

## Form 2 - Commitment Agreement

<b>Section 1A: Customer Information</b>			
Customer Name	LMSI Project ID #		
Address	City	State	Zip
Contact Name	Title		
Telephone	Fax		
Cell	Email		
Customer Federal Tax ID			
<b>Section 1B: Facility</b>			
Company/ Facility Name	Electric Service Agreement #		
Address	Gas Service Agreement #		
Contact Name	City	State	Zip
Telephone	Fax		
Cell	Email		

## Section 2: Project and Estimated Savings Summary (to be completed by LMSI)

LMSI identified the energy efficiency opportunities at Customer's Facility by performing an Energy Efficiency Audit for new EEM projects or a Technical Analysis Study to review EEM projects already identified. The analysis has resulted in a Project defined in terms of one or more Energy Efficiency Measures (EEMs) to be installed by the Customer. LMSI has completed an analysis of EEMs at the Customer's Facility and has reviewed and accepted the Analysis listed herein. The Analysis is incorporated herein as Attachments \_\_\_\_\_ to this Agreement.

The Analysis was performed for Customer by \_\_\_\_\_, and is dated \_\_\_\_\_.  
 by \_\_\_\_\_, and is dated \_\_\_\_\_.  
 by \_\_\_\_\_, and is dated \_\_\_\_\_.

Energy Efficiency Measures identified:

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Based on the Analysis, the following Estimated Savings and Incentives have been calculated:

### Energy Efficiency Measure (EEM) Summary

Measure(s) to be Installed	
(See Attachments if more than one Measure)	Agreement Date
Installation Contractor	Est. Completion Date
Estimated Installed Cost	Incentive Authorized

### Savings details for incentives

	**\$0.090/kWh \$100/kW \$1.00/Therm
Est. kWh savings	Est. Incentive \$*
Est. kW savings	Est. Incentive \$
Est. Therms savings	Est. Incentive \$*

\*Incentives are capped at 50% of the aggregate project cost \*\* \$ 0.05/kWh lighting, \$ 0.15/kWh AC&R I

Notes:	Facility Area – Sq ft total _____
	Facility Age -- Years _____
	Facility Type _____
	Facility # of floors _____

### Section 3: Incentive Reservation Period

LMSI will reserve the incentive amounts set forth herein. This Form 2 - Commitment Agreement (Agreement) shall expire and be void if Customer does not submit an original, signed Agreement to LMSI postmarked within 60 days of \_\_\_\_\_. LMSI will then reserve the incentives for Customer, provided that this Agreement was submitted within the required time period and LMSI confirms that Customer is progressing appropriately and in good faith to complete timely installation of the EEMs as evidenced by purchase orders for equipment and installation. LMSI will confirm progress by monitoring purchase orders, equipment deliveries, installations, and the Project's ability to meet Program requirements and the agreed-upon schedule as indicated below, and in all cases no later than December 15, 2012. Projects must be completed and operational by December 15, 2012 and Customer shall notify LMSI by mail postmarked on or prior to October 15, 2012 to allow for incentives to be paid by December 31, 2012.

Customer represents that it expects to order EEM equipment by no later than **(date)** \_\_\_\_\_ .  
 Customer represents that it expects to have the EEM installed by no later than **(date)** \_\_\_\_\_ .

LMSI Project Manager (print)	Signature	Date (mm/dd/yy)
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### Section 4: Agreement Signatures

Customer represents and warrants that it has read, understands and agrees to the terms and conditions of this Agreement. Customer understands that once the terms and conditions of this Form 2 - Commitment Agreement and Form 3 - Completion Agreement have been met to the satisfaction of LMSI, the appropriate incentive amounts will be paid.

Customer's Authorized Representative  _____ <b>(print name)</b>  _____ <b>(print title)</b>	_____ <b>(signature)</b>  _____ <b>(date)</b>
Lockheed Martin Services, Inc. Authorized Signature  _____ <b>(print name)</b>  _____ <b>(print title)</b>	_____ <b>(signature)</b>  _____ <b>(date)</b>

**FOR MORE INFORMATION:** Call LMSI in San Francisco at (415) 402-0406 or email [info@lmsi-pge.com](mailto:info@lmsi-pge.com)

## **Section 5: Program Overview, Process, Roles, and Responsibilities:**

- LMSI identifies eligible Customer.
- LMSI meets with Customer to make arrangements to identify Customer's energy savings opportunities by performing an Energy Efficiency Audit to identify new EEM projects or a Technical Analysis Study to review EEM projects already identified or both.
- With authorization from the Customer, LMSI may assign a Subcontractor to provide evaluation services during the Analysis phase and during the verification phase.
- The Analysis is performed by LMSI and/or its Subcontractors to identify EEMs, expected project costs, and expected project energy savings. The Analysis results are verified by LMSI and/or its Subcontractors, and then presented to Customer.
- Customer expresses interest in installing the Project, which will be one or more EEMs, as identified in the Analysis.
- LMSI and Customer sign Form 2 Commitment Agreement.
- If requested by Customer, LMSI may assist in selecting Implementation Contractor(s) during the Analysis phase for cost evaluation and after the Commitment phase for implementation.
- Upon Customer's execution of a construction contract or at the time when 50% of equipment for Project (by cost) has been ordered, Customer shall submit to LMSI a copy of the purchase order or other form of verification related to the equipment and/or services defined in the Form 2 - Commitment Agreement. Customer shall submit documentation to LMSI by fax, mail, or email, within 10 days of execution.
- Customer completes installation and notifies LMSI within 10 days by fax, mail, or email.
- Following installation and LMSI verification of EEMs, LMSI and Customer sign Form 3 Completion Agreement.
- Customer returns to LMSI a W9 and Project-related invoices.
- LMSI processes incentive payment.

