

PROCUREMENT COMPLIANCE ATTRIBUTE
PURCHASE AGREEMENT

This PROCUREMENT COMPLIANCE ATTRIBUTE PURCHASE AGREEMENT (this “Agreement”) is made and entered into as of [●] (the “Effective Date”), by and between Pacific-Ultrapower Chinese Station, a general partnership (“Seller”), and City of Grass Valley, a political subdivision of the State of California, acting through the governing body or board thereof (“Buyer”). Seller and Buyer are sometimes referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Parties desire to enter into this Agreement in order to set forth the terms and conditions relating to the purchase and sale of certain biomass electricity compliance attributes for Buyer to satisfy its “Procurement of Recycled Organic Products by Local Jurisdictions” requirement of SB1383.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

ARTICLE 1
DEFINITIONS

As used in this Agreement, the following defined terms have the meanings set forth below:

“Applicable Standard” means the Recovered Organic Waste Product procurement standards enacted by the State of California and set forth in Health and Safety Code Sections 39730 et seq., 42652, 42652.5, and 42653, and the rules and regulations promulgated by CalRecycle thereunder, including those regulations set forth in 14 Cal. Code Regs. Sections 18993.1 and 18993.2, all as may be amended from time to time.

“Business Day” means a day on which Federal Reserve member banks in San Francisco, California, are open for business.

“Buyer Energy Consumption” means, with respect to any period, the number of kWh of electricity that is consumed by municipal operations of Buyer or another eligible direct service provider to Buyer permitted by 14 Cal. Code Regs. Sections 18993.1(e)(2) during such period (either from the grid or directly), as certified in writing by Buyer to Seller from time to time at Seller’s reasonable request.

“CalRecycle” means the California Department of Resources Recycling and Recovery, or a successor governmental authority responsible for implementing and/or promulgating the Applicable Standards and overseeing the qualification and use of PCAs in California.

“Facility” has the meaning indicated on Schedule I.

“Feedstock” means biomass feedstock received directly from one or more eligible solid waste facilities described in 14 Cal. Code Regs. Section 18993.1(i).

“Final Determination” means a determination by CalRecycle that any Contract PCAs are Disallowed PCAs, which determination is either (a) challenged in a court of competent jurisdiction and upheld in a final, non-appealable order by a court of competent jurisdiction; or (b) not challenged in any court prior to expiration of the period allowed for any court challenge. The order of a court will be deemed a “Final Determination” when the time for appeal, if any, has expired and no appeal has been taken or when all appeals taken have been finally determined.

“Interest Rate” means a rate equal to two percent (2%) over the per annum rate of interest equal to the prime lending rate as may from time to time be published in the Wall Street Journal under “Money Rates”; provided such interest rate shall never exceed the maximum lawful rate permitted by applicable law.

“kWh” means kilowatt-hours.

“Notice” means the process described in Section 6.2.

“PCA Certificate” means, with respect to any Contract PCAs, a certificate required by 14 Cal. Code Regs. Section 18993.2(a)(6) in the form attached hereto as Exhibit A relating to such Contract PCAs.

“Procurement Compliance Attribute” or “PCA” means an attribute associated with Recovered Organic Waste Products generated by the Facility with Feedstock that may be used by an eligible jurisdiction toward its SB 1383 Recovered Organic Waste Product procurement target, together with all associated Reporting Rights. For the avoidance of doubt, PCAs do not include any energy generated, or any other attributes, including renewable energy credits, capacity, avoided greenhouse gas emissions, avoided pollutant emissions, or any other credit, benefit, emission reduction, offset, or allowances, howsoever entitled, whether currently identified or identified any time in the future, attributable from a biomass conversion facility and/or its avoided emission of pollutants. A quantity of PCAs (including Contract PCAs) shall be expressed in kWh, and shall be converted into equivalent tons using the conversion ratio of one ton for every 650 kWh or such other conversion ratio required by the Applicable Standard.

