



# **2015 Greenhouse Gas Offset Credit Request for Offers**

**RFO Protocol**  
**February 26, 2015**

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## I. Introduction and Overview

### A. Overview

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Pacific Gas and Electric Company (“PG&E”) is issuing this Greenhouse Gas (GHG) Offset Credit Request for Offers (the “GHG Offset Credit RFO” or “RFO”) to obtain offers for qualified Offset Credits (as defined below) to satisfy PG&E’s compliance obligations under the Cap-and-Trade Regulations<sup>1</sup> adopted by the California Air Resource Board (“ARB”) as part of ARB’s proceeding to implement California’s Assembly Bill (“AB”) 32.

For entities (“Participants”) that meet the criteria established in this document (the “RFO Protocol”), PG&E requests they submit, in accordance with the directions herein, one or more offers to sell ARB Offset Credits (“Offset Credits”).<sup>2</sup>

Participants should prepare each offer with the understanding that each offer is binding on the Participant in accordance with Section IV.B. “Binding and Exclusive Nature of Offer.” A successful evaluation and negotiation with PG&E or acceptance of an offer without modification would mean that the Participant would enter into (1) a Master Allowance/Offset Credit Purchase Agreement, as provided in Appendix D, and (2) the Offset Credit Confirmation as provided in Appendix E (collectively, the “Agreement”).

### B. Expected Schedule

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The RFO schedule is subject to change at PG&E’s sole discretion at any time. PG&E will endeavor to notify Participants of any schedule change via notification on PG&E’s RFO website at [www.pge.com/rfo](http://www.pge.com/rfo). Participants must sign up at the RFO website to receive notice of any RFO changes by electronic mail. PG&E is not liable to any Participant for any costs or other damages to Participants related to changes in the schedule or for failing to provide notice of any change.

Below is the expected schedule for this RFO. All times are Pacific Prevailing Time (“PPT”).

<b>Date/Time</b>	<b>Event</b>
February 26, 2015	PG&E issues GHG Offset Credit RFO
March 5, 2015, 11 A.M. PPT	Participants’ Webinar
March 20, 2015, 1:00 P.M. PPT	Deadline to submit offer(s)

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<sup>1</sup> All references to the Cap-and-Trade Regulations mean the “California Cap on Greenhouse Gas Emissions and Market Based Compliance Mechanisms,” California Code of Regulations, Title 17, Subchapter 10, Climate Change, Article 5, Section 95800, *et. seq.*, as amended, supplemented, or replaced (in whole or in part) from time to time.

<sup>2</sup> As defined by Section 95802(a)(12) of the Cap-and Trade Regulation.

April 3, 2015	PG&E notifies Shortlisted Participants
April 9, 2015	Deadline for Participants to accept shortlist position and return Confidentiality Agreement

### C. RFO Process

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**Offers Due.** Offers must be submitted to PG&E and the Independent Evaluator (“IE”)<sup>3</sup> in the manner set forth in Section V.A. no later than the date and time noted on the RFO schedule and must include all of the documents described in Section V.B. By participating in this RFO, the Participant agrees to be bound by all of the terms, conditions and other provisions of this RFO Protocol and any changes or supplements to it that may be issued by PG&E.

**PG&E Selects Shortlists.** PG&E intends to select a shortlist of offers no later than the date noted on the RFO schedule. PG&E reserves the right to adjust the shortlist dates, request additional information, and subsequently to select additional offers for the shortlist. Each Participant selected for the shortlist will be required to execute an RFO Confidentiality Agreement in the form attached hereto as Appendix C.

**Negotiation and Execution.** Subject to Section I.D. below, PG&E may enter into discussions with shortlisted Participants regarding the terms of the applicable offer. Selection for a shortlist does not guarantee that PG&E will execute an Agreement with a Participant. Shortlisted Participants will be encouraged to continually improve the value of the offer to PG&E during the course of negotiations.