## Section 6: General Terms and Conditions

**PARTY:** As used throughout this Agreement, the term “Party” means Implementer and Customer, collectively the “Parties”.

**COMMITMENT AGREEMENT:** Customer information supplied by Customer to LMSI to complete this Agreement must be complete, truthful and accurate. Customers are advised to retain a copy of this Agreement and any accompanying documentation submitted to LMSI under this Program. LMSI will not be responsible for lost documentation pertaining to this application request. This Agreement must be pre-approved by LMSI prior to Customer starting work on the removals or installation of any EEMs listed in this Agreement.

**PROGRAM TERM:** The term of the Program commences January 1, 2010 and ends December 31, 2012. Funding is available on a first-come, first-served basis until funds are fully allocated or December 31, 2012 whichever comes first. Projects must be completed and operational by December 15, 2012 to allow time for LMSI to process and pay incentives by December 31, 2012.

**PROJECTS NOT COMPLETED BY DECEMBER 31, 2012.** Projects committed, but not completed by 2012, will continue and be governed under either a 2013-15 PG&E core program or under the same or similar 2013-15 third party program. The incentive will also be program specific and subject to the CPUC approved 2013-15 rate.

**PROGRAM ELIGIBILITY:** Program incentives are available to Pacific Gas and Electric Company (PG&E’s) heavy industry Customers who are (1) classified in the NAICS codes attached to this Agreement or with written approval by the PG&E Program Manager. (2) receiving natural gas and/or electricity from PG&E, (3) paying the Public Purpose Program charges and/or the demand side surcharge on their utility bill, and (4) having a minimum average peak electric load of 200 kW.

**QUALIFYING EQUIPMENT:** Customer is responsible for checking the product/equipment specifications to make sure that all requirements are met. New products that are ordered, purchased, and installed prior to January 1, 2010 or after December 15, 2012 do not qualify for an incentive unless pre-approved by PG&E as a rollover measure from the 2006-2008 program, or for measures approved for rollover to future programs. Resale products, products leased, rebuilt, rented, received from warranty or insurance claims, exchanged, won as a prize, or new parts installed in existing products do not qualify.

**PAYMENT:** Incentives will be paid upon completion of (1) Form 2 Commitment Agreement, (2) the installation of EEM(s), (3) a post-installation verification by LMSI, (4) Form 3 Completion Agreement, (5) IRS Form W-9 (Request for Taxpayer Identification Number and Certification), and (6) all required proof of purchase and installation documentation. Funding is limited. Incentives will be paid on a first-come, first-served basis until committed funds are depleted or December 31, 2012, whichever comes first.

**PROOF OF PURCHASE:** Customer must submit all Project invoices, time sheets for direct internal labor and other pertinent documents itemizing the equipment purchased and / or work performed for the EEMs. The proof of purchase documentation must show (1) the date of purchase, vendor name/address/phone, itemizing listing of product including quantity, price paid, product description, size, type, manufacturer, model number or part number of equipment purchased, and other identifying information as appropriate and (2) a description of any installation or other labor charges, date invoice paid or payment terms, and installation date. Legible photocopies of the proof of purchase documentation are acceptable. Customer will provide LMSI and / or PG&E with additional proof of purchase information upon request.

**INCENTIVE AMOUNT:** Incentives for installed and verified EEMs are limited to the amounts set forth in this Agreement. The incentive cannot exceed 50% of the aggregate project cost of all EEMs for electrical and gas savings listed in this Agreement. Customer understands that Customer cannot receive incentives for the same product, equipment or service from more than one California investor-owned utility or third party energy efficiency program offering incentive(s) for the same product, equipment, or service funded with CPUC Public Purpose

Program funds. Customer understands this prohibition applies three years prior to and three years after receiving the incentive(s) for the same product, equipment or service.

**ENERGY BENEFITS:** Customer understands that incentive payments are based on related energy benefits over the life of the EEM. Customer agrees that if (1) Customer does not provide PG&E with 100% of the related benefits for the life of the product or a period of 5 years, whichever is less, or (2) Customer ceases to be a distribution Customer of PG&E during said time period, Customer shall refund a prorated amount of incentive dollars to PG&E based on the actual period of time for which Customer provided the related energy benefits as an electric customer of PG&E.

