specifications stated in this Agreement or any remedies of PG&E or obligations of Producer with respect to such a nonconformity.

4.3. Refusal of Gas: PG&E shall have the right, without incurring any liability to Producer, to refuse acceptance of Gas at the Receipt Point(s) when the Gas does not meet the temperature, delivery pressure, or quality specifications described in this Agreement.

## **Article 5**

### **5. Measurement and Tests**

5.1. Measurement and Computation: The volume of Gas delivered under this Agreement shall be measured by orifice meter(s), and computations made, as prescribed in the American National Standards Institute/American Petroleum Institute 2530 (ANSI/API 2530), also published as A.G.A. Report No. 3 as revised from time to time.

5.2. Custody, Maintenance and Records: Except as otherwise set forth in Section 2.3, during the term of this Agreement, all Measurement Facilities shall be in the sole custody and control of PG&E. The reading, calibration, and adjustment of Measurement Facilities and changing of charts, if required, shall be performed by PG&E or its agent at intervals determined by PG&E. The records from Measurement Equipment shall remain the property of PG&E, but Producer shall have access to PG&E's Meters relating to this Agreement and shall be allowed to inspect all charts or other records of measurement pertaining to the Gas delivered into PG&E's Gas Plant under this Agreement, at any reasonable time, for the purpose of verifying their accuracy. PG&E shall preserve, for a period of at least three (3) years, all test data, charts, and/or other records of Gas measurements. Transfer of Gas custody shall occur at the meter.

5.3. Meter Accuracy Verification: Producer may request at any time, but not exceeding two (2) times in any calendar year, that the accuracy of PG&E's Measurement Equipment be verified by testing. Producer may witness requested tests. Producer may not alter or in any manner disturb, manipulate, or tamper with any equipment or Facilities owned or controlled by PG&E. Within a reasonable time of such a request, PG&E will give at least two (2) working days prior notice to Producer of the time and date of the test. If upon such requested verification the measurement equipment is determined to be registering correctly, as specified in PG&E's Tariff Rule 17, or in any amendment thereto, the cost of such requested verification shall be charged to and paid by Producer, and no recalculation of quantities delivered shall be made.

If an inaccuracy of greater than specified in Rule 17 is discovered, PG&E will bear the cost of such test, and volume adjustments will be made pursuant to Section 5.5 of this Agreement.

5.4. Manufacturer's Specifications: Flow measurement and volume computations will be made by PG&E within the accuracy prescribed by the manufacturer of the measurement and computing equipment.

5.4.1. Gas Temperature: Flowing gas temperature shall be continuously measured or recorded. If a temperature chart recorder is used, the arithmetical average temperature recorded during each day shall be used for volume computations.

5.4.2. Sampling: Relative density (G), carbon dioxide (CO<sub>2</sub>), nitrogen (N<sub>2</sub>) and Heating Value, shall be determined, from time to time as deemed to be required by PG&E, from samples taken by PG&E at the Measurement Facilities. Determination of Heating Value and relative density by compositional analysis shall comply with the methods specified in the American Society for Testing and Materials ASTM D 3588, as revised from time to time. The physical properties of the constituent gases used to calculate Heating Value and relative density shall be taken from the Gas

Processors Association GPA 2145, as revised from time to time. Chromatography, calorimeters, densitometers, or other means acceptable in the industry may be used to determine Heating Value or relative density of the Gas.

5.4.3. Atmospheric Pressure: The average atmospheric (barometric) pressure shall be assumed to be 14.73 psia at sea level. Corrections for higher elevations shall be determined by PG&E by using an industry acceptable equation or by taking actual measurements at the point of measurement.

5.4.4. Gas Compressibility: Gas Compressibility shall be calculated at the flowing pressure and temperature under which Gas is metered in accordance with the recommendations contained in A.G.A. Report No. 8, "Compressibility Factors of Natural Gas and Other Related Hydrocarbon Gasses", as amended from time to time. If a chart recorder is used, the average flowing pressure and temperature for the day may be used to calculate an average compressibility for that day.

5.4.5. Other Tests: Tests for other quality parameters of the Gas delivered hereunder shall be made from time to time by PG&E using approved standard methods acceptable in the industry.

5.4.6. Service Fees: The Parties may execute a Service Fee Agreement if operational services, that are different from or in addition to the normal service provided by PG&E, are requested by Producer and provided by PG&E in PG&E's sole discretion.

5.5. Inaccuracies: If an inaccuracy is discovered at any time, or if a Meter is out of service, the following action will be taken for volume correction or determination:

5.5.1. Incorrect Constant: When the inaccuracy is a result of using an incorrect constant value in the volume calculation, the quantity of metered gas shall be recalculated. If the duration of the error cannot be determined, the adjustment shall be made based on one-half of the time since the last Meter and instrument inspection, or three months, whichever is the shorter period of time. Examples of using incorrect constant values include, but are not limited to, basing calculations on

the incorrect orifice plate size, orifice tube size, differential pressure range, or static pressure range.

5.5.2 Incorrect Calibration: When the inaccuracy is a result of errors in the calibration or operation of flow computers, transducers, recorders, or measurement devices for relative density or Heating Value, that result in an error greater than that specified in PG&E's Tariff Rule 17, as revised from time to time (at a reading corresponding to the average rate of flow for the period since the preceding test) the quantity of Gas shall be recalculated. Recalculations, due to differential pressure calibration errors, shall be limited to inaccuracies greater than that specified in Tariff Rule 17, of the transducers' or recorders' full scale reading. If the percentage of error is not ascertainable by calibration, test, or mathematical calculation, the correction shall be made by PG&E by estimating the quantity or quality of Gas delivered based upon deliveries under similar conditions during a period when the equipment was deemed to be registering accurately. Where the duration of the inaccuracy in measurement is not known or agreed upon, the period of inaccuracy shall be deemed to be one-half of the time elapsed since the date of the last test or three (3) months, whichever is the shorter period of time. Basis for calculation specified in this section may be modified by a PG&E Rule or applicable standard.

5.5.3 Pulsation Induced Errors: When the inaccuracy is caused by compressor induced pulsations and the measurement error is greater than one percent (1%), the quantity of metered gas shall be recalculated based on the percent error determined by a Square Root Error Indicator developed by the Southern Gas Association's Pipeline Compressor Research Committee. If the duration of the error cannot be determined, the adjustment shall be made based on one-half of the time since the last pulsation check, or three months, whichever is the shorter period of time.

**Article 6**

**6. Compression:** In the event that Producer owns, or at some future time installs compressor plants upstream of the Measurements Facilities, in order to deliver gas to PG&E's Gas Plant, the following shall apply:

6.1. Operation: Producer shall install and operate its compressor so that its operation will not adversely affect PG&E's Gas, Gas Plant, or customers, or impair the accuracy of the measurement of the Gas at the Meter. Producer shall eliminate compressor induced pulsation or vibration before Gas is passed through PG&E's Meter. PG&E shall not be required to take Gas if compressor induced pulsation and/or vibration exists.

**Article 7**

**7. General Conditions**

7.1. Term: This Agreement shall be effective from the date of execution by PG&E and shall, subject to the termination rights contained herein, continue in full force and effect for a period of one (1) year from that date (the "Initial One Year Period") and thereafter until it is terminated as provided in this Agreement.

7.2. Termination:

(a) Termination for Convenience: Either Party may terminate this Agreement after the Initial One Year Period upon thirty (30) days written notice.

(b) Termination for Cause: Either Party may terminate this Agreement during or after the Initial One Year Period, immediately upon notice: (i) if the other Party is in breach of this Agreement; or (ii) if the portion of PG&E's gathering system to which Producer's Delivery Facilities are connected is sold by PG&E; or (iii) if the CPUC or the FERC at any time asserts (1) that Producer is a public utility or subject to regulation by such a regulatory body, or (2) that such a regulatory body may prevent

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PG&E from complying with this Agreement; or (iv) if any state or federal legislation, decision or rule of any governmental authority, enacted or issued after the effective date of this Agreement, affects either Party or this Agreement in a manner that is unacceptable to either Party.

(c) Additional Termination Rights: PG&E may also, during or after the Initial One Year Period, terminate this Agreement as provided in this Section 7.2(c) or in other Articles of this Agreement.

Producer acknowledges that PG&E is a public utility regulated by the CPUC, that PG&E's Gas transportation services are exempt from the jurisdiction of the FERC pursuant to Section 1(c) of the Natural Gas Act (15 U.S.C. § 717(c)) commonly referred to as the "Hinshaw Amendment," and that PG&E has received a "blanket certificate" from the FERC pursuant to 18 CFR §284.224. Producer agrees that if at any time the CPUC, the FERC, a court, or PG&E, determines that PG&E's status as aforesated is or may be affected in any respect as a result of this Agreement or the transportation of Gas delivered into PG&E's Gas Plant pursuant to this Agreement, PG&E may, in its sole discretion, refuse to perform such transportation services and/or refuse to accept Producer's Gas under this Agreement, and/or terminate this Agreement upon ten (10) days written notice.

If Producer breaches a term or condition of this Agreement, or fails to comply with all applicable laws, rules, regulations, orders, ordinances, and codes, including any existing or future applicable tariffs or schedules, and Producer does not immediately correct such breach or failure, then in addition to all remedies provided by law or by this Agreement, PG&E shall have the right, without notice, to: (1) refuse to accept Producer's Gas into PG&E's Gas Plant and suspend its performance under this Agreement until the breach or failure has been corrected and PG&E has been fully compensated for all damages and costs incurred, and/or (2) terminate this Agreement, prior to or following such a suspension.