“Recovered Organic Waste Products” has the meaning set forth in 14 Cal. Code Regs. Section 18982(60) and that meets the requirements set forth in 14 Cal. Code Regs. Section 18993.1.

“Reporting Rights” means, with respect to any PCA, the right of Buyer to report that it owns such PCA to CalRecycle for purposes of applying such PCA to its SB 1383 Recovered Organic Waste Product procurement target.

“Vintage Year” means, with respect to any PCAs, the calendar year or years during which such PCAs were generated, as set forth in the applicable PCA Certificate.

“SB 1383” means California’s Short-Lived Climate Pollutant Reduction law.

ARTICLE 2 PURCHASE AND SALE OF PCAS

2.1 Purchase and Sale. Subject to the terms and conditions of this Agreement, Seller shall sell to Buyer, and Buyer shall purchase from Seller the number of PCAs of the Vintage Year set forth in Schedule I attached hereto. The PCAs required to be purchased and sold pursuant to this Section 2.1 are referred to herein as the “Contract PCAs”. Buyer shall not directly or indirectly sell or transfer any Contract PCAs to any person or entity without Seller’s prior written consent in each instance.

2.2 Pricing. Subject to the terms and conditions of this Agreement, Buyer shall purchase the Contract PCAs at a price per Contract PCA set forth in Schedule I attached hereto (the “Per PCA Price”). The total aggregate amount due for all Contract PCAs (calculated by multiplying the number of Contract PCAs during such period by the Per PCA Price) is referred to herein as the “Purchase Price”.

2.3 No Resale. Seller covenants and agrees that Buyer shall not resell Contract PCAs to another purchaser.

ARTICLE 3 TRANSFERS

3.1 Delivery. The Contract PCAs set forth on each PCA Certificate shall become usable by Buyer towards Buyer's SB 1383 Recovered Organic Waste Products procurement target upon Seller's receipt of payment in full for such Contract PCAs in accordance with Article 4.

3.2 Further Assurances. The Parties shall cooperate fully and assist each other to obtain any and all required approvals and/or forms which may reasonably be required to effectuate the transfer of the Contract PCAs to Buyer in accordance with this Agreement, and to comply with the Applicable Standard and any and all other regulatory obligations relating to SB 1383 Recovered Organic Waste Products procurement as required by CalRecycle.

3.3 Responsibility. Each Party shall be responsible for all costs, fees, brokerage commissions, taxes, and charges of whatever kind and amount that such Party incurs in connection with the performance of its respective obligations under this Agreement.

3.4 Cooperation. Upon notification that any transfer contemplated by this Agreement will not be completed, the Parties shall promptly confer within five (5) days and shall cooperate in taking reasonable actions necessary to cure any defects in the proposed transfer, so that the transfer can be completed.

3.5 Energy Usage Maximum. Notwithstanding anything in this Agreement to the contrary, Buyer covenants and agrees that Buyer shall not apply (or seek to apply) Contract PCAs toward Buyer's SB 1383 Recovered Organic Waste Product procurement target in any Contract Year to the extent the number of kWh of energy covered by such Contract PCAs, on an as converted to kWh basis, exceeds the amount of Buyer Energy Consumption.

ARTICLE 4 CLOSING

4.1 Closing. The closing of the purchase and sale of PCAs pursuant to this Agreement (the "Closing") shall occur at 10:00 a.m. Pacific time on the first Business Day on which all of the following conditions are satisfied:

(a) Buyer shall have provided Seller with true, accurate and complete copies of all bills, invoices and other documentation reasonably requested by Seller to demonstrate Buyer's compliance with all energy consumption obligations with respect to application of the Contract PCAs that are required by the Applicable Standard;

(b) Within thirty (30) calendar days after the last day of each quarter, Seller shall have provided to Buyer a PCA Certificate, together with an invoice for the Contract PCAs (each, a "PCA Invoice"); and

(c) Within thirty (30) calendar days after the last day of each Contract Year, Seller shall provide to Buyer an Annual Report, together with an invoice relating to such Contract Year (each, an "Annual Invoice"; Quarterly Invoices and Annual Invoices are referred to herein as "Invoices") and a final PCA Certificate for such Contract Year. For the avoidance of doubt, each Annual Invoice will include a netting of all Purchase Price invoiced in respect of the applicable Contract Year against all Purchase Price paid in respect of the applicable Contract Year, with a statement of the resulting payment or credit due.

