

Master Service Agreement

This Master Service Agreement ("Agreement") is made and entered into as of the last date signed below ("Effective Date") by and between Cambria Community Services District ("Customer") and Pacific Gas and Electric Company, a California corporation ("PG&E"). Customer and PG&E shall each individually be referred to as "Party" and together constitute the "Parties."

I. Recitals

- A. PG&E is a public utility regulated by the California Public Utilities Commission. PG&E provides power to customers in its service territory.
- B. Customer receives power from PG&E at Customer facilities within PG&E's service area.
- C. PG&E also provides other services, including turnkey energy related services ("Turnkey Services"). Turnkey Services typically include energy related assessments of a customer facility and/or installation of energy related measures ("ERMs"). Typical ERMs include, but are not limited to, any of the following: energy efficiency measures, water efficiency measures, energy generation measures, demand control measures, energy storage measures and services to operate, maintain, repair, inspect and construct customer-owned or third-party electric and gas systems.
- D. PG&E is interested in providing Turnkey Services to Customer, and Customer is interested in receiving Turnkey Services from PG&E.

This Agreement sets forth the terms and conditions under which PG&E may provide Turnkey Services to Customer.

Now, therefore, in consideration of the promises and covenants set out herein, Customer and PG&E agree as follows:

II. Agreement

A. Relationship of the Parties

- 1. No agency or partnership:** Nothing in this Agreement creates an agency, partnership, or other form of joint enterprise between the Parties, and neither Party may create any obligations or responsibilities on behalf of the other Party.
- 2. Subcontractors:** PG&E may perform any or all Turnkey Services through subcontractors.
- 3. Project Management:** Customer and PG&E shall each designate an authorized employee ("Authorized Person") who shall be the primary point of contact for inquiries and requests relating to this Agreement.

B. Turnkey Services

1. Preliminary Assessment (“PA”): PG&E may conduct, at no cost to Customer, a PA consisting of a brief on-site investigation and high-level evaluation of a Customer facility to identify possible ERMs. The purpose of the PA is to determine whether energy-related opportunities exist, and whether a more detailed assessment and/or implementation is desired by the Customer.

2. Investment Grade Assessment (“IGA”): After reviewing the PA, the Parties may enter into a Work Order (“WO”) setting forth a Scope of Work for an IGA. An IGA is a detailed assessment that describes the technical and financial feasibility of implementing one or more potential ERMs. If applicable, it provides the estimated energy savings and/or generation for each identified ERM. It may also support procurement of project financing.

The IGA WO will specify the terms for completing the IGA, including its price, scope, and schedule. Unless otherwise agreed in the IGA WO, Customer will provide PG&E, at no cost to PG&E, legible copies of all relevant facility plans and other facility-related drawings and information in order that an accurate IGA can be prepared. Customer will pay PG&E for the IGA according to the terms of the applicable IGA WO. If Customer decides to implement one or more ERMs identified in the IGA, Customer and PG&E will agree to include the cost of the IGA in the amount to be paid to PG&E under the resulting implementation WO.

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3. Implementation: Upon completion of the IGA, PG&E will provide an ERM implementation proposal, which includes additional design, engineering and construction services. If Customer is interested in pursuing an implementation project as to any or all of the identified ERMs (a “Project”), the Parties will negotiate an implementation WO specifying, among other things, the ERMs to be installed as part of the Project, price, schedule, and source of funding.

4. Cooperation and Access: Customer acknowledges that PG&E’s performance of Turnkey Services depends upon Customer’s cooperation. Thus, Customer agrees to use its best efforts to cooperate with PG&E in PG&E’s performance of Turnkey Services. Customer will provide access to the subject Customer facilities for PG&E and its subcontractors to perform any function related to this Agreement during regular business hours, or during other reasonable hours as requested by PG&E, in writing, and acceptable to Customer. PG&E will comply with all Customer access policies and procedures. Customer and PG&E will coordinate PG&E’s activities with Customer’s activities and any construction or equipment installation will occur according to a schedule approved by Customer in advance.

To the extent PG&E’s ability to perform depends upon Customer’s performance (e.g., Customer review or approval of drawings or other submittals or Customer providing data, drawings, documents, or other information) and Customer’s performance is not completed within the agreed time period, which error is not due to any error, omission, failure to communicate, or the negligence of PG&E, PG&E’s period for performance will be extended accordingly and any direct costs incurred by PG&E because Customer’s performance was

not timely completed shall be reimbursed to PG&E. Any direct costs under which PG&E seeks reimbursement must be submitted in writing, with sufficient proof and justification to Customer prior to any payment. Any payment under this section shall be paid as a separate charge in the ordinary course of the Customer's accounts payable activities.