### D. Disclaimers for Rejecting Offers

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This RFO does not constitute an offer to buy and creates no obligation for PG&E to execute any Agreement or to enter into a transaction under an Agreement. PG&E shall retain the right at any time, at its sole discretion, to reject any offer for any reason, and reserves the right to request information from any Participant regarding their offer at any time during the solicitation process. PG&E also retains the discretion, in its sole judgment, to: (a) change the offer evaluation criteria for any reason; (b) terminate further participation in this process by any Participant; (c) negotiate with any Participant to maximize customer benefits and accept any definitive Agreement; and (d) modify this RFO including the forms of Agreement as it deems appropriate. PG&E has the right to take the above-stated actions with respect to any offer or all offers, all without notice and without assigning any reasons and without liability to PG&E or anyone acting on PG&E’s behalf. PG&E will not be liable in any way, by reason of such withdrawal, rejection, suspension, termination or any other action described in this paragraph to any Participant, whether the Participant submits an offer or not.

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<sup>3</sup> Lewis Hashimoto of Arroyo Seco Consulting will provide Independent Evaluator services for this RFO. His e-mail address is [arroyosecoconsulting@gmail.com](mailto:arroyosecoconsulting@gmail.com).

## II. RFO Goals

### A. Products Sought

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#### ARB Offset Credits at Delivery:

By the time of delivery to PG&E, the Offset Credit must have been issued by ARB in accordance with one of the ARB Compliance Offset Protocols specified in the Cap-and-Trade Regulations<sup>4</sup> or one of the Early Action Offset Programs approved by the ARB in the Cap-and-Trade Regulations<sup>5</sup>. Other forms of offset credits (e.g. Climate Reserve Tonnes or Registry Offset Credits) are not eligible for this RFO.

#### Liability for Risk of Invalidation:

Participants must assume the risk of Offset Credit invalidation per PG&E's Agreement, and post appropriate collateral for the duration of the Offset Credit Invalidation Period to protect PG&E's customers against invalidation and default risk. Credit and collateral requirements are described further in Section VII below.

#### Shortened Invalidation Period:

Depending on the verification history of a project for which the ARB has issued Offset Credits, the ARB may invalidate an Offset Credit within eight years of issuance, or within a reduced period of three years of issuance. PG&E requires that Participants obtain the necessary second verification and that the Invalidation Period for the Offset Credits offered to PG&E is shortened to three years by the ARB.

The conversion to a three-year Invalidation Period by the ARB must be completed by the date that will be specified in the Agreement, and must be completed no later than three years after ARB issuance for Early Action Offset Credits and no later than three years after the end of the Reporting Period for ARB Compliance Offset Credits. Failure to obtain a Shortened Invalidation Period will be considered an event of default under the Offset Credit Confirmation and will be subject to the Agreement's termination payment provisions.

#### Issuance Status & Delivery:

PG&E has a preference for Offset Credits that have been issued by ARB or have been verified and are awaiting issuance by ARB as of the offer date and will be delivered by December 15, 2015. PG&E also seeks offers for Offset Credits with later ARB issuance, with delivery preferred by December 15, 2016. The latest deliveries allowed under this RFO will be December 15, 2018. Delivery Date(s) must be specified in the Offer.

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<sup>4</sup> Section 95973 of the Cap-and-Trade Regulation.

<sup>5</sup> Section 95990 of the Cap-and-Trade Regulation.

Pricing:

Pricing at time of offer may be provided on either a fixed dollar basis per Offset Credit or as a fixed percentage discount relative to the price of the Intercontinental Exchange (ICE) California Carbon Allowance (CCA) Futures contract for the most comparable delivery contract. However, the contract price at execution must be on a fixed dollar basis. (ICE-based discount pricing will be converted to a fixed dollar basis upon preparation of execution documents.)

Pricing may vary for each Delivery Date if there are multiple Delivery Dates.

Offer Quantity:

Offers must be submitted for a fixed quantity of Offset Credits. No unit-contingent volumes will be considered. The minimum offer size is 25,000 Offset Credits in aggregate (may be delivered over multiple years).