(d) Buyer shall have paid Seller the full Purchase Price by electronic transfer without additional notice, and without fees, deductions for counterclaims, set off or other claims, to an account and wire instructions designated by Seller to Buyer.

4.2 Other Information. Each Party shall provide such other information relevant to the performance of such Party's obligations under this Agreement, or to confirm compliance by such Party with its obligations under this Agreement, as may be reasonably requested by the other Party.

4.3 Late Payment. If Buyer fails to remit any amount payable hereunder by it when due, interest on such unpaid amount shall accrue daily at the Interest Rate and be payable on demand. The right to collect such interest shall be in addition to, and not in lieu of, any other rights or remedies available to the receiving Party, whether pursuant to this Agreement at law or in equity.

4.4 Termination. If the Closing does not occur within thirty (30) days of the Effective Date, then Seller shall have the right to terminate this Agreement immediately by delivery of notice to Buyer.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party, as of the date of this Agreement that:

(a) It is duly organized and validly existing under the laws of the jurisdiction of its organization and, if relevant under such laws, in good standing;

(b) It has the organizational authority and power to execute, deliver and perform its obligations under this Agreement;

(c) Assuming execution and delivery by the other Party, this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, subject to bankruptcy, reorganization, and similar laws affecting creditors' rights generally and to general principals of equity (regardless of whether considered in a proceeding in equity or at law);

(d) There is no pending or (to its knowledge) threatened litigation, arbitration or administrative proceeding that materially adversely affects its ability to perform its obligations under this Agreement; and

(e) It is not relying upon any advice, reports, analyses, or representations of the other Party other than those expressly set forth in this Agreement, or any guarantee of the obligations of such other Party, and the other Party has not given to it any assurance or guarantee as to the expected financial performance or results of this transaction, and it has entered into this transaction as principal and for its own account (and not as advisor, agent, broker or in any other capacity, fiduciary or otherwise), with a full understanding of, and the ability to assume, the terms and risks of the same, and has made its trading and investment decisions (including regarding the suitability thereof) based upon its own judgment and any advice from such advisors as it has deemed necessary.

5.2 Contract PCAs. Seller warrants with respect to Contract PCAs delivered by Seller pursuant to this Agreement that (a) the Facility received Feedstock during the Vintage Year from one or more of the facilities set forth in 14 Cal. Code Regs. Section 18993.1(i) in a sufficient amount to produce electricity underlying such Contract PCAs; (b) such Contract PCAs are derived from electricity generated from Feedstock at the Facility during the Vintage Year; (c) Seller has the right and power to sell such Contract PCAs; (d) such Contract PCAs are delivered free from all liens, claims, security interests, encumbrances and other defects of title arising through Seller prior to delivery (other than Buyer's obligation to pay Seller the Purchase Price); and (e) such Contract PCAs have not otherwise been sold or transferred by Seller to any jurisdiction other than Buyer to satisfy any Recovered Organic Waste Product obligation elsewhere under any standard, marketplace or jurisdiction.

5.3 Buyer Consumption. Buyer represents and warrants that:

(a) Buyer is a jurisdiction within the meaning of 14 Cal. Code Regs. Section 18993.1(a);

(b) Buyer Energy Consumption for the Vintage Year of the Contract PCAs is equal to or exceeds the amount of Contract PCAs purchased by Buyer hereunder that is required by the Applicable Standard; and

(c) Buyer will exercise Reporting Rights with respect to Contract PCAs for any period only to the extent Buyer Energy Consumption during such period permits Buyer to do so.