**SELF-GENERATION:** If Customer has existing on-site generation or self-generation equipment, LMSI shall not pay incentives for energy savings that exceed the Customer's annual energy usage from PG&E. KW, kWh and therm savings are limited to the previous 12 months quantity of kW, kWh and therms purchased from or delivered by the utility meter(s), serving the equipment to be installed, for which the utility collects the Public Purpose Programs (PPP) surcharge. The previous 12 months are defined as the calendar year prior to the date the Customer submitted and signed this Program Participation Agreement (including usage from Standby Service and less savings associated with pending energy efficiency applications). This policy is subject to change with 30 day written notice to the Customer.

**COMPLIANCE WITH LAWS:** LMSI agrees to comply with all federal, state, and municipal laws, ordinances, rules, orders, and regulations which apply to its actions at the Facility or to the Project.

#### **BASELINE ENERGY EFFICIENCY CALCULATIONS**

LMSI is identifying the Project on Customer's behalf. Customer understands and agrees that LMSI is solely responsible for verifying that Project savings are calculated using the appropriate baseline, that the Project is installed according to Customer's specifications, and that it is delivering the estimated savings. Customer understands that incentives will be paid only for energy savings that exceed California Title 20 and Title 24 standards, or industry standards in the absence of applicable local, state or federal standards.

The incentive amount cannot exceed 50% of the aggregate project cost.

**INSTALLATION AND VERIFICATION:** Equipment installation may be selected for a post-installation verification by PG&E. Should a Customer's facility be chosen for a PG&E post-installation verification, PG&E will complete all verification inspections within (6) weeks of notification in writing, to the PG&E Contract Manager, that EEMs are installed, operating, and ready for inspection.

**TAX LIABILITY / IRS 1099 REPORTING PROCEDURES:** LMSI is not responsible for any tax liability imposed on Customer as a result of any payment of any program-related incentives. All program-related incentive payments are taxable as income. LMSI will (1) report all annual incentive payments over \$600 to the Internal Revenue Service and (2) will issue a IRS Form 1099 at the end of the calendar year to all Customers who receive over \$600 in program-related incentives. Please consult your tax advisor concerning the taxability of incentives.

**DISCLOSURE (ENGLISH AND SPANISH):** California consumers are not obligated to purchase any full-fee service or any other service not funded by this Program. This Program is funded by California utility ratepayers under the auspices of the California Public Utilities Commission.

Los consumidores en California no estan obligados a comprar servicios completos o adicionales que no esten cubiertos bajo este programa. Este programa esta financiado por los usuarios de servicios publicos en California bajo la jurisdiccion de la Comision de Servicios Publicos de California.

**NO ENDORSEMENT:** LMSI agrees not to endorse any particular manufacturer, contractor or product promoting the Program. The fact that the names of particular manufacturers, contractors, products or systems may appear on Project documents does not constitute an endorsement. Manufacturers, contractors, products or systems not mentioned are not implied to be unsuitable or defective in any way.

**SAFETY AND BUILDING CODES:** Customer represents that all equipment installed and work performed complies with all federal, safety and local safety, building and environmental codes, and any manufacturer instructions.

**PROPERTY RIGHTS:** Customer represents that it has the right to install the EEMs at the Facility indicated in Section 1B of this Agreement and that any necessary consent has been obtained. If the Customer is a tenant, Customer is responsible for obtaining the property owner's permission to install the measure(s) for which Customer is applying for an incentive payment. Customer's signature on this application indicates Customer has obtained this permission.

**ACCESS AND EVALUATION:** Customer will allow, if requested, a representative from PG&E, the California Public Utilities Commission (CPUC), LMSI, or any authorized subcontractor reasonable access to Facility to verify the installed measure(s).

**DISCLAIMER / NO LIABILITY:** LMSI is receiving funds from PG&E for this Project, but parties agree that PG&E is not liable to either party for any losses or damages, including incidental or consequential damages, arising from this Agreement. Furthermore, PG&E makes no representation or warranty, and assumes no liability with respect to quality, safety, performance, or other aspect of any design, system or appliance installed pursuant to this agreement, and express disclaims any such representation, warranty or liability. PG&E's and/or its consultant's review of the design, construction, operation or maintenance of the Project, EEMs, does not constitute any representation as to the economic or technical feasibility, operational capability, or reliability of the project measures. LMSI is responsible for performing the evaluation of the economic and technical feasibility, operational capability and reliability of the Project and EEMs.

**BOTH PARTIES AGREE NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.**

**USE OF INFORMATION** LMSI agrees not to use the names or identifying characteristics of the Customer's facility for published project reports, advertising, sales promotion or other publicity without the Customer's written approval. Customer agrees not to use the names or identifying characteristics of PG&E or LMSI for published project reports, advertising, sales promotion or other publicity without PG&E's or LMSI's written approval.

**CUSTOMER REPRESENTATION:** Customer represents and warrants that it has read, understands and agrees to terms and conditions of this Form 2 - Commitment Agreement. Customer understands that once the terms and conditions of this Form 2 - Commitment Agreement, and the Form 3 - Completion Agreement have been met to the satisfaction of LMSI, LMSI will pay the appropriate incentive(s).