(d) Certain Rights and Obligations: Termination of this Agreement shall not release either Party from its obligation to make payments or compensate the other Party for damages or costs, if any are due or have been incurred.

Upon termination of this Agreement, PG&E shall have the right to disconnect from PG&E's Gas Plant the Facilities used to receive Producer's gas.

7.3. Survival: The following Sections shall survive the termination of this Agreement: 4.1.4, 7.2, 7.4, 7.5, 7.6, 7.7, 7.9, 7.10, 7.11, and 7.18. All other provisions of this Agreement, which by their nature or content are intended to survive termination of this Agreement, shall also survive.

7.4. WARRANTY DISCLAIMER: ALL INSTALLATION, CONNECTION, MAINTENANCE AND OTHER SERVICES PERFORMED BY PG&E AND MATERIAL, EQUIPMENT AND FACILITIES INCLUDING BUT NOT LIMITED TO MEASUREMENT EQUIPMENT AND VOLUNTEERED LINES PROVIDED BY PG&E OR MADE AVAILABLE BY PG&E FOR USE, IN CONNECTION WITH THIS AGREEMENT, ARE PROVIDED "AS IS," WITHOUT ANY WARRANTIES, EXPRESS, IMPLIED OR STATUTORY. ALL WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED BY PG&E INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND NO WARRANTIES SHALL APPLY TO ANY SERVICES, MATERIAL, EQUIPMENT OR FACILITIES PROVIDED BY PG&E OR MADE AVAILABLE BY PG&E UNDER THIS AGREEMENT.

7.5. Exclusive Remedy: In lieu of all warranties express, implied, or statutory, PG&E's sole obligation and total liability, and Producer's sole and exclusive remedy, relating to or arising out of the installation or connection of equipment or Facilities or the furnishing of equipment, material, or Facilities or of any services by PG&E, shall be limited, at PG&E's option, to (1) reperformance of the installation or connection work or other services at PG&E's expense up to a cost equal to the amount paid by Producer for such installation or connection work, or other services, excluding any amounts paid for equipment, material or Facilities or other costs, or (2) a refund by PG&E to Producer of an amount equal to the amount paid to PG&E by Producer for said installation or connection work or other services, excluding any other costs, or (3) a refund of the amount paid by Producer to PG&E for equipment, material or Facilities, as applicable.

Except as specifically stated above in this Paragraph 7.5, PG&E shall have no obligation or liability and shall be released from any and all liability for losses, costs or damages of

any kind with respect to or arising out of installation or connection work, or other services, equipment, material or Facilities installed, connected, or in any way provided by PG&E or made available by PG&E pursuant to this Agreement, whether arising in contract, tort (including negligence), strict liability, warranty, or otherwise.

7.6. CONSEQUENTIAL DAMAGES: IN NO EVENT, SHALL EITHER PRODUCER OR PG&E BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION LOST PROFITS OR REVENUES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, WARRANTY, OR OTHERWISE, AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE.

7.7. Governmental Authority: This Agreement shall at all times be subject to all applicable present and future rules, tariffs and schedules of PG&E, and to all valid legislation with respect to the subject matter hereof, either state or federal, and to all valid present and future decisions, rules, regulations, orders and ordinances of all duly constituted governmental authorities having jurisdiction; this Agreement shall at all times be subject to any and all amendments to such rules, tariffs, and schedules of PG&E, legislation, and decisions, rules, regulations, orders and/or ordinances of governmental authorities.

If at any time the CPUC or any branch thereof issues a finding or opinion, formal or informal, that this Agreement is inconsistent with CPUC rules, regulations, decisions, or policy, then this Agreement shall be amended to eliminate any inconsistency. This Agreement shall at all times be subject to such changes or modifications by the CPUC as it may from time to time direct in the exercise of its jurisdiction.

PG&E will file for CPUC approval of all or part of this Agreement, and this Agreement shall be subject to such approval.

7.8. Compliance with Laws: Producer shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and codes and shall obtain all applicable licenses and permits for the conduct of its business and the performance of this Agreement.

7.9. Environmental Indemnification: Producer shall indemnify, defend, and hold PG&E harmless against and from all claims, suits, liabilities, damages, costs (including attorney's fees), expenses, fines and penalties, and all applicable judicial, administrative, and regulatory decrees, directives, judgments, and orders resulting from, or arising out of or in connection with any environmental contamination or any violation of environmental or other laws, regulations, rules, ordinances, codes, orders, directives and similar items of all appropriate governmental authorities relating to Producer's Property used by PG&E for the installation and operation of Facilities pursuant to this Agreement, to the extent that such claims, suits, liabilities, damages, costs, expenses, fines or penalties arise out of or result from or in connection with: (1) causes or events occurring prior to PG&E's use of the Property, or (2) acts or omissions of Producer, its parent, agents, employees, contractors or successors, occurring at any time. For purposes of this paragraph, "Property" shall mean any property, real or personal, in or to which Producer owns or hold any rights including easements, licenses, rights-of-way or any other contractual or real property rights.

7.10. Arbitration

7.10.1. Disputes: Any disputes arising out of or related to the interpretation or performance of the provisions of this Agreement, which cannot be settled by the Parties within a reasonable time, may be submitted by either Party to binding arbitration.

7.10.2. Appointment of Panel: All disputes to be arbitrated shall be submitted to and decided by a panel of three arbitrators: one to be appointed by Producer, one by PG&E, and the third one to be chosen by the two arbitrators appointed by the Parties. If either Party shall fail or refuse to appoint an arbitrator within thirty (30)

days, after written notice has been given to it by the other party naming the latter's arbitrator, the Party giving such notice shall have the right to request the Presiding Judge of the Superior Court of the State of California in and for the City and County of San Francisco to appoint an arbitrator for the other party so in default.

If the two arbitrators thus chosen shall be unable to agree upon a third arbitrator within thirty (30) days, such arbitrator shall be appointed, upon application of either party, by the Presiding Judge of the Superior Court of the State of California in and for the City and County of San Francisco. Except as otherwise specifically provided in this Section 7.10, any arbitration shall be subject to the provisions of Title 9 of Part 3 of the Code of Civil Procedure of the State of California.

7.10.3. Venue for Arbitration and Costs: Venue for arbitration hereunder shall be the City and County of San Francisco unless another location is unanimously selected by the arbitrators. The cost of the arbitrator appointed by Producer shall be paid for by Producer; the cost of the arbitrator appointed by PG&E shall be paid for by PG&E; and the cost of the third arbitrator and any attendant costs shall be borne equally by Producer and PG&E. Each Party shall bear its own attorney's fees and other expenses in connection with such arbitration.

7.10.4. Binding Decision: The decision of a majority of the arbitrators, after a hearing at which the Parties shall have an opportunity to be heard and to introduce evidence, shall be binding upon the Parties hereto and judgment thereon may be entered in any court of competent jurisdiction.

7.10.5. Jurisdiction, Choice of Litigation Location: Any suit or action brought between the Parties relating to this Agreement shall be litigated only in a California State Court of competent jurisdiction or, if jurisdiction over the action cannot be obtained in a California State Court, in a Federal Court of competent jurisdiction situated in the State of California.

7.11. Governing Law: This Agreement shall be governed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

7.12. Easements and Rights of Way: Producer shall grant and assign to PG&E, insofar as Producer has the right to do so, and without any charge to PG&E, all necessary easements and rights-of-way for the installation, operation, maintenance, replacement, and/or removal of pipelines and Facilities necessary or convenient to the receipt and the measurement of Gas covered by this Agreement.

7.13. Force Majeure: Neither PG&E nor Producer shall be considered in default in the performance of its obligations under this Agreement, except obligations to make payments hereunder, to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of the affected Party. Causes beyond the reasonable control of a Party shall include, but not be limited to, acts of God, a public enemy, or a governmental authority, strikes, lockouts, riots, rebellions, injunctions, breakage of or accident to wells, machinery, equipment, or lines of pipe, washouts, earthquakes, floods, storms, extreme weather conditions, freezing of lines, or any cause or causes of whatsoever nature (whether like or unlike those herein enumerated) beyond the reasonable control of either Party. In the event either Party claims that performance of its obligations was prevented or delayed by any cause beyond its reasonable control, that Party shall promptly notify the other Party of the circumstances preventing or delaying performance. Such Party so claiming a cause-delayed performance shall endeavor, to the extent reasonable, to remove the obstacles which preclude performance.

7.14. Waivers: No waiver, expressed or implied, by either Party, of any default by the other Party in the performance of its obligations hereunder shall be deemed or construed to be a waiver of any other or subsequent default whether of like or different nature. A failure of either Party to declare the other Party in default, regardless of how long such failure continues, shall not constitute a waiver by such Party of any of its rights hereunder.

California Production Interconnection and Operating Agreement

7.15. Amendments and Modifications: Except as otherwise specifically set forth in this Agreement, this Agreement may be amended or modified only by an instrument in writing executed by all Parties hereto.

7.16. Enforceability: In the event that one or more of the provisions contained in this Agreement, shall for any reason be invalid, illegal or unenforceable, in any respect, this shall not affect any other provision contained in this Agreement.

7.17. Ambiguities: Any ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against any Party, but shall be construed in a manner which most accurately reflects the intent of the Parties at the time of its execution.