Project Identification:

*Investment-Grade Participants*

Participants who at a minimum have an Investment Grade Credit Rating (or a qualified guarantor with such rating) do not need to specify the Offset Project that will produce the Offset Credits. Participants may deliver the contracted quantity of Offset Credits from any project satisfying the Cap-and-Trade Regulations and other requirements of the Agreement, including the requirement for a Shortened Invalidation Period. Any guarantor providing a guaranty to support a Participant must agree to PG&E's form of guaranty in order to make this paragraph applicable.

*Participants Below Investment-Grade or Without Credit Rating*

Participants who do not meet the requirements of the above paragraph must indicate the source project(s), vintage(s), and status of the Offset Credits they are offering to PG&E.

For future Offset Credits (those that have not yet been produced or verified), Participants must provide information on project developer and operator experience, as specified in the Offer Form.

Acceptable offers include a fixed amount of Offset Credits from a single Offset Project or a fixed amount of Offset Credits from a pool of Offset Projects.

*Additional Information*

PG&E reserves the right at any time, in its sole discretion, to request Participants to provide further information on the Offset Projects that produce the offered Offset Credits. PG&E may use this project-specific information as part of its criteria under Section III.B. to evaluate the delivery risk and invalidation risk of the offered Offset Credits. Failure to provide the requested information may result in disqualification of the Participant's offer.

### *Definitions*

Investment Grade and Credit Rating are both defined in the Credit Support Addendum to the Master Agreement.

**A Participant's guarantor must meet all the requirements of the Master Agreement and the Credit Support Addendum to qualify under this RFO protocol.**

### **B. Eligibility Requirements**

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PG&E will only consider Offset Credits from Participants who (1) have registered with or (2) caused the project producing the offset credits to register with or (3) in either case have registration pending with ARB by the date of offer submission.<sup>6</sup>

Participants must have an ARB-issued Holding Account pursuant to the Cap-and-Trade Regulations prior to the delivery date set forth in the offer. The Participant selling the Offset Credits must be authorized under all applicable jurisdictions and laws to transfer full title and ownership of the Offset Credits to PG&E.

### **C. Eligibility of Offset Credits**

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In reviewing offers, PG&E will determine whether the Offset Credits satisfy PG&E's compliance needs.

- Prior to delivery to PG&E, each Offset Credit must be held in the Holding Account of an entity registered with ARB.
- An Offset Credit cannot be held in a Compliance Account.<sup>7</sup>
- An Offset Credit must meet the requirements set forth in either Section 95973 (listing requirements for Offset Credits) or Section 95990 (listing requirements for Early Action Offset Credits) of the Cap-and-Trade Regulations, as applicable.
- Offers are subject to PG&E's applicable affiliate transaction rules.

### **D. Form of Contract and Exclusivity Period**

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All offers must include a completed Agreement that reflects all of the terms to which the Participant would agree to be bound and must be consistent with the information included in the Participant's Offer Form. PG&E has provided a Form of Master Allowance/Offset Credit Purchase Agreement (Appendix D) and a Form of Offset Credit Confirmation (Appendix E).

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<sup>6</sup> Participants must register through the process described in Section 95830 of the Cap-and-Trade Regulation.

<sup>7</sup> See definition in the Cap-and-Trade Regulation, Section 95802(a).

Participants must complete both documents and reflect any project-specific information required. Participants who have previously executed a Form of Master Allowance/Offset Credit Purchase Agreement with PG&E do not need to provide Appendix D.

A Participant must review and may elect to modify the Agreement, but changes to the forms of Agreement should be limited to those necessary to reflect unique characteristics of the offer. Significant modification to the forms of Agreement may result in a failure to obtain an executed Agreement and/or to file an Agreement for CPUC approval if required. Failure of a Participant to provide a completed Agreement may result in disqualification of the Participant's offer.

To allow time for the RFO to be completed, each Participant will be required to agree to be bound by its offer(s) for a period of thirty (30) days from accepting a position on the RFO Shortlist following PG&E's notification (the "Exclusivity Period").