5.4 Disallowed PCAs. If there is a Final Determination that any Contract PCAs purchased by Buyer hereunder do not meet the requirements for Buyer's SB 1383 Recovered Organic Waste Product procurement target as set forth in the Applicable Standard due solely to the feedstock used to generate electricity at the Facility to produce such PCAs not qualifying as "Feedstock" ("Disallowed PCAs"), then Seller shall refund to Buyer the Purchase Price actually paid by Buyer for such Disallowed PCAs or, if Seller has not yet invoiced Buyer for such Disallowed PCAs, Seller shall not invoice Buyer (and Buyer shall not be required to pay the Purchase Price) for such Disallowed PCAs. Buyer acknowledges and agrees that the remedies granted to Buyer in this Section shall be the sole and exclusive remedies of Buyer for any Final Determination that any PCAs are Disallowed PCAs. Notwithstanding the foregoing, if any person or entity challenges in a court of competent jurisdiction a Final Determination that any PCAs are Disallowed PCAs, then (a) the Parties shall reasonably cooperate with such person or entity in its efforts to challenge such Final Determination; and (b) neither Party shall oppose such person or entity in its efforts to challenge such Final Determination. and (c) the remedies set forth in this Section shall not be exercisable unless and until a Final Determination is made that PCAs are Disallowed PCAs.

5.5 Limitation of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN SECTIONS 5.1, 5.2, 5.3 AND 5.4, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND EACH PARTY EXPRESSLY DISCLAIMS, AND THE OTHER PARTY ACKNOWLEDGES THAT SUCH PARTY IS NOT RELYING UPON, ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, AND WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY REPRESENTATION OR WARRANTY WITH RESPECT TO (A) CONFORMITY TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE; OR (B) ANY ACTION OR FAILURE TO ACT, OR APPROVAL OR FAILURE TO APPROVE, OF ANY AGENCY OR GOVERNMENTAL ENTITY.

5.6 Limitations of Liability. THE PARTIES CONFIRM AND AGREE THAT UNDER THIS AGREEMENT, NO PARTY IS REQUIRED TO PAY OR WILL BE LIABLE FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFIT, LOST REVENUE, COSTS OF DELAY, LIABILITY TO THIRD PARTIES, BUSINESS INTERRUPTION DAMAGES, OR OTHERWISE, WHETHER BY STATUTE, IN TORT, CONTRACT OR OTHERWISE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE PARTIES' PERFORMANCE (OR NON-PERFORMANCE) UNDER THIS AGREEMENT. IN NO EVENT WILL EITHER PARTY'S LIABILITY FOR ANY CLAIM OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE) FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM THIS AGREEMENT OR FROM PERFORMANCE OR BREACH THEREOF EXCEED THE PURCHASE PRICE REQUIRED TO BE PAID HEREUNDER.

5.7 Survival. The representations in Sections 5.1 5.2, 5.3 and 5.4 shall survive until the first (1st) anniversary of the Effective Date, whereupon they shall automatically terminate and be of no further force or effect.

ARTICLE 6
GENERAL PROVISIONS

6.1 Waiver of Immunity. Each Party waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (a) suit; (b) jurisdiction of any court; (c) relief by way of injunction or order for specific performance or recovery of property; (d) attachment of its assets (whether before or after judgment); and (e) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any suit, action, or proceedings relating to any dispute arising out of or in connection with this Agreement.