7.18. Headings: The headings of this Agreement are for convenience only and shall not vary the meaning of the text.

7.19. Notices: Except as otherwise provided herein, any notice, request, demand, or statement ("Notice") regarding this Agreement, including notices of Arbitration, shall be in writing and deemed given when deposited in the United States mail, postage prepaid, directed to the address of the Parties as follows:

Producer Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: (     ) \_\_\_\_\_

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

Telecopier: (     ) \_\_\_\_\_

Telephone: (415) 973-5128  
Telecopier: (415) 972-6002  
Attn.: \_\_\_\_\_

Pacific Gas and Electric Company  
77 Beale Street, B16A  
P.O. Box 770000  
San Francisco, CA 94177  
Tel: (415) 973-5128  
Attn: Transportation Services

Notices may also be given by facsimile or other electronic transmittal, provided that such facsimile or electronically conveyed Notice is confirmed in writing and delivered as aforesaid within three (3) days of the facsimile or other electronic Notice. Routine communications may be exclusively communicated by facsimile or other electronic means.

Either Party may from time to time change its address for Notices upon a thirty (30) day prior Notice, given pursuant to this Article 7.19.

7.20. Assignments: The rights and obligations of the Parties hereunder shall bind and benefit the Parties' successors and assigns; provided, however, that neither Party may assign its rights or delegate its obligations hereunder, without first obtaining the written consent of the other Party, except for an assignment of the entire interest in this agreement of the assigning Party (an assignment of all rights coupled with a delegation of all of the obligations of such Party under this Agreement) to a corporate parent or affiliate of the assigning Party or to an entity succeeding to all or substantially all of the business, properties or assets of the assigning Party related to or directly used in the performance of this Agreement. An assignment pursuant to the aforesaid exception shall become effective on the date of notice thereof to the other Party. For purposes of this Paragraph 7.20, "affiliate" shall mean any corporation, partnership, or other legal entity, which controls, is controlled by, or is under common control with the Party making the assignment, and fifty percent (50%) or more of the equity shall constitute "control." Assignment of this Agreement shall not release Producer from any of its obligations under this Agreement, unless such release is agreed to in writing by PG&E and by the assignee.

7.21. Appendices: All of the following appendices and exhibits attached hereto are incorporated herein by reference:

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California Production Interconnection and Operating Agreement

7.22. Separate Agreement: Producer acknowledges and agrees that terms and conditions governing nominations of Producer's Gas for transportation, balancing of Gas accounts, and other provisions relating to the transportation of Producer's Gas on PG&E's system, shall be governed by a separate California Production Balancing Agreement (CPBA); therefore, Producer agrees to appoint an Authorized Agent, as defined in the CPBA, and to execute a standard "Appointment of Authorized Agent" (Attachment 1 to the CPBA) for that purpose, as soon as CPUC approval of the CPBA becomes effective .

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized representatives of the Parties hereto.

Pacific Gas and Electric Company

Producer \_\_\_\_\_

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

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

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

EXHIBIT 1  
**California Production Balancing Agreement  
Pipeline Purchase and Sale Agreement  
Dated \_\_\_\_\_**

Contract No. \_\_\_\_\_

Date \_\_\_\_\_

**PACIFIC GAS & ELECTRIC COMPANY  
CALIFORNIA PRODUCTION BALANCING AGREEMENT**

This California Production Balancing Agreement (CPBA) is made by and between Pacific Gas & Electric Company (PG&E), a California corporation, and \_\_\_\_\_ hereafter referred to as Authorized Agent (AA), a(n) \_\_\_\_\_ PG&E and the AA are each also referred to herein as "Party" and together as "Parties".

**PURPOSE**

This CPBA establishes the terms and conditions for the resolution of imbalances on PG&E's gas transportation system (the PG&E System) caused by volumes of gas, delivered into the PG&E System from California production wells, which volumes exceed or are insufficient to match the nominations made for the deliveries into the PG&E System.

The AA requests that PG&E recognize (1) the AA's authority to represent and act on behalf of the parties (party) who own(s) or control(s) gas produced from certain California production wells (Producer(s)) and who deliver that gas into the PG&E System, for transportation, at the point(s) of interconnection where gas is measured before delivery into the PG&E System (Receipt Point(s)), which is (are) specified in Attachment 2 "Receipt Point(s)" (Attachment 2); and (2) that the AA has been duly appointed to act as agent for the Producer(s) pursuant to Attachment 1 "Appointment of Authorized Agent" (Attachment 1).

This CPBA is not intended to be an agreement for transportation services. PG&E provides transportation services pursuant to applicable rules, schedules, tariffs, and agreements.

This CPBA does not apply to gas volumes delivered at the Receipt Point(s) specified in Attachment 2 for procurement by PG&E under a traditional procurement contract executed prior to December, 1989, and such deliveries shall not be included in the Cumulative Imbalance calculation applicable to gas nominated by the AA under this CPBA.

**AGREEMENT**

The Parties intending to be legally bound agree as follows:

**REPRESENTATIONS**

By entering into this CPBA, the AA accepts the obligations of the AA hereunder. The AA represents that (1) the AA is the exclusive agent for one or more Producer(s), who are supplying gas to the Receipt Point(s) listed in Attachment 2 of this CPBA, for the purpose of nominating volumes of that gas for transport by PG&E under PG&E's standard nomination procedures; balancing those nominations against actual deliveries at the Receipt Point(s); allocating, prorating and handling administrative matters concerning Receipt Point(s); giving and receiving payments, notices and requests; and taking such action and exercising such powers as agent on behalf of the Producer(s) as set forth in Attachment 1; and (2) the AA is

duly authorized and has all necessary legal rights and powers to enter into this CPBA and to perform all of the obligations of the AA set forth herein, to grant to PG&E the rights set forth herein, and to bind the Producer(s) to all obligations, acts and omissions of the AA under this CPBA; and (3) the AA will comply with all of the obligations set forth in this CPBA, notwithstanding any agency relationship between the AA and the Producer(s) or other third party.

#### WARRANTIES

The AA represents and warrants that (1) it has the right and is duly authorized to nominate all gas delivered to PG&E at the Receipt Point(s); (2) it has or can transfer good title to such gas, and all such gas is delivered free from all liens, encumbrances and adverse claims of any kind; (3) it will comply with all federal, state and local reporting requirements and other applicable laws or regulations; and (4) PG&E may conclusively rely upon any and all nominations made and information provided by the AA hereunder as correct.

#### TARIFFS

The Parties agree to abide by the applicable sections of PG&E's tariffs as they may change from time to time, as well as the terms and conditions stated in this CPBA and its Attachments. Such tariffs include but are not limited to the Operational Flow Order (OFO) and Emergency Flow Order (EFO) provisions of gas Rule 14.

#### TERM OF AGREEMENT

This CPBA will become effective as of the effective service date of \_\_\_\_\_ and will remain in effect until terminated by the AA or PG&E pursuant to this CPBA.

#### ATTACHMENTS

Attachments, as listed below, are hereby made a part of this CPBA and specify terms and conditions under which PG&E will recognize the authority of the AA and the Receipt Point(s) for which the AA is responsible.

(1) Appointment of Authorized Agent (Attachment 1). Appoints the exclusive agent of the Producer(s) for all purposes stated in this CPBA including, without limitation, all applicable nominating, balancing, paying, allocating, prorating, and other administrative matters with respect to the gas to be delivered at the Receipt Point(s) specified in Attachment 2 of this CPBA.

(2) Receipt Point(s) (Attachment 2). Lists the Receipt Point(s), and their maximum daily production cap(s), for which the AA will be responsible.

(3) Communications and Operations Contact (Attachment 3). Specifies the notice requirements applicable to this CPBA.

#### NOMINATIONS AND SCHEDULED DELIVERIES

The AA shall place nominations with PG&E for transportation of gas from each Receipt Point consistent with PG&E's nomination procedures. PG&E shall process nominations in accordance with PG&E's normal scheduling procedures and communicate the resulting confirmed nominations to the AA pursuant to Attachment 3.

The AA shall verify with the well operator that the confirmed nomination quantity of gas shall be delivered to each Receipt Point each day for which the gas is nominated. If the delivered quantity is estimated to be less than the confirmed nomination, the AA shall provide PG&E with an estimate of the delivered quantity. This estimated quantity, which may not exceed the volume of gas already confirmed by PG&E, shall become the volume of gas scheduled for delivery and shall be communicated by PG&E to the AA, by facsimile or other electronic means, on the day the gas is transported.

PG&E, in its sole discretion, may review the maximum daily production cap volume(s) for the Receipt Point(s) specified on Attachment 2, and may reduce such volume(s) to better match actual delivered volume(s) into the PG&E System. PG&E may also revise a maximum daily production cap upward, if the AA provides PG&E with recent well test documentation for increased production to be delivered to a Receipt Point.

#### REFUSAL OF GAS

PG&E, in its sole judgment, shall have the right, without incurring any liability to the AA or to the Producer(s), to refuse acceptance of gas at the Receipt Point(s) when:

- (a) the AA fails to comply with a provision of this CPBA, becomes insolvent or subject to a bankruptcy proceeding, or fails to establish creditworthiness if requested by PG&E; or
- (b) any agreement required by PG&E in connection with the transportation of gas on PG&E's System has not been executed, has been terminated, or has expired; or
- (c) PG&E deems it necessary or desirable to curtail acceptance of the gas in order to operate, preserve, or protect the integrity and safety of PG&E's gas system including, without limitation, gas quality, gas supply, and/or gas system facilities. PG&E shall use reasonable efforts to give the AA advance notice of any such curtailment.