Customer shall be responsible for ensuring that the Customer facilities that are the subject of a WO under this Agreement are safe for PG&E personnel and subcontractors performing Turnkey Services at those facilities. Should PG&E question the safety of the facility; PG&E shall notify the Customer immediately. PG&E agrees to work with the Customer, in good faith, to determine whether any action must be taken to remediate the safety concern. Upon agreement by both Parties, the Customer shall promptly take such actions that may be agreed upon to help ensure a safe working environment.

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Customer will use best efforts to assist PG&E in obtaining all necessary permits and approvals for the performance of the Turnkey Services.

5. WO Modifications for Changes: If either Party proposes any material addition, deletion, or modification to the IGA WO or implementation WO, then the Parties will negotiate a modification to the WO which is agreeable to both Parties, and which shall be in writing signed by both Parties. If the Parties are unable to reach agreement PG&E will suspend its performance under the applicable WO. only to the extent that it affects the proposed material addition, deletion or modification. If other obligations exist under the WO, PG&E will complete said work under the WO. Any performance that is suspended due to a disagreement, as described in this Section, may be suspended until such time as the disagreement has been resolved pursuant to Section D.10 (Dispute Resolution) and the modified WO has been executed by both Parties.

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6. Compensation

a. Payment terms: Customer will pay PG&E for the Turnkey Services performed according to the payment terms contained in the relevant WO. All late payments shall be subject to an interest charge, which is the greater of: (i) one and one-half percent (1.5%) per month, or (ii) the maximum legal rate.

b. Expense: Customer agrees to reimburse PG&E for all reasonable and approved expenses incurred in connection with PG&E's performance of the Turnkey Services, consistent with the provisions of the applicable WO. Any and all expenses must be submitted to the Customer in writing and must provide sufficient detail and justification for such expense for Customer to determine its reasonableness.

c. Taxes: Customer shall be solely responsible for the payment of any sales, use, transfer and other taxes and duties which are imposed on PG&E because of the Turnkey Services performed under this Agreement (other than taxes based on PG&E's net income).

7. Warranties

a. Substantial Completion: "Substantial Completion" means an ERM is generally capable of being used for, or achieving the purpose intended by, the implementation WO relating to that ERM. Substantial Completion does not occur until the ERM is commissioned and accepted by the Customer and the Customer executes the Substantial Completion form attached to the WO.

b. Services Warranty: PG&E warrants it will perform the Turnkey Services specified in a WO under this Agreement in a commercially reasonable manner consistent with applicable industry standards. The warranty period for Turnkey Services relating to an ERM is one year from the date of Substantial Completion of that ERM. If Customer notifies PG&E within that one-year warranty period of any non-conformity or defect in such Turnkey Services, then PG&E will either re-perform, or refund the compensation received for such defective Turnkey Services. Notwithstanding the foregoing, Customer reserves its right to recover any additional damages available to it as a result of the non-conformity or defect. This Services Warranty extends to Customer only and cannot be assigned by Customer.

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c. Third Party Warranties: PG&E will use commercially reasonable efforts to obtain from the manufacturers of equipment used in the Turnkey Services or ERMs installed as part of a Project standard guarantees and warranties, and will assign any such third party guarantees or warranties directly to Customer. Any warranty for such equipment is limited to such third-party warranties, and PG&E will not be liable for any breach of a third-party warranty. If Customer notifies PG&E of a defect in equipment installed as part of a Project within the term of the applicable third-party warranty, PG&E will consult with Customer regarding the appropriate remedy under the third-party warranty.

d. No Guarantee of Savings: PG&E does not warrant or guarantee any level of energy, water savings, cost reductions, or equipment or ERM performance. except to the extent any written representations are made by PG&E as a result of the IGA or its Deliverables, as defined in Section 3 of the IGA Work Order, indicate any level of energy, water savings, cost reductions, or equipment or ERM performance.

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e. Disclaimer: Except as expressly provided in this Section e, Customer expressly agrees that PG&E makes no other warranties and assumes no other liabilities, whether in contract or in tort, in connection with the assessment, design, engineering, equipment procurement, construction, implementation, operations, maintenance, services, equipment or ERMs hereunder whether express or implied, in law, in equity or in communications between PG&E and Customer. PG&E specifically disclaims any implied warranties of merchantability or fitness for a particular purpose.