### III. Evaluation of Offers

#### A. Primary Evaluation Factors

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To evaluate offers, PG&E will primarily consider the following criteria:

- Market Valuation
- Credit
- Portfolio Fit
- Adherence to Agreement Terms and Conditions

**Market Valuation** means how an offer's pricing compares to the value of the Offset Credits offered. PG&E will assess the value of offers using a forward curve of Compliance Instruments constructed from market prices.

**Credit** is a determination by PG&E of each Participant's ability and willingness to comply with the credit and collateral requirements as set forth in Section VII of this RFO Protocol. PG&E's overall credit concentration with each Participant, including its affiliates, will also be taken into consideration.

**Portfolio Fit** means how well the offer's features, including Delivery Date(s), match PG&E's portfolio needs in relation to its annual procurement targets and limits within the context of Cap-and-Trade compliance.

**Adherence to Agreement Terms and Conditions** means the extent, materiality, risk and cost impact of any of Participant's proposed modifications to the applicable Agreements. Please be sure to complete the Agreement and ensure that the information provided is consistent with the information included in the Offer Form.

A successful negotiation with PG&E or acceptance of an offer without modification would mean that the Participant would enter into (1) a Master Allowance/Offset Credit Purchase Agreement, as provided in Appendix D, and (2) the Offset Credit Confirmation as provided in Appendix E.

## **B. Other Evaluation Factors**

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In addition to the Primary Evaluation Factors, the following criteria may be used to determine advancement onto the shortlist or to help break ties (if any).

- Offset Credit Status
- Offset Project Developer and Operator Experience
- Supplier Diversity

**Offset Credit Status** evaluates the ARB issuance status of Offset Credits, including whether a second verification has occurred, and the likelihood that projects offering ARB Offset Credits will deliver as proposed in the offer.

**Offset Project Developer and Operator Experience** evaluates the experience of Offset Project owners, developers, and operators in developing, operating, and maintaining Offset Projects that have previously been issued Offset Credits by ARB or an ARB-certified Offset Project Registry. This criteria will only be used to evaluate offers for future Offset Credits (those that have not yet been produced or verified).

**Supplier Diversity** means the Participant's status as a CPUC-certified Diverse Business Enterprise ("DBE") and/or commitment to subcontract with DBEs, where applicable.

PG&E is seeking to increase opportunities for diverse business entities to compete for PG&E's business, through both direct and indirect contracting. In the event of a tie, a Diverse Business Enterprise will receive qualitative preference if the business has been certified.

Additional information on PG&E's DBE program can be found at:

<http://www.pge.com/b2b/purchasing/supplierdiversity/>  
<http://www.cpuc.ca.gov/puc/supplierdiversity/>

## **IV. Participation in the RFO Process**

### **A. Participants' Webinar**

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PG&E will hold a Participants' Webinar on March 5, 2015. During this Webinar, PG&E will provide an overview of the RFO Protocol and accompanying information, and answer general questions about the RFO.

### **B. Binding and Exclusive Nature of Offer**

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By responding to this RFO, each Participant agrees to be bound by all terms, conditions and other provisions of this RFO and any changes or supplements to it that may be issued by PG&E. Each Participant will be required to execute the Offer Agreement (Appendix B) via electronic signature of the Offer Form (Appendix A), which affirms that the Participant agrees to be bound by the terms of the RFO and to make specified representations and warranties to PG&E.

A Participant submitting an offer(s) must agree to negotiate exclusively with PG&E regarding the subject of the offer(s) during the Exclusivity Period.

## V. Participation Protocols

### A. Offer Due Date and Offer Format

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All offers must be received by PG&E in electronic form by the date and time noted on the RFO schedule via email to [GHGRFO@pge.com](mailto:GHGRFO@pge.com) and to the Independent Evaluator via email to [arroyosecoconsulting@gmail.com](mailto:arroyosecoconsulting@gmail.com). PG&E will send an acknowledgement of receipt of each offer via return email.