#### ADDING POINTS OF RECEIPT TO THE CPBA

The AA shall notify PG&E in writing of any Receipt Point(s) to be added to or deleted from Attachment 2. Changes will take effect on the first day of the month following PG&E's receipt of a written notification from the AA of an addition or deletion of a Receipt Point if received by PG&E no later than ten (10) business days prior to the first day of the month in which the change is to take effect. The AA shall not nominate or deliver gas to an added Receipt Point until PG&E notifies the AA that the Receipt Point is included in Attachment 2 by written amendment.

#### CALCULATING IMBALANCES

At the end of each month, PG&E shall calculate the difference between the actual delivery and the scheduled delivery at each Receipt Point listed on Attachment 2. The total net difference for all Receipt Points, plus any uncleared prior imbalance allowed under the provisions of this CPBA, shall be the "Cumulative Imbalance", which shall be maintained in a "Cumulative Imbalance Account" until cleared under the provisions of this CPBA.

Actual deliveries greater than the scheduled deliveries for all Receipt Point(s) shall be a positive Cumulative Imbalance. Actual deliveries less than the scheduled deliveries for all Receipt Point(s) shall be a negative Cumulative Imbalance. PG&E shall issue a "Cumulative Imbalance Statement" no later than the 15th day of the first month subsequent to the month in which the Cumulative Imbalance occurred.

### TOLERANCE BAND

The Tolerance Band is equal to plus or minus 150 decatherms of the Cumulative Imbalance for the month in which the imbalance occurred.

### CLEARING IMBALANCES

A Cumulative Imbalance may be cleared by nominating to or from the AA's Cumulative Imbalance Account or by trading the Cumulative Imbalance.

1. Cumulative Imbalance Account Nominations: Following issuance of the Cumulative Imbalance Statement, the AA may clear a negative Cumulative Imbalance by nominating, consistent with PG&E's nominating procedures, In-Kind (an equivalent amount of gas from the Receipt Point(s) listed on Attachment 2) to the Cumulative Imbalance Account; or the AA may clear a positive Cumulative Imbalance by nominating from the Cumulative Imbalance Account to a Delivery Point, on or before the closing date for trading imbalances as described below.
2. Trading Imbalances: Following issuance of the Cumulative Imbalance Statement, the AA may trade its Cumulative Imbalance with another AA under a CPBA that has a Cumulative Imbalance from the same calendar month. Any imbalance trade shall move the trading party's Cumulative Imbalance toward zero or result in an imbalance that is within the Tolerance Band. The AA may trade all or a portion of its Cumulative Imbalance by executing an imbalance trade on or before the last business day of the first month subsequent to the month in which the Cumulative Imbalance occurred. Executing an imbalance trade consists of both parties to the trade completing a California Production Cumulative Imbalance Trading Form (No. 79-946) or electronic equivalent, and submitting the form to PG&E.

### REMAINING IMBALANCES

After the imbalance trading deadline, a remaining Cumulative Imbalance within the Tolerance Band will be carried forward to the following month's Cumulative Imbalance. A remaining Cumulative Imbalance greater than the Tolerance Band will be automatically cashed out in its entirety, resulting in a zero imbalance.

### CASHOUT

The Commodity cashout prices for each month are established for the following four (4) imbalance categories: Over-deliveries and under-deliveries in the imbalance range of greater than zero (0) percent and less than or equal to ten (10) percent of actual deliveries (Tier I Cashout), plus over-deliveries and under-deliveries in the imbalance range of greater than ten (10) percent of actual deliveries (Tier II Cashout).

Each cashout price is based on a two step calculation: First a cashout index is determined based on an average of the published price date from Natural Gas Intelligence (NGI) and the BTU Daily Gas Wire for the PG&E interconnect points of Malin (Line 400) and Topock (Southern California Border). Second, that index is adjusted to arrive at the cashout price for that imbalance category.

Imbalances greater than zero (0) percent and less than or equal to ten (10) percent of actual deliveries (Tier I Cashout):

- 1) Over-deliveries
  - a) The Weighted Over Delivery (WOD) Index equals the lower of the Bid Week monthly index price or the average of the five (5) lowest average published daily prices, weighted by the supply mix of all gas received at Malin and Topock for on-system End-Use Customers during the month in which the imbalance occurred.
  - b) The cashout price equals ninety five (95) percent of the WOD Index.
- 2) Under-deliveries:
  - a) The Weighted Under Delivery (WUD) Index equals the higher of the Bid Week monthly index price or the average of the five highest average published daily prices, weighted by the supply mix of all gas received at Malin and Topock for on-system End-Use Customers during the month in which the imbalance occurred.
  - b) The cashout price equals one hundred five (105) percent of the WUD Index.

Imbalances Greater than 10% of Actual Deliveries (Tier II Cashout):

- 1) Over-deliveries:
  - a) The Over Delivery (OD) Index equals the lowest average published daily price at either Malin or Topock.
  - b) The cashout price equals fifty (50) percent of the OD Index.
- 2) Under-deliveries:
  - a) The Under Delivery (UD) Index is defined as the highest average published daily price at either Malin or Topock.
  - b) The cashout price equals one hundred fifty (150) percent of the UD Index.

If no published daily price is reported on a given day, the prior published daily price from that index service will continue to apply for that day. If an index service is no longer available, PG&E reserves the right to choose another nationally recognized index to replace it.

PAYMENTS

The AA shall pay PG&E for all charges associated with balancing service on behalf of the Producer(s) supplying gas to any Receipt Point. Details for payment are provided in PG&E's tariffs. All payments shall be made by wire transfer or check to the address for "Payments" set forth in Attachment 3.

DISPUTED CASHOUT STATEMENTS

In the event of a dispute as to the amount of a cashout, OFO or EFO Noncompliance Charge under this CPBA, payment shall nonetheless be made in a timely manner as specified in PG&E's tariffs. Such payment shall not be deemed to be a waiver of any rights to recoup any amounts in dispute, if a written statement setting forth the nature of the dispute is sent along with payment to the PG&E Statements address in Attachment 3. Any rights to recoup such amounts may be treated as waived if said written statement is not sent within 6 months of the

date of the cashout, OFO or EFO Noncompliance Charge statement. If the cashout statement is determined to be incorrect after PG&E is notified hereunder, PG&E will issue a corrected statement. Neither PG&E nor the AA shall be obligated to pay interest on a corrected cashout statement.

#### ADJUSTMENTS

If an error is discovered in a Cumulative Imbalance Statement, cashout statement, or OFO or EFO Noncompliance Charge statement, then an appropriate correction shall be made by PG&E. Claims for errors by either Party shall be made promptly to the other Party, but in no event more than 6 months after the month in which the statement was issued. Notwithstanding the provisions of this paragraph, any adjustment resulting from the orders, rules, or regulations issued by any governmental agency having jurisdiction shall be made promptly by the appropriate Party, regardless of the 6-month time limitation stated in this paragraph.

Each Party shall have the right, during normal business hours, to receive copies of the records of the other Party, to the extent necessary to verify the accuracy of any statement, charge, computation, payment, refund, or demand, made under this CPBA.

#### CREDITWORTHINESS

If the AA fails to pay two (2) cashout amounts by the due date for payment within a twelve (12) month period, PG&E shall have the right to require the AA to establish creditworthiness pursuant to PG&E's tariff.

#### SUCCESSION

The AA acknowledges and agrees that the Producer(s) may appoint a successor AA from time to time, by mailing to PG&E an "Appointment of Authorized Agent" executed by the majority of Producer(s) pursuant to Attachment 1 to this CPBA. The effective date of such a succession of an AA shall be the first day of the month following the date on which PG&E confirms in writing its receipt of the new Appointment of Authorized Agent (Attachment 1). A succession of the AA, or an assignment or termination of this CPBA by either Party, shall not release the AA from any of its obligations or liabilities for costs, payments, and damages, due or incurred prior to the effective date of the succession, assignment or termination, or resulting from acts or omissions of the AA which occurred prior to that date. Payment of amounts that the previous AA owes PG&E as of such effective date shall be made no later than fifteen (15) days thereafter.

#### ASSIGNMENT

The respective rights or obligations under this CPBA shall not be assigned or delegated by either Party without the written consent of the other Party; provided, however, that only a notice is required if an assignment of PG&E's rights is made concurrently with a delegation of PG&E's obligations hereunder to a parent or affiliate of PG&E, or to an entity acquiring the business properties or the portion of PG&E's gathering system where the Receipt Point(s) specified in Attachment 2 is/are located. Any successor to or assignee of the rights of a Party, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to and bound by all terms and conditions of this CPBA to the same extent as though such successor or assignee were an original Party. An assignment or delegation of rights or obligations under this CPBA which is not in conformance with the provisions of this paragraph shall be null and void.

### TERMINATION

Either Party may terminate this CPBA upon thirty (30) days written notice, or immediately upon notice if: (1) the other Party is in breach of this CPBA; or (2) the CPUC or the FERC at any time asserts regulation that may prevent PG&E from complying with this CPBA. Upon termination of this CPBA, PG&E shall have the right to refuse nominations for deliveries of gas into the PG&E System.