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Notwithstanding the foregoing, the liability limitations and remedies limitations contained in this Section shall not apply to personal injury, including death, and damage to tangible

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property caused by the negligent or intentional acts of PG&E or its directors, officers, employees, agents, and subcontractors.

8. PG&E Insurance

Prior to commencing Turnkey Services under a WO, PG&E will add Customer as an additional insured, and provide Customer with evidence that the following insurance is in full force and effect: (i) Worker's Compensation Insurance as required by applicable workers' compensation laws; and (ii) Comprehensive general liability of \$5,000,000 per occurrence; and (iii) Automobile liability of \$1,000,000 per person and \$2,500,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage. PG&E shall have the right, upon notice, verification, and approval by Customer to self-insure with respect to any of these insurance requirements.

Should any policy for insurance lapse under the term of this Agreement or WO, PG&E will promptly deliver, within 10 days, updated certificates of insurance under the same terms and conditions as described herein, and listing Customer as an additional insured. The maintenance of insurance during the Term of this Agreement is a material term of this Agreement and failure by PG&E to provide timely proof of insurance is a material breach of this Agreement.

C General Provisions

1. Term and Termination

a. Term: The term of this Agreement is five (5) years beginning on the Effective Date. Upon thirty (30) days' written notice, the parties may renew this Agreement for two (2) additional three (3) year extensions by mutual written agreement.

b. Termination for Cause: If either Party materially defaults in the performance of its obligations under this Agreement or under a specific WO and/or Proposal, this Agreement or that WO and/or Proposal may be terminated by the non-defaulting party for cause upon thirty (30) days written notice. In addition to all remedies available to it at law or in equity, the non-defaulting party will be entitled to recover all costs and expenses reasonably incurred to exercise its remedies, including attorneys' fees.

c. Termination for Change in Law: Either Party may terminate this Agreement, or a specific WO and/or Proposal, upon forty-five (45) days written notice, or sooner as may be required, without liability or penalty if a change in law or regulations would prohibit PG&E from providing Turnkey Services under this Agreement or that specific WO and/or Proposal, in which event Customer would pay PG&E only for the level of Turnkey Services provided to Customer as of the effective date of such termination.

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d. Termination for Convenience: This Agreement or a specific WO and/or Proposal may be terminated by either Party upon thirty (30) days written notice without liability or penalty whenever that Party determines that such termination is in its best interest. If

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termination under this Section is initiated by Customer, then upon such termination, Customer shall pay PG&E only for those Turnkey Services provided to Customer as of the effective date of such termination and reimburse PG&E for reasonable demobilization costs incurred as a result of such termination. If termination under this section is initiated by PG&E, Customer is only responsible to pay PG&E for those Turnkey Services provided to Customer as of the effective date of such termination

e. Termination for Default or Insolvency: Either Party may terminate this Agreement and all WO(s) and/or Proposal(s) upon written notice to the other Party if the other Party: (i) is in default of any obligation hereunder which default is incapable of being cured, or which, being capable of being cured, has not been cured within seven days after receipt of written notice of such default; or (ii) becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or has been liquidated, voluntarily or otherwise.

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f. Termination for CPUC Ruling or Order: PG&E may terminate this Agreement upon written notice to the Customer in the event that the California Public Utilities Commission issues a ruling or order prohibiting or otherwise preventing PG&E from fulfilling, or substantially interfering with PG&E's ability to fulfill, its obligations under this Agreement, or finding that this Agreement is contrary to the policies of the California Public Utilities Commission.

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2. Hazardous Materials and Other Unanticipated Conditions

a. Customer Responsibility: The Customer understands and agrees that PG&E has no responsibility to investigate or inspect a Customer facility where Turnkey Services are being provided for the presence of any hazardous, toxic or dangerous wastes, substances, chemicals, constituents, contaminants, pollutants, and materials subject to regulation under applicable law ("Hazardous Materials"), or to identify, remove, dispose of, abate or remediate Hazardous Materials. Customer shall have sole responsibility for the identification, removal, disposal, abatement or remediation of Hazardous Materials, and for the clean-up and disposal of any materials, equipment or substances containing, exposed to or contaminated by Hazardous Materials, all in accordance with applicable laws. However, PG&E may, at its discretion, provide a proposal to address corrective actions related to the Hazardous Materials.

