



DRAFT

CUSTOMER GENERATION AGREEMENT

This Customer Generation Agreement (“Agreement”) is entered into by and between _____, a _____ (“Customer”), and San Diego Gas & Electric Company (“SDG&E”), a California Corporation. Customer and SDG&E are sometimes also referred to in this Agreement jointly as “Parties” or individually as “Party.” In consideration of the mutual promises and obligations stated in this Agreement and its attachments, the Parties agree as follows:

1. SCOPE AND PURPOSE

This Agreement, in conjunction with the Generating Facility agreement identified in Section 2.4 and attached as Appendix A, allows the Producer (as identified in section 2.4) to utilize Customer's electrical facilities to interconnect and operate the Generating Facility in parallel with SDG&E's Distribution System. The purpose of the Generating Facility is to serve the Customer's electrical loads at the location identified in Section 2.3.

2. SUMMARY AND DESCRIPTION OF THE PARTIES AND LOCATION OF GENERATING FACILITY

2.1 SDG&E's customer electric service account number: _____ (Assigned by SDG&E).

2.2 Generating Facility identification number: _____ (Assigned by SDG&E).

2.3 The name and address used by SDG&E to locate the electric service accounts where the Generating Facility interconnects with SDG&E's Distribution System is:

2.4 The Generating Facility shall be Interconnected with SDG&E's Distribution System pursuant to _____ between SDG&E and _____, its successors or assigns (“Producer”) dated _____, (“Producer Agreement”)

2.5 Producer's contact information:

3. CUSTOMER ACKNOWLEDGEMENTS AND OBLIGATIONS

3.1 Customer acknowledges that it has authorized the Generating Facility to be installed and operated by Producer in accordance with SDG&E's Rule 21 on or adjacent to Customer's premises. Such Generating Facility shall be used to serve all or a portion of Customer's electrical loads associated with the electric service provided by SDG&E at the location identified in Section 2.3, above, and any other purpose permitted under Producer Agreement. Customer shall be solely responsible for the terms of any agreement between it and Producer.

- 3.2 Customer shall be solely responsible for any charges incurred under SDG&E's electric service tariffs for the services provided to Customer by SDG&E. Customer acknowledges that it is the sole end-use consumer of such tariffed services. This Agreement does not constitute an agreement by SDG&E to provide any tariffed service to Producer.
- 3.3 Customer acknowledges the Generating Facility shall be operated in compliance with all SDG&E tariffs, including but not limited to SDG&E's Rule 21, and any other regulations and laws governing the interconnection of the Generating Facility. Customer further acknowledges that it has been made aware of the charges and conditions related to the operation of the Generating Facility including, but not limited to _____ and that the performance or lack of performance of the Generating Facility may affect the rates and charges billed by SDG&E for the electric power delivered to Customer. Copies of such tariffs are available at SDG&E's Internet site: www.sdge.com or by request to SDG&E.
- 3.4 Any amounts to be paid, or refunded, to SDG&E for the services received by Customer as a result of the Producer failing to operate the Generating Facility in accordance with the terms of the representations and warranties made under the Producer Agreement shall be paid to SDG&E in accordance with SDG&E's electric tariffs.
- 3.5 Customer shall make the Generating Facility reasonably accessible to SDG&E's personnel, contractors or agents to perform SDG&E's duties under Rule 21.

4. TERM AND TERMINATION

- 4.1 This Agreement shall become effective as of the last date entered in Section 13, below. The Agreement shall continue in full force and effect until the earliest date that one of the following events occurs:
- (a) The Parties agree in writing to terminate the Agreement, or
 - (b) Unless otherwise agreed in writing by the Parties, at 12:01 A.M. on the day following the date the Customer's electric service account through which the Generating Facility is Interconnected to SDG&E's Distribution System is closed or terminated, or
 - (c) Unless otherwise agreed in writing by the Parties, at 12:01 A.M. on the 31st day following the date the Producer Agreement is terminated, unless the responsibility for such Producer Agreement is assigned to or replaced by a subsequent Producer. The Parties shall cooperate in obtaining an assignment or replacement agreement, or
 - (d) At 12:01 A.M. on the 61st day after Customer or SDG&E provides written Notice pursuant to Section 6 below to the other Party of the Customer or SDG&E's intent to terminate this Agreement.
- 4.2 Customer may elect to terminate this Agreement pursuant to the terms of Section 4.1(d) for any reason. SDG&E may elect to terminate this Agreement pursuant to the terms of Section 4.1(d) for one or more of the following reasons:
- (a) A change in SDG&E's applicable tariffs, as approved or directed by the Commission, or a change in any local, state or federal law, statute or regulation, either of which materially alters or otherwise affects SDG&E's ability or obligation to perform SDG&E's duties under this Agreement; or,
 - (b) Unless otherwise agreed in writing by the Parties, Customer fails to take all corrective actions specified in SDG&E's Notice provided in accordance with Section 6 that Customer is out of compliance with the terms of this Agreement within the time frame set forth in such Notice.