6.2 Notices. All notices, invoices, other formal communications which either Party may give to the other under or in connection with this Agreement shall be in writing and shall be sent by any of the following methods: hand delivery; reputable overnight courier; certified mail, return receipt requested; or e-mail. Notices, invoices and communications shall be deemed given when (a) actually received; (b) delivered by private courier (with confirmation of delivery); (c) transmitted by e-mail (with confirmation of transmission) (d) the next Business Day after delivered to a reputable overnight courier with all charges prepaid; or (e) five (5) Business Days after being deposited in the United States mail, first-class, registered or certified, return receipt requested, with postage paid. The communications shall be sent to the following addresses, or a different address provided by the receiving Party in accordance with the notice delivery requirements above:

If to Seller:

Pacific Ultrapower Chinese Station
8755 Enterprise Dr
Jamestown, CA 95327
Attention: Gen Huffman
Phone: (209) 984-4660 ext. 312
E-mail: ghuffman@jamestownenergy.com

If to Buyer:

[name]
[address]
Attention: [●]
Phone: [●]
Email: [●]

6.3 Force Majeure. Neither Party shall be liable for any failure or delay in the performance of its respective obligations hereunder (other than the obligation to make any payment) if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such Party, which event or circumstance was not anticipated as of the Effective Date, including acts of God; expropriation or confiscation of facilities by a governmental agency (including without limitation a tribal authority); compliance with any change of law or government regulation, or order by government authority; act of war, rebellion or sabotage or damage resulting therefrom; fire, flood, earthquake, explosion or accident; epidemic or pandemic; riot, strike, or other concerted acts of workmen, whether direct or indirect; or any temporary or permanent shutdown of the Facility (“Force Majeure”). Notwithstanding the foregoing, Force Majeure shall not include (a) the loss of Buyer’s markets for PCAs; (b) Buyer’s inability to use PCAs for regulatory compliance reasons caused by Buyer; (c) Buyer’s ability to purchase PCAs from another source or at a price lower than the Per PCA Price; or (d) Seller’s ability to sell PCAs at a price greater than the Per PCA Price. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the “Claiming Party”) gives written notice and

details of the Force Majeure to the other Party as soon as practicable, then, the Claiming Party shall be excused from the performance of its obligations hereunder (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall seek to remedy the Force Majeure with commercially reasonable efforts. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure. A Party seeking to be excused from performance of any of its obligations hereunder is not required to rely solely on this Section, but shall be entitled to rely on any other applicable provision of this Agreement.

6.4 Entire Agreement; Amendments. The terms of this Agreement constitute the entire agreement between the Parties with respect to the matters set forth in this Agreement and supersede all prior and contemporaneous representations, warranties, covenants and agreements, whether oral or written. This Agreement may be changed only by written agreement identified as an amendment to this Agreement executed and delivered after the date hereof by both Parties.

6.5 Waiver. Either Party may waive compliance with any of the agreements or conditions of the other Party contained herein. Any such waiver shall be valid only if expressly set forth in an instrument in writing signed by the Party to be bound thereby. Any waiver of any breach, term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition, of this Agreement. No delay by Buyer or Seller in exercising its rights or remedies hereunder, including the right to terminate this Agreement or suspend performance, shall be deemed to constitute or evidence any waiver by Buyer or Seller of any right hereunder. The rights granted in this Agreement are cumulative of every other right or remedy that the enforcing Party may otherwise have at law or in equity or by statute.

6.6 Confidentiality.

(a) Definition. For purposes of this Agreement, “Confidential Information” means oral and written information exchanged between the Parties in connection with this Agreement, including but not limited to utility customer account data, trade secret, and proprietary information, and personal financial data. Notwithstanding the foregoing, the following shall not constitute Confidential Information: (i) information which was already in a Party’s possession on a non-confidential basis prior to its receipt from the other Party; (ii) information which is obtained from a third person who, insofar as is known to the Party, is not prohibited from transmitting the information to the Party by an obligation of confidentiality to the other Party; (iii) information which is or becomes publicly available through no fault of the Party; (iv) information which is at any time independently developed by employees or consultants of a Party who have not had access to Confidential Information in the possession of that Party; and (v) records which are deemed to be public records subject to disclosure under the California Public Records Act, Government Code Section 7920.000, et seq.