b. Discovery of Hazardous Materials: If PG&E discovers Hazardous Materials that are not included or previously disclosed in writing, in the disclosure list provided by Customer, per Section 2.a during the course of providing Turnkey Services, PG&E may cease work, remove all PG&E personnel or subcontractors from the site, and shall notify Customer. Customer will be responsible for handling and removal of such Hazardous Materials at its expense, and Customer will bear the sole risk and responsibility. PG&E will not resume the Turnkey Services until those Hazardous Materials not included on the list have been removed and/or remediated to PG&E's reasonable satisfaction. Any schedule delay or

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increase in the Turnkey Services or costs as a result of the presence of Hazardous Materials shall be grounds for a WO modification.

c. Unanticipated Conditions: If any unanticipated conditions exist or arise at the site where the Turnkey Services are being provided (such as Hazardous Materials, environmental conditions or pollution) that would involve the incurrence by PG&E of any expenses to correct such conditions, PG&E may cease work and request that Customer mitigate such circumstances or it may submit a request for a modification of the WO to cover any corrective work and payment of related expenses. The Parties will negotiate a modification to the WO which is agreeable to both Parties. If the Parties are unable to reach agreement PG&E may suspend its performance under the applicable WO until such time as the disagreement has been resolved pursuant to the Dispute Resolution process set forth in Section J. and the modified WO has been executed by both Parties.

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d. Safety Waiver: If, during performance of the Turnkey Services a condition is discovered at the work site that, in the sole judgment of PG&E (a) represents an extreme safety hazard to its workers or other personnel, or (b) may cause operational failure of equipment at the site or damage to other equipment being served by the site, then PG&E will immediately notify Customer of such condition and the Turnkey Services necessary to remedy the condition. At PG&E's sole discretion, it may either (a) suspend the Turnkey Services at that work site until such condition has been corrected to PG&E's satisfaction, or (b) ask that Customer sign a written notification in the form of Exhibit A (Safety Waiver). If Customer fails or refuses to either remedy the condition or sign the Safety Waiver, as designated by PG&E, PG&E shall be entitled to continue or commence suspension of the Turnkey Services at that site and refer the matter to Dispute Resolution under Section J. PG&E will not be liable for any costs incurred as a result of such suspension of Turnkey Services.

3. PG&E's Utility Obligations. Customer acknowledges that as a public utility, PG&E is obligated to maintain, repair, and service its own facilities, including those under the operation and control of the California Independent System Operator, and that this obligation takes precedence over any obligations undertaken in this Agreement. If PG&E decides, in its sole discretion, to divert personnel or resources committed to the performance of Turnkey Services under this Agreement to meet a utility obligation, PG&E's actions will not constitute a default, and PG&E will have no liability to Customer as a result. PG&E will have the option to resume the Turnkey Services as soon as possible if it determines, in its sole discretion, that such resumption will not interfere with its fulfilling its utility obligations.

4. Limitation of Liability. Neither party will be liable to the other Party for any special, incidental, indirect, punitive, or consequential damages, arising out of, or in connection with this Agreement except as required by Section 7.e.

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5. Indemnification. Customer shall indemnify and hold harmless PG&E, its officers, agents, and employees, against all loss, damage, expense, and liability, resulting from injury to or death of person, including, but not limited to employees of PG&E, Customer, or any third party, or damage to property, including, but not limited to, property of PG&E, Customer, or any third party, arising out of the acts or omissions of Customer under this Agreement, except those resulting from the negligence or willful misconduct of PG&E. PG&E shall indemnify and hold harmless Customer, its officers, agents, and employees, against all loss, damage, expense, and liability, resulting from injury to or death of person, including, but not limited to employees of PG&E, Customer, or any third party, or damage to property, including, but not limited to, property of PG&E, Customer, or any third party, arising out of the acts or omissions of PG&E under this Agreement except the negligence or misconduct of Customer.

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6. Assignment. This Agreement may not be assigned or otherwise transferred by either Customer or PG&E without the prior written consent of the other party, such consent not to be unreasonably withheld. Notwithstanding the foregoing, PG&E may, without such consent, assign this Agreement to a parent, subsidiary or other affiliate. PG&E may also subcontract all or part of the services. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon Customer and PG&E and their respective successors and assigns.

7. Order of Precedence. In the event of a conflict between the provisions of the WO, any Modifications to the WO, and this Agreement, the following order of precedence shall apply (in descending order): (a) Modification to the WO; (b) WO; (c) Modification to the Agreement; and (d) the Agreement.