Electronic Documents: The electronic documents must be in a Microsoft Word, Excel, and/or PDF file as specified below in Section V.B. The Participant should not provide documents in other electronic formats or versions.

**Telephonic, telegraphic, hardcopy, or facsimile transmission of an offer is not acceptable.**

### B. Required Information

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Participant shall format each offer so that each file corresponds to an Appendix item noted below. For Participants submitting large files, PG&E recommends submitting zip files or multiple emails with separate attachments (no larger than 10 MB) corresponding to the Appendix item below to ensure that all files are received. PG&E reserves the right to request copies of documents listed in a Participant's offer(s) but not already included in electronic copies received.

Participants may submit multiple offers and up to three variations per offer. One offer represents one set of underlying Offset Credits, and variations of one offer may be applied to volume, price, and/or delivery date. Multiple offers should represent different underlying Offset Credits.

The following documents, which are located in the Appendices, must be included in any offer:

#### **Appendix A: Offer Form (Format: MS Excel):**

A completed and electronically signed Offer Form (Appendix A) providing key details of the Participant's offer, and attesting to Participant's agreement to be bound by the conditions of the RFO as noted in the Offer Agreement (Appendix B).

A separate Offer Form is required for each offer and/or variation.

#### **Appendices D and E: Agreement (Format: MS Word):**

A completed Form of Master Allowance/Offset Credit Purchase Agreement and Form of Offset Credit Confirmation (Appendix D and Appendix E) including Participant's requested changes to the forms of Agreements including those changes necessary to make the documents consistent with the Offer Form. Modifications should be made in underline/strikeout formatting to show

additions and deletions. Requested modifications to either one of the forms of Agreement will be considered part of the Participant's offer; that is, PG&E will assume that the Participant is willing to execute an Agreement based on the offered terms.

**Appendix F: Credit and Finance Information (Format: MS Word):**

Comprehensive information for the assessment of the financial viability of Participant as requested in Credit and Finance Information (Appendix F). Financial information must be provided for the Participant and any entity providing credit enhancement to the Participant. As necessary, please specify whether the information provided is for the Participant, its parent, or an entity providing security on Participant's behalf, under any of the provisions of the Protocol.

**VI. Communications**

PG&E has established a website at [www.pge.com/rfo](http://www.pge.com/rfo) where Participants may register for the general RFO mailing list and where all GHG Offset Credit RFO documents, information, announcements and FAQs are posted and available to Participants.

To promote accuracy and consistency of the information provided to all Participants, PG&E strongly prefers that all communications take the form of an e-mail directed to both [GHGRFO@pge.com](mailto:GHGRFO@pge.com) and the Independent Evaluator at [arroyosecoconsulting@gmail.com](mailto:arroyosecoconsulting@gmail.com). With respect to matters of general interest raised by any Participant, PG&E may, without reference to the specific Participant, post responses on its website. PG&E may, in its sole discretion, decline to respond to any email or other inquiry without liability or responsibility.

PG&E may elect to respond to inquiries or comments by individual Participants concerning purely procedural or administrative matters, but may also decline to do so in its sole discretion without liability or responsibility.

**VII. Credit and Collateral**

In its evaluation of an offer, PG&E will consider the Participant's ability and willingness to comply with the credit and collateral requirement as set forth in the Credit Support Addendum (CSA) to the Form of Master Allowance/Offset Credit Purchase Agreement (Appendix D) and as summarized below, upon execution of a Confirmation for any Offset Credits. PG&E's overall credit concentration with each Participant, including its affiliates, will also be taken into consideration.

To further understand each of the collateral posting requirements, please carefully review the Credit Support Addendum in Appendix D. Key provisions are as summarized below:

1. Participants will be required to post collateral equivalent with the Agreement Exposure, as defined in the Credit Support Addendum, less any unsecured credit limit granted. Agreement Exposure means:

- i. Mark-to-market value<sup>8</sup> of the Offset Credits sold to PG&E under the Agreement until the Participant has delivered the Offset Credits to PG&E in accordance with the terms of the Agreement, plus
- ii. Net accounts payable and accounts receivable, if any, plus
- iii. Invalidation Security Amount required, if applicable.

This amount may fluctuate on a daily basis, which could result in the Participant posting additional collateral.

2. If at any time prior to delivery of the Offset Credit the Participant or its guarantor, if applicable, has a Credit Rating that falls below Investment Grade (or does not have a Credit Rating), the Participant shall provide PG&E collateral equal to 10% of the notional value of all outstanding transactions under the Agreement. This amount is in addition to any collateral posted under Section VII.1 immediately above.
3. Following delivery of the Offset Credits to PG&E and for the entire Invalidation Period, Participants will be required to provide collateral equaling 20% of contract value. This Invalidation Security Amount will be held by PG&E throughout the Invalidation Period applicable to the Offset Credits in order to mitigate PG&E's risk of loss in the event that the Offset Credits are invalidated in whole or in part. The required amount is part of the Agreement Exposure calculation and any unsecured credit granted Participant may offset some or all of this requirement. PG&E will not accept insurance as a form of collateral for the Invalidation Security Amount.
4. PG&E will accept Letters of Credit, meeting the requirement provided in the Credit Support Addendum, and U.S. dollars cash. As noted above, Participants that qualify for unsecured credit with PG&E or provide a parental guarantee based on the financial information provided in connection with their offer may utilize available unsecured credit extended to satisfy and meet the above-stated collateral requirements, as determined by PG&E.

PG&E will not provide collateral.

## VIII. Confidentiality

Except with PG&E's prior written consent and unless prohibited by the Cap-and-Trade Regulations, no Participant shall disclose its participation or its offer in this RFO (other than by attendance at any meeting held by PG&E with respect to the RFO, if any) or collaborate on, or discuss with any other Participant or potential Participant (1) offer strategies, (2) the substance of any offer(s), including without limitation the price or any other terms or conditions of any offer(s), or (3) the shortlist status of any offer(s).

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<sup>8</sup> The mark-to-market component refers to item (I) of the Agreement Exposure calculation in CSA Section 4(a)(iii).

All information and documents in Participant's offer that are clearly identified and marked by Participant as "Proprietary and Confidential" on each page on which confidential information appears shall be considered confidential information. PG&E shall not disclose such information and documents to any third parties except for PG&E's employees, agents, counsel, accountants, advisors, or contractors who have a need to know such information and have agreed to keep such information confidential, except as provided below in this Section VIII.

Notwithstanding the foregoing, it is expressly contemplated that the information and documents submitted by Participant in connection with this RFO may be provided to the CPUC, its staff, and the Procurement Review Group ("PRG"), established pursuant to Decision 02-08-071, or the Independent Evaluator assigned to this RFO, for their review. PG&E retains the right to disclose any information or documents provided by Participant to the ARB, CPUC, Cal EPA, PRG, IE and to any other entity in order to comply with any applicable law, regulation, or any exchange, control area or California Independent System Operator Corporation rule, or order issued by a court or entity with competent jurisdiction over PG&E at any time even in the absence of a protective order, confidentiality agreement or nondisclosure agreement, as the case may be, without notification to Participant and without liability or any responsibility of PG&E to Participant. PG&E cannot, however, ensure that the CPUC will afford confidential treatment to Participant's confidential information, or that confidentiality agreements or orders will be obtained from and/or honored by the ARB, CPUC, Cal EPA, PRG, or IE.

If shortlisted, Participant must execute a RFO Confidentiality Agreement in the form attached as Appendix C and deliver such RFO Confidentiality Agreement to PG&E.

## **IX. Execution of Agreement**

By submitting an offer, Participant agrees, if its offer is selected, to negotiate and execute a definitive Agreement consistent with the form of Agreement submitted with the Participant's offer and containing such other terms and conditions as may be mutually acceptable to PG&E and the Participant. The Agreement will not be considered executed until duly authorized officers of each of PG&E and Participant have both executed the Agreement.

## **X. Regulatory Approval**

Depending on the Agreement, its effectiveness may be expressly conditioned on PG&E's receipt of CPUC approval of, among other things, PG&E's payment obligations under such Agreement.

## **XI. Participant's Waiver of Claims and Limitations of Remedies**

Except as expressly set forth in this RFO, by submitting an offer, the Participant knowingly and voluntarily waives any rights under statute, regulation, state or federal constitution, or common law to assert any claim or complaint or other challenge in any regulatory, judicial or other forum, except as expressly provided below, concerning or related in any way to the RFO and/or any Appendices to the RFO ("Waived Claims"). Except as provided below, the assertion of any Waived Claims by Participant in any regulatory, judicial, or other forum shall, to the extent that Participant's offer has not already been disqualified, provide PG&E the right, and may result in

PG&E electing to reject such offer or terminate the RFO.

By submitting an offer, the Participant further agrees that the sole forum in which Participant may assert any challenge with respect to the conduct or results of the RFO is the CPUC. The Participant further agrees that the sole means of challenging the conduct or results of the RFO is a protest to PG&E's filing before the CPUC seeking approval of one or more Agreements entered into as a result of the RFO, or, if no such filing is required, by a complaint before the CPUC. The Participant further agrees that the sole basis for any such protest or complaint shall be a challenge to the conduct or results of the RFO on the ground that PG&E failed in a material respect to conduct the RFO in accordance with the RFO rules and procedures outlined in this document, and the exclusive remedy available to the Participant in the case of such a protest shall be an order of the CPUC that PG&E again conduct any portion of the RFO that the CPUC determines was not previously conducted in accordance with the RFO rules and procedures outlined in this document. The Participant expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs, and/or attorneys' fees. Unless PG&E elects to do otherwise in its sole discretion, during the pendency of such a protest or complaint the RFO and any related regulatory proceedings related to the RFO will continue as if the protest or complaint had not been filed, unless the CPUC has issued an order suspending the RFO or PG&E has elected to terminate the RFO.

The Participant agrees to indemnify and hold PG&E harmless from any and all claims by any other Participant asserted in response to the assertion of a Waived Claim by the Participant or as a result of the Participant's protest to or complaint regarding the RFO. Except as expressly provided in the RFO, nothing herein, including Participant's waiver of the Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of PG&E.

## **XII. Termination of the RFO and Related Matters**

PG&E reserves the right at any time, in its sole discretion, to terminate the RFO for any reason whatsoever without prior notification to Participants and without liability of any kind to PG&E or anyone acting on PG&E's behalf. Without limitation, grounds for termination of the RFO may include the assertion of any Waived Claims by a Participant or a determination by PG&E that, following evaluation of the offers, there are no offers that provide adequate customer benefit. PG&E will not reimburse the Participant for any expenses incurred in connection with the RFO regardless of whether such Participant's offer is selected, not selected, rejected or disqualified.

Unless earlier concluded, the RFO will terminate upon the execution of one or more Agreements by selected Participants as described herein. In the event that no Agreements are executed, then the RFO will terminate on December 31, 2015 without further notice or action.

## **XIII. Participant's Representations and Warranties**

Each Participant submitting an offer shall sign an Offer Agreement (Appendix B) via electronic signature to the Offer Form (Appendix A), under which Participant must, among other things,

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agree to be bound by the conditions of the RFO in submitting its offer and making the representations and warranties set forth therein. Please review the Offer Agreement carefully.

BREACH BY ANY PARTICIPANT OF THE REPRESENTATIONS AND WARRANTIES IN APPENDIX B OF THE RFO APPENDICES IS, IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE TO PG&E UNDER APPLICABLE LAW, GROUNDS FOR IMMEDIATE DISQUALIFICATION OF SUCH PARTICIPANT FROM PARTICIPATION IN THE RFO AND, DEPENDING ON THE NATURE OR SEVERITY OF THE BREACH, MAY ALSO BE GROUNDS FOR TERMINATING THE RFO IN ITS ENTIRETY.