5. LIMITATION OF LIABILITY

- 5.1 Each Party’s liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney’s fees, relating to or arising from any act or omission in its performance of this Agreement shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages of any kind whatsoever.
- 5.2 SDG&E shall not be liable to Customer in any manner, whether in tort or contract or under any other theory, for loss or damages of any kind sustained by Customer resulting from termination of the Producer Agreement between Producer and SDG&E, provided such termination is consistent with the terms of the Producer Agreement.

6. NOTICES

- 6.1 Any written notice, demand, or request required or authorized in connection with this Agreement (“Notice”) shall be deemed properly given if delivered in person or sent by first class mail, postage prepaid, to the person specified below:

If to SDG&E: San Diego Gas & Electric Company
 Attention: _____
 Phone: () _____
 Fax: () _____

If to Customer: Customer Name
 Attention: _____
 Address: _____
 City: _____
 Phone: () _____
 Fax: () _____

- 6.2 A Party may change its address for Notices at any time by providing the other Party Notice of the change in accordance with Section 6.1.
- 6.3 The Parties may also designate operating representatives to conduct the daily communications, which may be necessary or convenient for the administration of this Agreement. Such designations, including names, addresses, and phone numbers may be communicated or revised by one Party’s Notice to the other.

7. RELEASE OF DATA

Customer authorizes SDG&E to release to the California Energy Commission (“CEC”) and/or the California Public Utilities Commission (“Commission”) information regarding the Generating Facility, including Customer’s name and location, and the size, location and operational characteristics of the Generating Facility, as may be requested from time to time pursuant to the CEC’s or Commission’s rules and regulations

8. ASSIGNMENT

Customer shall not voluntarily assign its rights nor delegate its duties under this Agreement without SDG&E’s written consent. Any assignment or delegation Customer makes without SDG&E’s written consent shall not be valid. SDG&E shall not unreasonably withhold its consent to Customer’s assignment of this Agreement.

9. NON-WAIVER

None of the provisions of this Agreement shall be considered waived by a Party unless such waiver is given in writing. The failure of a Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.

10. GOVERNING LAW, JURISDICTION OF COMMISSION, INCLUSION OF SDG&E's TARIFFS, DEFINED TERMS

- 10.1 This Agreement shall be interpreted, governed, and construed under the laws of the State of California as if executed and to be performed wholly within the State of California without giving effect to choice of law provisions that might apply to the law of a different jurisdiction.
- 10.2 This Agreement shall, at all times, be subject to such changes or modifications by the Commission as it may from time to time direct in the exercise of its jurisdiction.
- 10.3 The interconnection and services provided under this Agreement shall at all times be subject to the terms and conditions set forth in the tariffs applicable to the electric service provided by SDG&E. Copies of such tariffs are available at SDG&E's Internet site: www.sdge.com or by request to SDG&E and are incorporated into this Agreement by this reference.
- 10.4 Notwithstanding any other provisions of this Agreement, SDG&E shall have the right to unilaterally file with the Commission, pursuant to the Commission's rules and regulations, an application for change in tariffs, rates, charges, classification, service, or any agreement relating thereto.
- 10.5 When initially capitalized, whether in the singular or in the plural, the terms used herein shall have the meanings assigned to them either in this Agreement or in SDG&E's Rule 1 or Rule 21, Section H. If any term is defined in both Rule 1 and Rule 21, the definition in Rule 21 shall prevail.

11. AMENDMENTS AND MODIFICATION

This Agreement can only be amended or modified by a written agreement signed by both Parties. SDG&E shall determine in its sole discretion whether prior Commission approval is required for such amendments or modifications.

12. ENTIRE AGREEMENT

This Agreement, and the Producer Agreement, including any incorporated tariffs, contain the entire agreement and understanding between the Parties, their agents, and employees as to the subject matter of this Agreement. Each Party also represents that in entering into this Agreement, it has not relied on any promise, inducement, representation, warranty, agreement or other statement not set forth in this Agreement, the Producer Agreement, or in the incorporated tariffs.

13. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have caused two originals of this Agreement to be executed by their duly authorized representatives. This Agreement is effective as of the last date set forth below.

CUSTOMER NAME

SAN DIEGO GAS & ELECTRIC COMPANY

By: _____
Name: **DRAFT** _____
Title: _____
Date: _____

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

APPENDIX A

AGREEMENT BETWEEN PRODUCER AND SDG&E