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8. Force Majeure. If a Party is unable to perform its obligations under this Agreement due to any cause, event or other occurrence materially impacting the Turnkey Services that is not caused by that party or within its control to avoid or remedy ("Force Majeure Event"), this Agreement will at the other party's option: (i) remain in effect but the performing party's obligations will be suspended until the Force Majeure Event has ended; or, (ii) be terminated upon ten (10) days' notice to the non-performing party, in which event neither party will have any further liability to the other, other than Customer's obligation to pay PG&E for Turnkey Services rendered prior to the Force Majeure Event.

9. Dispute Resolution. If any dispute, excluding payment defaults or delinquencies, arises under this Agreement that is not settled promptly in the ordinary course of business, the Parties will first attempt to resolve such dispute by negotiating promptly in face-to-face negotiations between the respective designated senior managers of each Party. If the Parties are unable to resolve the dispute through these negotiations within thirty (30) business days following the start of such negotiations, then the Parties shall escalate the dispute to the business line vice president of PG&E and the appropriate senior manager within Customer's organization. If those individuals or their designees are unable to resolve the dispute within thirty (30) business days, then either Party may pursue available legal and equitable remedies.

10. Notices. Any notice required or permitted under this Agreement will be deemed sufficient if given in writing and delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, or delivered to a nationally recognized express mail service, charges prepaid, receipt obtained, to the address shown below or to such other persons or addresses as are specified by similar notice.

Pacific Gas and Electric Company:

Brent Patera
Business Development Manager
245 Market Street, MC N10D

San Francisco, CA 94105
Email: Brent.Patera@pge.com
Phone: (415) 973-5335
Mobile: (415) 265-7232

Cambria Community Services District

John Allchin
Waste Water Systems Supervisor,
5500 Heath Lane
PO Box 65
Cambria, CA 93428
Email: jallchiin@cambriacs.org
Phone: (805) 927-6221

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11. Applicable Law and Venue. This Agreement is governed, construed, and enforced in accordance with the laws of the State of California, without regard to its conflict of laws rules. Any controversy or claim arising out of or relating to this Agreement shall be litigated in a California Superior Court of competent jurisdiction; or if jurisdiction over the action cannot be obtained in a California Superior Court, in a Federal District Court of competent jurisdiction situated in the State of California, and Customer hereby consents to the personal jurisdiction of such courts.

12. General Terms. This Agreement contains the entire agreement between the Parties regarding the Turnkey Services and supersedes any other prior oral or written agreements. If a conflict or inconsistency arises between the terms of this Agreement and any WO issued under it, the WO will control, as specified in Section D.8. Any modifications to this Agreement must be in writing and signed by the Parties. A waiver by either Party of any breach does not constitute a waiver of different or subsequent breaches. If any part of this Agreement is invalid, illegal, or unenforceable for any reason, that portion shall be replaced with a valid provision appropriate to the Parties' original intent and the remainder will be enforced.

Deleted: Any different or additional provisions in purchase orders, invoices or similar documents issued by the Customer are deemed refused by PG&E and unenforceable. ...

13. Execution of Agreement. This Agreement may be executed by providing an electronic signature under the terms of the Electronic Signatures Act, 15 U.S.C. SS 7001 et. seq., and may not be denied legal effect solely because it is in electronic form or permits the completion of the business transaction referenced herein electronically instead of in person. The exchange of copies of this Agreement and of signature pages by electronic mail transmission will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by electronic mail will be deemed to be their original signatures for all purposes.

Intending to be legally bound, the Parties execute this Agreement by their duly authorized representatives.

Pacific Gas and Electric Company

245 Market Street, MC N10D
San Francisco, CA 94105

By:

Name:

Title:

Date:

Cambria Community Services District

1316 Tamsen Street, Suite 201
Cambria, CA 93428

By:

Name:

Title:

Date: SINGER

EXHIBIT A

SAFETY WAIVER

PG&E has informed the Customer's on-site representative of the following condition(s) which, in the opinion of PG&E's on-site representative, should be remedied before the Turnkey Services may be resumed at the work site. Customer recognizes that if the below-listed condition at the work site is not remedied as recommended by PG&E, an accident may occur, causing damage to the work site, equipment and/or injury to persons, including but not limited to, the employees of Customer, PG&E and subcontractors.

By signing this waiver, Customer acknowledges and accepts all liability associated with this condition.

Description of condition: _____

Equipment ID#: _____ (If applicable)

Facility Name: _____

Executed this ____ day of _____, _____

Pacific Gas and Electric Company

By: _____
Name: _____
Title: _____
Date: FR2

Cambria Community Services District

By: _____
Name: _____
Title: _____
Date: _____