(b) Generally. Except as provided in this Section 6.6, neither Party shall use Confidential Information for any purpose other than completing the transactions contemplated by this Agreement, or publish, disclose, or otherwise divulge Confidential Information to any person at any time without the other Party’s prior express written consent. Each Party may permit knowledge of and access to Confidential Information only to those of its affiliates and its and their members, directors, managers, officers, attorneys, accountants, representatives, agents and employees that have a need to know related to this Agreement and agree to keep such information confidential.

(c) Required Disclosure. Notwithstanding the foregoing, if required by any law, statute, ordinance, decision, order or regulation passed, adopted, issued or promulgated, or if requested by a court, governmental agency or authority having jurisdiction over a Party, that Party may release Confidential Information, or a portion thereof, to the court, governmental agency or authority, as required or requested, provided that, if permitted by applicable laws, such Party has notified the other Party of the

required disclosure, such that the other Party may attempt (if such Party so chooses) to cause that court, governmental agency, or authority to treat such information in a confidential manner or to prevent such information from being disclosed or otherwise becoming part of the public domain, and the Party being compelled to disclose shall reasonably cooperate (at the disclosing Party's expense) with the disclosing Party's reasonable requests to limit or prevent such disclosure.

(d) Survival. This Section 6.6 survives for a period of one (1) year from the Effective Date.

6.7 Governing Law. This Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the internal laws of the State of California, including its statutes of limitations and repose, but without regard to any borrowing statute that would result in the application of the statute of limitations or repose of any other jurisdiction.

6.8 Venue. Each Party hereby (a) irrevocably consents to the exclusive jurisdiction of any California State and Federal courts sitting in Sacramento, California with respect to all actions and proceedings arising out of or relating to this Agreement; (b) agrees that all claims with respect to any such action or proceeding shall be heard and determined exclusively in such California State or Federal court; (c) waives the defense of an inconvenient forum; (d) consents to service of process by mailing or delivering such service to it at its address set forth below and (v) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

6.9 Change in Law. If any statutes, rules, or regulations are enacted, amended or revoked which (other than statutes, rules, or regulations are enacted, amended or revoked by Buyer) have the effect of (a) changing the transfer and sale procedures set forth in this Agreement so that the implementation of this Agreement becomes impossible or impracticable; (b) making this Agreement illegal or unenforceable; or (c) eliminating the existence of the Contract PCAs or prohibiting Buyer from applying PCAs to Buyer's SB 1383 Recovered Organic Waste Product procurement target (a "Change in Law"), the Parties agree to negotiate in good faith to amend this Agreement to conform with such Change in Law in order to maintain the original intent of the Parties under this Agreement. If the Parties cannot agree in good faith to amend this Agreement to conform with such Change in Law in order to maintain the original intent of the Parties under this Agreement within sixty (60) days of a Party providing the other Party with a Notice of a Change in Law, then either Party may terminate this Agreement upon delivery of Notice of termination to the other Party.

6.10 Construction; Interpretation. All Article and Section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context requires. Unless otherwise expressly provided, the words "include" and "including" do not limit the preceding words or terms, and mean "including without limitation". In the calculation of any period of time, if the last day of such period falls on a day other than a Business Day, the period of time shall be automatically extended to the next Business Day. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Notwithstanding anything to the contrary in any purchase order, invoice or terms submitted by Buyer, (a) only purchase orders submitted

on Seller's approved form of purchase order shall be valid; and (b) no purchase order, invoices, general terms, e-mail, notation on any check, or any other writing or communication submitted by Buyer may change or amend the terms of this Agreement, and this Agreement shall control over all such items, unless Seller expressly agrees to a change or amendment hereto in a writing executed and delivered by an authorized signatory of Seller.

6.11 Assignment. Buyer may not assign this Agreement or its rights or obligations hereunder in whole or in part. Seller may assign, mortgage, pledge, sell, or otherwise directly or indirectly assign its interest in this Agreement or its rights hereunder with the prior written consent of Buyer which shall not be unreasonably withheld.