### INDEMNIFICATION

The AA shall indemnify and hold PG&E harmless from and against all losses, costs, damages, claims and liabilities, resulting from a breach of any of the representations or warranties set forth in this CPBA, and from and against any payments received from or owed to PG&E by the AA with respect to any gas nominated or delivered by the AA at the Receipt Point(s). The provisions of this paragraph shall survive the termination of this CPBA by either Party or the appointment of a successor AA, notwithstanding any other provision of this CPBA.

### MISCELLANEOUS

With the exception of Commission-approved tariff and rule changes, no subsequent waiver, modification or amendment of this CPBA or of any of its provisions shall be of any effect unless in writing and signed by a duly authorized representative of each Party.

This CPBA does not change the obligations, restrictions or rights contained in other agreements between the Parties unless expressly indicated in this CPBA.

The waiver by either Party of any breach of any term, covenant or condition contained in this CPBA, or any default in the performance of any obligations under this CPBA, shall not be deemed to be a waiver of any other breach or default of the same or any other term, covenant, condition or obligation. Nor shall any waiver of any incident of breach or default constitute a continuing waiver of the same.

Neither Party shall be liable for any special, punitive, consequential, incidental, or indirect damages, whether arising in contract, tort, including negligence or otherwise, related to this CPBA.

This CPBA shall be interpreted under the laws of the State of California.

This CPBA and the obligations of the Parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this CPBA (or the successors of those authorities).

PG&E shall have the right to terminate this CPBA immediately if the continued performance of this CPBA or of related services could reasonably be determined to jeopardize continuance of PG&E's Hinshaw Exemptions pursuant to Section 1 (c) of the Natural Gas Act.

**Pacific Gas & Electric Company**

**Authorized Agent**

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Signature

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Print Name

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Title

---

Date

---

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Company

---

Signature

---

Print Name

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Title

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Date

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**Attachments:**

- Attachment 1: "Appointment of Authorized Agent"
  - Attachment 2: "Receipt Points"
  - Attachment 3: "Communications and Operations Contact"
- Gas Rule 14

**ATTACHMENT 1  
CALIFORNIA PRODUCTION BALANCING AGREEMENT**

**APPOINTMENT OF AUTHORIZED AGENT**

**PURPOSE OF THIS DOCUMENT**

The parties (party) who own(s) or control(s) gas produced from certain California production wells (Producer(s)) and who delivers that gas into the PG&E system (the PG&E System) for transport by PG&E, at the point(s) of interconnection where gas is measured before delivery into the PG&E System (Receipt Point(s)), wishes/wish to appoint an Authorized Agent (AA), of the Producer(s), to enter into a California Production Balancing Agreement (CPBA) with PG&E, and to act for and on behalf of the Producer(s) as its/their managing agent in matters relating to the delivery of gas into the PG&E System at certain Receipt Point(s).

**AGENCY AUTHORIZATION**

Each Producer who executes this document on behalf of itself and of its successors and assignees hereby appoint(s) and authorize(s) \_\_\_\_\_ to act as its exclusive agent, for all purposes stated in the CPBA with respect to the gas to be delivered at the Receipt Point(s) specified in Attachment 2 of the CPBA. The powers and authority to act for the Producer delegated to the AA hereunder shall include without limitation:

- (a) execution and performance of the CPBA and all other agreements and documents as may be necessary or desirable for purposes of or in connection with gas deliveries to the PG&E System for transportation and the administration thereof, including nominating volumes of gas under PG&E's standard nomination procedures; and
- (b) balancing, allocating and prorating the Producer's share of gas; and
- (c) any other act or function required to perform the obligations of the AA or the Producer set forth in the CPBA.

The aforesaid appointment and delegation of authority shall be irrevocable except as stated in the paragraph "APPOINTMENT OF SUCCESSOR AA" below.

**REPRESENTATIONS AND OBLIGATIONS OF PRODUCER(S) TO PG&E**

To the extent that obligations assumed by the AA pursuant to this document or the CPBA, or any other agreements of or executed by the AA in connection with the CPBA, are part of an existing contract between the Producer(s) and PG&E, the Producer(s) shall continue to be liable to PG&E for the performance of such obligations, and nothing contained in this document or the CPBA shall release the Producer(s) from its/their obligations under any contracts with PG&E.

Notwithstanding any other provision contained in this document, the Producer(s) agrees/agree that where an obligation, promise, responsibility, commitment, risk, liability, warranty, or representation of the AA is stated in the CPBA, the term "AA" shall mean the AA and the Producer(s) jointly.

Each of the undersigned Producers represents to PG&E that it has read and understood all of the provisions contained in the CPBA which is incorporated herein by this reference and agrees to be bound thereby.

The Producer(s) specifically authorizes PG&E to rely on the AA for nominations and allocations related to transport of gas by PG&E, and for all other purposes in connection with the CPBA, and to conclusively rely upon any and all information provided by the AA under the CPBA as correct. The Producer(s) will indemnify PG&E and hold it harmless, against all claims, suits, actions, liabilities, debts, accounts, damages, costs, losses and expenses, including attorney's fees, arising from or out of: PG&E's reliance upon or use of nominations or other information provided by the AA; any acts, omissions, performance or failure to perform of the AA under the CPBA or other agreements; any failure to comply with any federal, state or local reporting requirement or other laws or regulations; or the breach of any warranty or representation stated in the CPBA or herein.

#### PG&E'S RIGHT TO REFUSE ACCEPTANCE OF GAS

The Producer(s) agree(s) that PG&E, in its sole judgment, shall have the right, without incurring any liability to the Producer(s) to refuse acceptance of gas for transportation at the Receipt Point(s) when:

- (a) the AA fails to comply with a provision of the CPBA, becomes insolvent or subject to a bankruptcy proceeding, or fails to establish creditworthiness if requested by PG&E; or
- (b) any agreement required by PG&E in connection with the transportation of gas on PG&E's gas system has not been executed, has been terminated, or has expired; or
- (c) PG&E deems it necessary or desirable to curtail acceptance of the gas in order to operate, preserve, or protect the integrity and safety of PG&E's gas system including but not limited to, gas quality, gas supply, and /or gas system facilities. PG&E shall use reasonable efforts to give the AA advance notice of any curtailment.

In the event of any of the occurrences enumerated in items (a) through (c) above or in the event that at any given time there is no AA appointed and accepted pursuant to the conditions hereof, the Producer(s) shall, upon five (5) days' notice by PG&E, disconnect the flow into PG&E's gas system of all gas intended for transportation. In the event of such a notice, all gas flow into PG&E's gas system (through the Receipt Point(s) following the five (5) day period shall be deemed to be delivered to PG&E at the applicable Cash-Out price.

#### DAMAGES

The Producer who executes this document agrees on behalf of itself and of its successors and assignees that PG&E shall not be liable to the Producer or to its successors or assignees for any special, indirect, incidental or consequential damages arising out of or in connection with the CPBA or this Appointment of Authorized Agent, whether based in contract, tort (including negligence) or otherwise.

#### SUPERSEDING DOCUMENT

This document supersedes any previous appointment by the Producer(s) of an agent, for the purposes set forth herein or in the CPBA, and shall not be modified except by a written notice to PG&E, as described in the paragraph "APPOINTMENT OF SUCCESSOR AUTHORIZED AGENT" below, executed by the majority of the Producer(s) signatories to this Agreement. This document shall be binding on all successors and assigns of the interest(s) of the

Producer(s) in the gas wells(s) associated with the Receipt Point(s) listed in Attachment 2 of the CPBA.

#### APPOINTMENT OF SUCCESSOR AUTHORIZED AGENT

The Producer(s) may appoint a successor AA from time to time, by mailing to PG&E an Appointment of Authorized Agent (in the form of this document) executed by the majority of the Producers which are signatories to this document. The Producer(s) agree to be bound by any such majority appointment of a successor AA, regardless of whether each Producer supports the change of AA. Each Producer signatory to this Agreement hereby appoints the other Producer signatories to this Agreement as the Producer's agent with authority to appoint a successor AA by majority vote to act on behalf of the Producers as set forth in this document and in the CPBA. Each Producer agrees to be bound by such an appointment, if the majority of the other Producer signatories to this Agreement appoint a successor AA pursuant to these provisions. Such change (succession) shall not be effective until the newly appointed AA: (1) signed the new Appointment of Authorized Agent, whereby the new AA assumes all of the obligations of the AA set forth therein; and (2) has been approved by PG&E, which approval shall not be unreasonably withheld. When all of the aforesaid conditions have been met, the new (successor) AA shall succeed to and become vested with all the rights and obligations of the retiring AA.

#### ASSIGNMENT

The rights and obligations of a Producer under this Appointment of Authorized Agent may be assigned and delegated concurrently to a successor to the rights of the Producer in the gas delivered at the Receipt Point(s) set forth in Attachment 2 of the CPBA, provided that the assignment and delegation shall not become effective until PG&E has received from the Producer's successor a written acceptance of all of the obligations of the assignor Producer; and provided further that such an assignment and delegation shall not release the assignor Producer from its obligations under this Appointment of Authorized Agent, the CPBA, or any other agreements to which the assignor Producer and PG&E are parties, to the extent that the assignee Producer fails to perform such obligations. PG&E may assign its rights under this document to a parent or affiliate of PG&E or an entity acquiring the portion of PG&E's gathering system where the Receipt Point(s) specified in Attachment 2 are located.

#### THIRD PARTY BENEFICIARY

PG&E shall be a third party beneficiary of this Appointment of Authorized Agent.

#### AA'S AGREEMENT

By signing this document in the space titled "Acceptance by Authorized Agent," the AA accepts the terms and conditions hereof and agrees to act as the Producer(s) agent as set forth herein.

#### EFFECTIVE DATE

This Appointment of Authorized Agent shall become effective following execution by the Producer(s) and by the AA, and shall continue in effect for the term of the CPBA; provided that PG&E has accepted the AA by executing a CPBA with the AA and accepting the Appointment of Authorized Agent concurrently therewith.

**COUNTERPARTS**

This document may be executed in counterparts, and if executed in that manner shall have the same effect as if the Producer(s) and the AA had executed the same document. The AA and each other party executing a counterpart to this document shall deliver an executed copy of that counterpart to PG&E.

In Witness Whereof, The Producer(s) and the AA have executed this Appointment of Authorized Agent, and each signatory to this document represents that the person executing it is duly authorized to do so.

Producer: \_\_\_\_\_

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

Signature

Full Name

Title

Date

Producer: \_\_\_\_\_

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

Signature

Full Name

Title

Date

Producer: \_\_\_\_\_

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

Signature

Full Name

Title

Date

Producer: \_\_\_\_\_

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

Signature

Full Name

Title

Date

Accepted by Authorized Agent:  
Company Name:

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

Signature

Full Name

Title

Date

Accepted by PG&E:

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

Signature

Full Name

Title

Date



**ATTACHMENT 3  
 CALIFORNIA PRODUCTION BALANCING AGREEMENT  
 COMMUNICATIONS AND OPERATIONS CONTACT**

Attachment 3 designates the formal contact names, mailing addresses, telephone and telecopier numbers for the Parties. Either Party may from time to time change or designate any other name or address for such purposes by providing the other Party with a revised Attachment 3. The revised Attachment 3 shall be effective upon receipt by the other Party. Any notice, request, demand, cashout, OFO or EFO Noncompliance Charge statement shall be in writing and shall be deemed to have been given when deposited in the United States, mail, postage prepaid, or transmitted and confirmed via telecopier. Routine operations may be exclusively communicated by facsimile or other electronic means.

	<u>To PG&amp;E</u>	<u>To AA</u>
<b><u>Gas Nominations</u></b>		
Business Name:	Pacific Gas & Electric Company	_____
Mailing Address:	P. O. Box 770000, Mail Code B16A San Francisco, CA 94177	_____ _____
Attention:	Gas Scheduling	_____
Telephone Number:	(415) 973-2424	( ) _____
Telecopy Number:	(415) 973-0649	( ) _____

<b><u>Notifications and Trades</u></b>		
Business Name:	Pacific Gas & Electric Company	_____
Mailing Address:	P. O. Box 770000, Mail Code B16A San Francisco, CA 94177	_____ _____
Attention:	Balancing Coordinator	_____
Telephone Number:	(415) 972-5295	( ) _____
Telecopy Number:	(415) 973-0750	( ) _____

<b><u>Payments By Wire</u></b>	
Business Name:	Wells Fargo Bank, N.A.
Address:	San Francisco, CA 93177
ABA Routing Number:	121000248
Account Name:	Pacific Gas & Electric Co.
Account Number:	

<b><u>Payments By Check</u></b>	
Business Name:	Pacific Gas & Electric Company
Mailing Address:	P. O. Box 770000, Mail Code B5A San Francisco, CA 94177
Attention:	Customer Billing Department

For maximum protection of PG&E's system in case of operational conditions and emergencies, the AA shall notify PG&E's Gas System Operations in writing of its Physical Operator's name, telephone and facsimile numbers. Notification of physical operation of the Receipt Point by a Physical Operator shall not constitute a delegation of the AA's obligations and shall not in any way limit, diminish, or otherwise affect the AA's obligations under this Agreement, which the AA shall fully perform.

	Physical Operator
Business Name:	_____
Mailing Address:	_____ _____
Attention:	_____
Telephone Number:	( ) _____
Telecopy Number:	( ) _____

Exhibit H  
Form of Assignment of Easement  
Pipeline Purchase and Sale Agreement  
Dated \_\_\_\_\_

RECORDING REQUESTED BY AND RETURN TO:

Location: City/Uninc \_\_\_\_\_  
Recording Fee \$ \_\_\_\_\_  
Document Transfer Tax \$ \_\_\_\_\_  
 Computed on Full Value of Property Conveyed, or  
 Computed on Full Value Less Liens & Encumbrances  
Remaining at Time of Sale

\_\_\_\_\_  
Signature of declarant or agent determining tax

(SPACE ABOVE FOR RECORDER'S USE ONLY)

**LD - - - - - ASSIGNMENT OF RIGHTS**

JCN 22-00-041

Name of line, main or G/W

PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called PG&E, hereby assigns to (PURCHASER), hereinafter called second party, all of PG&E's right, title and interest in and under that certain right of way and easement for gas transmission facilities, located within the County of \_\_\_\_\_, State of California, and more particularly described as follows:

(APN Number)

(Description of Deed Acquiring Rights)

This assignment shall not be deemed to be effective until (PURCHASER) has secured the consent of all surface owners of the lands traversed by the easements and permits assigned herein.

This deed is executed pursuant to authorization contained in the order of California Public Utilities Commission in Decision No. 89-12-016 dated December 9, 1989.

IN WITNESS WHEREOF the parties hereto have executed these presents this \_\_\_\_ day of \_\_\_\_\_, 200\_.

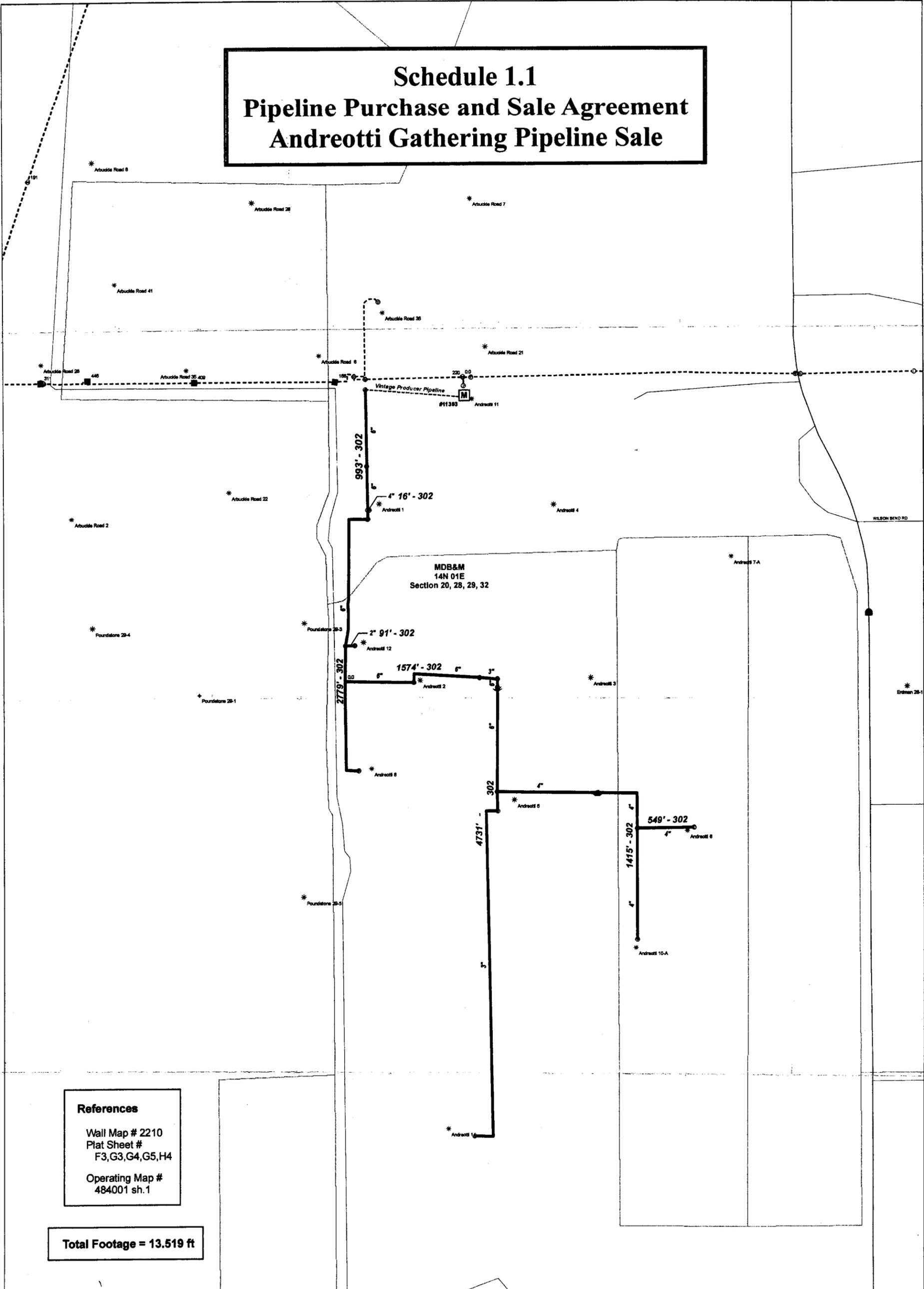
PACIFIC GAS AND ELECTRIC COMPANY  
By \_\_\_\_\_  
Name  
Title

## Attachment 2

### Schedule 1.1

Pipeline Purchase and Sale Agreement  
Andreotti Gathering Pipeline Sale

# Schedule 1.1 Pipeline Purchase and Sale Agreement Andreotti Gathering Pipeline Sale



**References**

Wall Map # 2210  
Plat Sheet #  
F3,G3,G4,G5,H4

Operating Map #  
484001 sh.1

**Total Footage = 13.519 ft**



Attachment 3

Pipeline Survey Sheet



## Attachment 4

# Sale of PG&E Gas Gathering Facilities Protocol and Procedures for a Standard Auction Process

**Sale of PG&E Gas Gathering Facilities  
Protocol and Procedures For a Standard Auction Process**

Section I. Introduction

This document establishes the procedural framework and certain specified terms pursuant to which certain natural gas gathering pipelines currently owned by PG&E will be auctioned to Qualified California Producers (the "Standard Auction Process" or "Process").

PG&E and the CNGPA have developed a standard form Purchase and Sales Agreements (PSA) to facilitate the sale of certain gas gathering pipelines to Qualified California Producers. It is the intention of both parties that these PSAs will contain certain standard terms and conditions to facilitate the expeditious transfer of these assets. Facilities sold under this process shall include an operations proposal demonstrating that the assets will be operated in a non-discriminatory fashion and in a manner that will not prohibit third party producers from accessing markets in conjunction with the purchased assets by requiring gathering and transportation payments beyond the cost of operating and maintaining the assets.

Section 2. Definitions

For the purposes of this Protocol the following definitions apply:

"Auction Bidder" refers to any Auction Participant that submits a Bid Package on a Subject Pipeline sale.

"Auction Participants" refers to any Qualified California Producer participating in the Standard Auction Process.

"Bid Package" refers to the standard PG&E application a Qualified California Producer must submit to bid on a Subject Pipeline.

"CPUC" refers to the California Public Utilities Commission.

"Facilities" means PG&E's natural gas gathering pipeline assets.

"Gas Cooperative" is an association of persons (legal or natural) organized for the sole purpose of owning, operating, and maintaining certain Subject Pipelines being offered for sale by PG&E.

"Gathering Area" has the same meaning as "Subject Pipelines" for the purposes of this protocol.

"Parties" refers to PG&E and the Auction Bidder.

"Pipelines" shall have the same meaning as "Facilities" for the purposes of this protocol.

"Process" means Standard Auction Process used by which PG&E natural gas gathering pipeline assets are offered for sale to a Qualified California Producer.

"Purchase and Sales Agreement" means the standard form agreement governing the terms and conditions of each facilities sale.

"PSA" shall have the same meaning as "Purchase and Sales Agreement".

“Qualified California Producer” means any person or persons (legal or natural) or a Gas Cooperative that possess an ownership interest in a well connected to the pipeline that is the subject of an auction.

“Single Party Sale” refers to a Facilities sale in which only one (1) Qualified California Producer has notified PG&E of its interest to participate in the Standard Auction Process.

“Standard Auction Process” refers to the procedures and protocols spelled out in this document.

“Subject Pipelines” refers to those facilities offered for sale by PG&E as part of a single transaction.

“Third Party Producer” refers to any producer who does not acquire an ownership interest in the Subject Pipelines but whose wells are connected to, or served by the Subject Pipeline.

### Section 3. Preparation of Standard Auction Process

PG&E will perform a review of its Facilities to determine which ones would be offered for sale and included as a part of the Standard Auction Process. This review will commence following final review and approval of this Standard Auction Process and the Purchase and Sale Agreement:

- A. PG&E will identify the Facilities available for auction by dividing them into areas (on maps) based on geographic location and potential system delivery points. Some of the areas will be broken into smaller gathering systems (Gathering Areas).
- B. PG&E, in reasonable consultation with the potentially affected producing parties, will determine which Facilities would be offered for sale as a part of each single sale.
  - (i) PG&E will exclude from the sale all Facilities that cross existing or decommissioned dehydrator, compressor or odorizer sites and all Pipelines required to maintain service to existing customers,
  - (ii) PG&E will include in the sale of Facilities all wellhead metering equipment owned by PG&E.
- C. PG&E will prepare maps describing the Subject Pipelines to be offered for sale. Such maps will include:
  - (i) Possible alternative locations of new master meter site(s),
  - (ii) General description of the Subject Pipelines to be sold, including physical pipe characteristics, work order reference numbers, known wells connected to Pipelines, etc.,
  - (iii) Locations of dehydrator, compressor or odorizer sites (for information purposes only, since they are not included in the sale).
- D. PG&E will make available a schedule showing the general order in which each of the Facilities is intended to be offered for sale (Facilities Schedule).
- E. PG&E will select a maximum of three Gathering Areas to be offered for auction at any given time under the Standard Auction Process. Nothing in this agreement shall limit PG&E, subject to its discretion, from offering more than three auctions at any one time.
- F. PG&E will continue to review and evaluate its inventory of Facilities and update the schedule indicating any new Facilities to be offered for sale.

#### Section 4. Other Preparation Activities

- A. PG&E will assemble files of readily available information regarding the Subject Pipelines being offered under the Standard Auction Process, including land documents, operation and maintenance history reports, leak surveys, rights-of-way and easement files, engineering data, environmental legal data, and other readily available information relating to the operation of the Subject Pipelines selected for sale.
- B. PG&E will set up a data room containing the aforesaid information. Access to the data room and the information that it would contain will be granted, during the period referred to in Section 5(F)(i) and 5(F)(ii) below, on a “need to know” basis, to Auction Participants (as defined below) who have executed and returned to PG&E the nondisclosure and use of information agreement furnished by PG&E as part of the Bid Package, set forth below.
- C. PG&E will prepare a list of known, active California gas producers and gas well operators.

#### Section 5. Standard Auction Process

- A. PG&E will notify those Qualified California Producers in the selected Gathering Areas of its desire to offer for auction Pipelines located in those Gathering Areas (Auction Notification).
  - (i) Upon receiving notice from PG&E of an auction, any producer contacted must promptly provide PG&E with a detailed list of any non-operator qualified producers served behind the PG&E meter by the Subject Pipeline.
  - (ii) Upon receiving a full-interest list from a producer, PG&E will subsequently provide any qualified producer on the list with written notification that an auction will be held.
- B. Qualified California Producers will be required to notify PG&E in writing within 30 days of the receipt of the Auction Notification of their desire to participate in the Standard Auction Process (Auction Application).
- C. If at the close of the Auction Notification period PG&E has received interest from only one (1) qualified party, the auction shall be classified as a “Single Party Sale” and shall proceed on an expedited basis outlined in Section 6 of this protocol.
- D. PG&E will send a bid package (“Bid Package”) to all Qualified California Producers that submitted an Auction Application to PG&E (Auction Participants). Each Bid Package shall include, as a minimum, the following information:
  - (i) A description of the Subject Pipelines, maps, location(s) of separation from PG&E’s local transmission system, proposed master meter location(s), copies of work order documents, names and phone numbers of PG&E representatives, and location of the data room;
  - (ii) A copy of the Purchase and Sale Agreement;
  - (iii) Line-item estimation of transition costs (out of pocket cost to PG&E to separate the Facilities from the local transmission facilities, reconfigure costs to maintain service to customers and costs associated with new master meter facilities)(Transition Costs);
  - (iv) Options for transitioning any customers connected to the Subject Pipelines;

- (v) A non-disclosure and use of information agreement.
- E. Auction Participants will call PG&E to make a reservation to visit the data room, stating the number of individuals that would need to have access, their names and the relationship to the prospective bidder (reason for access), and the estimated amount of time required to evaluate the material. As a condition of any such access to the data room, the Auction Participants and the individuals who need to have such access shall have executed and delivered to PG&E the non-disclosure and use of information agreement included in the Bid Package. Follow-up visits to the data room would be available on a reasonable basis.
- (i) Auction Participants will have 60 days from the date the auction is announced to evaluate the Subject Pipelines and submit a written, sealed bid to PG&E.
  - (ii) Auction Participants bidding on the Subject Pipelines in excess of 75 miles in size shall be provided more than 60 days to evaluate the proposed sale and submit a written, sealed bid to PG&E. The extension of this timeline shall be subject to the mutual agreement of PG&E and any interested parties in question.
- F. Auction Participants submitting a bid ("Auction Bidder(s)") will include in the sealed bid the following:
- (i) Name and addresses of Auction Bidder,
  - (ii) Name of the entity that will own and operate the Subject Pipeline,
  - (iii) An operations proposal that guarantees other Third Party Producers access to the Subject Pipelines provided there is line capacity and the gas is compatible with the existing gas in the Pipeline. The operations proposal can include a charge or fee for access and gathering of gas provided the fee is reasonable and based on the actual cost of such services and takes into account depreciation on the purchase price of that portion of the Subject Pipeline being used. In the event any modifications are needed to accommodate third party production, the Third Party Producer shall be solely responsible for the additional costs. These conditions shall also be binding on all successors and assigns of the new owner of the Subject Pipelines but shall not extend nor be interpreted by the CPUC to set any precedence on privately owned pipelines not previously owned by PG&E. Nothing in the operations proposal shall limit the ability of Third Party Producers to access open markets or market gas to parties other than the owner of the Subject Pipelines.
  - (iv) A non-refundable payment of \$5000 to help underwrite the cost of processing and evaluating the bid proposal,
  - (v) A price offer that includes as a separate line item the cost of PG&E's Transition Costs as provided by PG&E in the bid package,
  - (vi) A price offer that includes as a separate line item the value of the Subject Pipelines, that is no less than \$1.50 per lineal foot of the Subject Pipelines that is/are the subject of the bid,

- (vii) Demonstration of the Auction Bidder's ability to provide security in the amount of \$1.50 per foot, or \$100,000 whichever is greater, regarding the possible costs of environmental liability and other health and safety related liabilities for a period of two years following the transfer of the asset. Acceptable demonstrations of creditworthiness under this section shall comply with Section 12.10 of the PSA,
  - (viii) Bidder must demonstrate the ability to provide comprehensive general liability insurance, with coverage acceptable to PG&E, with respect to the pipeline covering bodily injury, third party liability, environmental risks, and other customary risks for a period of three years following the Closing. Such insurance shall provide for coverage in scope and amount consistent with both industry standards applicable to similarly situated companies and for similar assets. The insurance policy shall name PG&E, (together with their officers, directors, employees and agents) as loss payee and additional insured.
  - (ix) Consistent with Section 12.10 of PSA, in order for PG&E to evaluate the bidder's creditworthiness, the bidder must provide PG&E the most recent copies of all the information requested in the PSA.
- G. PG&E will have 30 working days to evaluate the Bid Packages and determine the best offer for the Subject Pipelines from an Auction Bidder that meets the above described creditworthiness requirements. PG&E may reject any offer that does not meet all of the conditions set forth above, and PG&E reserves the right to reject any and all bids that do not meet all of the aforesaid conditions and to accept a bid other than the highest bid, if in PG&E's sole opinion the highest bid fails to meet all of the aforesaid conditions.
- (i) PG&E will notify by mail Qualified California Producers that are served by the subject pipelines and who received notice of the proposed sale in Section 5(A) of this protocol of the proposed sale and the pending 851 filing. All bid information is to be kept confidential until the appropriate 851 filing is made to the CPUC. At that time all Auction Participants that participated in the bid process will receive a copy of the 851 filing documents.
  - (ii) The successful Auction Bidder will have 30 working days after receipt of notification of its winning bid to complete all contract documents.
  - (iii) Should the successful Auction Bidder decide not to honor its bid, it will pay the sum of \$20,000, as liquidated damages for failure to consummate the transaction.
  - (iv) Should PG&E decide not to honor the highest bid offered through the auction, for any reason other than that Auction Bidder's failure to meet all of the conditions stated in paragraph F above, PG&E shall refund that Auction Bidder's \$5,000 data room processing fee and pay the Auction Bidder \$20,000 as liquidated damages for PG&E's failure to consummate the transaction. Such liquidated damages shall constitute the total liability of PG&E and sole remedy of Auction Bidder in the event of such a failure of PG&E to accept the highest bid.

- A. Single Party Sales shall be conducted on an expedited basis and on a time schedule to be determined mutually by both PG&E and the Qualified California Producer seeking to purchase the Subject Pipeline.
- B. Single Party Sales shall be subject to all the conditions specified in Section 5 (D) through (G) inclusive of this protocol with the sole exception of the specified timelines, which are open to modification subject to the mutual agreement of both PG&E and the Auction Bidder.

Section 7. Contracting and Regulatory Approval Process

- A. The successful Auction Bidder will execute the Purchase and Sale Agreement. Upon receipt and review by PG&E it will execute the PSA and notify the successful Auction Bidder of the date that the Due Diligence period would begin.
- B. Should the successful Auction Bidder terminate the PSA prior to the expiration of the Due Diligence Period or no later than 5 business days thereafter, as provided in Section 5.3 of the PSA, PG&E reserves the right to either select the second most qualified bidder or place the Subject Pipeline back on the Facilities Schedule for consideration at a later date.
- C. After completion of the Due Diligence period as described in Section 5 of the PSA, PG&E will prepare and submit to the CPUC an 851 filing.
  - (i) Copies of the 851 filing will be made available to all Auction Bidders.
  - (ii) The Buyer will support the 851 filing and encourage an expedited processing of the filing. Within 60 days of the date of which an 851 application is filed with the CPUC for a Gathering Area sale, PG&E will initiate the auction of a subsequent Gathering Area sale.
- D. Hearing Process
  - (i) The Buyer will participate in any hearing required in obtaining CPUC approval.
  - (ii) California Independent Petroleum Association (CIPA) and California Natural Gas Producers Association (CNGPA) will actively participate in supporting the 851 filings, as necessary.
  - (iii) Should the CPUC deny or modify the terms of the sale, or impose other conditions unacceptable to either party to the sale, in its sole discretion, then either party will have the right to terminate the Purchase and Sale Agreement.
- E. Upon receipt of the required approvals the Buyer shall make final payment of all outstanding Transition Costs and the sale price and the parties will close the sale.
  - (i) The Buyer will pay the Transition Cost portion of the payments to be made to PG&E under the Purchase and Sale Agreement, within 30 days of the approval of the 851 filing.
  - (ii) The parties will begin the process of establishing a new master meter facility.

- (iii) Upon receipt of the Transition Cost payment, PG&E will begin the process of separating the Subject Pipeline from its transmission system.
- (iv) Upon completion of all necessary transition work, final payment of the purchase price will be made, the closing would occur and transfer of ownership of the Subject Pipeline would be completed.
- (v) PG&E shall complete all necessary transition work, weather permitting, within 120 days of payment of the Transition Cost.

**PG&E Gas and Electric Advice  
Filing List  
General Order 96-A, Section III(G)**

ABAG Power Pool	Douglass & Liddell	PG&E National Energy Group
Accent Energy	Downey, Brand, Seymour & Rohwer	Pinnacle CNG Company
Aglet Consumer Alliance	Duke Energy	PITCO
Agnews Developmental Center	Duke Energy North America	Plurimi, Inc.
Ahmed, Ali	Duncan, Virgil E.	PPL EnergyPlus, LLC
Alcantar & Kahl	Dutcher, John	Praxair, Inc.
Ancillary Services Coalition	Dynergy Inc.	Price, Roy
Anderson Donovan & Poole P.C.	Ellison Schneider	Product Development Dept
Applied Power Technologies	Energy Law Group LLP	R. M. Hairston & Company
APS Energy Services Co Inc	Energy Management Services, LLC	R. W. Beck & Associates
Arter & Hadden LLP	Exelon Energy Ohio, Inc	Recon Research
Avista Corp	Exeter Associates	Regional Cogeneration Service
Barkovich & Yap, Inc.	Foster Farms	RMC Lonestar
BART	Foster, Wheeler, Martinez	Sacramento Municipal Utility District
Bartle Wells Associates	Franciscan Mobilehome	SCD Energy Solutions
Blue Ridge Gas	Future Resources Associates, Inc	Seattle City Light
Bohannon Development Co	G. A. Krause & Assoc	Sempra
BP Energy Company	Gas Transmission Northwest Corporation	Sempra Energy
Braun & Associates	GLJ Energy Publications	Sequoia Union HS Dist
C & H Sugar Co.	Goodin, MacBride, Squeri, Schlotz &	SESCO
CA Bldg Industry Association	Hanna & Morton	Sierra Pacific Power Company
CA Cotton Ginners & Growers Assoc.	Heeg, Peggy A.	Silicon Valley Power
CA League of Food Processors	Hitachi Global Storage Technologies	Smurfit Stone Container Corp
CA Water Service Group	Hogan Manufacturing, Inc	Southern California Edison
California Energy Commission	House, Lon	SPURR
California Farm Bureau Federation	Imperial Irrigation District	St. Paul Assoc
California Gas Acquisition Svcs	Integrated Utility Consulting Group	Sutherland, Asbill & Brennan
California ISO	International Power Technology	Tabors Caramanis & Associates
Calpine	Interstate Gas Services, Inc.	Tecogen, Inc
Calpine Corp	IUCG/Sunshine Design LLC	TFS Energy
Calpine Gilroy Cogen	J. R. Wood, Inc	Transcanada
Cambridge Energy Research Assoc	JTM, Inc	Turlock Irrigation District
Cameron McKenna	Luce, Forward, Hamilton & Scripps	U S Borax, Inc
Cardinal Cogen	Manatt, Phelps & Phillips	United Cogen Inc.
Cellnet Data Systems	Marcus, David	URM Groups
Chevron Texaco	Matthew V. Brady & Associates	Utility Resource Network
Chevron USA Production Co.	Maynor, Donald H.	Wellhead Electric Company
City of Glendale	MBMC, Inc.	White & Case
City of Healdsburg	McKenzie & Assoc	WMA
City of Palo Alto	McKenzie & Associates	
City of Redding	Meek, Daniel W.	
CLECA Law Office	Mirant California, LLC	
Commerce Energy	Modesto Irrigation Dist	
Constellation New Energy	Morrison & Foerster	
CPUC	Morse Richard Weisenmiller & Assoc.	
Cross Border Inc	Navigant Consulting	
Crossborder Inc	New United Motor Mfg, Inc	
CSC Energy Services	Norris & Wong Associates	
Davis, Wright, Tremaine LLP	North Coast Solar Resources	
Defense Fuel Support Center	Northern California Power Agency	
Department of the Army	Office of Energy Assessments	
Department of Water & Power City	OnGrid Solar	
DGS Natural Gas Services	Palo Alto Muni Utilities	