6.12 No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties (and their successors and assigns permitted hereunder) shall not impart any rights enforceable by any other third party.

6.13 Electronic Transmissions. Each Party agrees that (a) any signature page to this Agreement, consent or signed document transmitted by electronic transmission shall be treated in all manner and respects as an original written document; (b) any such signature page, consent or document shall be considered to have the same binding and legal effect as an original document; and (c) at the request of any Party, any such signature page, consent or document transmitted by electronic transmission shall be re-executed and/or re-delivered, as appropriate, by the relevant Party or parties in its original form. Each Party further agrees that such Party will not raise the transmission of a signature page, consent or document by electronic transmission as a defense in any proceeding or action in which the validity of such signature page, consent or document is at issue and hereby forever waives such defense. For purposes of this Agreement, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

6.14 Counterparts. This Agreement may be executed in one or more counterparts and by different Parties in separate counterparts, each of which will be deemed an original, but all of which will together constitute one instrument.

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IN WITNESS WHEREOF, each Party has caused this Agreement to be executed by its duly authorized representatives as of the Effective Date.

***PACIFIC ULTRAPOWER CHINESE
STATION***

By: _____
Name:
Title:

[LEGAL NAME OF ENTITY (ALL CAPS)]

By: _____
Name:
Title:

Draft

SCHEDULE I: PURCHASE TERMS

Vintage Year 2025

Contract PCAs (tons): 1,021

Contract PCAs (kWh): 663,650

Per PCA Price (\$/ton): \$10.00

Total Purchase Price: \$10,210.00

<u>Vintage Year</u>	<u>Per PCA Price (\$/ton equivalent)</u>	<u>Volume (tons equivalent)</u>	<u>Volume (kWh)</u>	<u>Percentage of Generation</u>	<u>Purchase Price (Contract Year)</u>
2025	\$10.00	1021	663,650	100%	\$10,210
2026	\$10.00	1021*	663,650*	100%	\$10,210*

*Contracted PCA amounts for future years will be adjusted for population changes as needed

FORM OF
PCA CERTIFICATE

Pacific-Ultrapower Chinese Station (“Seller”), through the undersigned authorized representative in his official capacity as an officer, DOES HEREBY CERTIFY UNDER PENALTY OF PURJURY as of [certificate date] that:

1. This Certificate is being delivered pursuant to that certain Biomass-to-Electricity Procurement Compliance Attribute Purchase Agreement, dated as of [contract date] (the “Purchase Agreement”), between Seller and City of Grass Valley (“Buyer”). Capitalized terms used but not defined herein shall have the meanings assigned in the Purchase Agreement.

2. Seller is the owner and operator of the biomass-fueled electricity generation facility located at 8755 Enterprise Dr, Jamestown, CA 95327 (the “Facility”).

3. The Facility qualifies as a biomass conversion facility that generates electricity for sale to the California electricity grid through the use of biomass feedstock received directly from one or more permitted solid waste facilities described in 14 Cal. Code Regs. Section 18993.1(i).

4. During the period identified below, the Facility generated electricity from biomass feedstock received directly from one or more permitted solid waste facilities described in 14 Cal. Code Regs. Section 18993.1(i) sufficient to produce the number of PCAs transferred to Buyer under the Purchase Agreement during the period identified below (the “Transferred PCAs”):

<u>Number of Transferred PCAs</u>	<u>Period</u>
1,021	2025

5. Upon payment in full for the Transferred PCAs, the Transferred PCAs have not otherwise been sold or transferred by Seller to any jurisdiction other than Buyer to satisfy any recovered organic waste obligation elsewhere under any standard, marketplace or jurisdiction.

IN WITNESS WHEREOF, this Certificate has been executed and delivered by a duly authorized representative as of the date first set forth above.

Pacific-Ultrapower Chinese Station

By: _____
Name:
Title: