

**RECORDING REQUESTED BY AND WHEN
RECORDED RETURN TO:**

Climate Action Reserve
601 West 5th Street, Suite 650
Los Angeles, CA 90071
Attn: Katharine Young

(Space above this line reserved for Recorder's use.)

RESTRICTIVE COVENANT AND PROJECT IMPLEMENTATION AGREEMENT

This Restrictive Covenant and Project Implementation Agreement (this "Agreement") is entered into as of [_____, 20__], by and between the Climate Action Reserve, a California nonprofit public benefit corporation ("Reserve") and [_____, a _____ and _____, a _____] (collectively, the "Forest Owner") in connection with [insert project name and CAR project number] ("Forest Project").¹ The Reserve and Forest Owner shall hereinafter be referred to each as a "Party" and collectively as the "Parties."

RECITALS

A. The Reserve is a nonprofit organization that establishes standards for the: (i) development and implementation of projects that seek to reduce and sequester greenhouse gas ("GHG") emissions on certain properties ("GHG Reduction Projects"), (ii) calculation of the quantity of net GHG emission sequestration and reduction produced by GHG Reduction Projects to be registered with the Reserve, and (iii) verification of the quantity of net GHG emission sequestration and reduction produced by GHG Reduction Projects already registered with the Reserve. The Reserve also issues carbon offset credits known as Climate Reserve Tonnes ("CRTs"), as defined in the Forest Project Protocols (defined below), to GHG Reduction Projects registered with the Reserve. In addition, the Reserve tracks the use and transfer of CRTs over time in a transparent, publicly accessible online tracking system.

B. The Reserve has established the Forest Project Protocols to ensure that Reforestation, Improved Forest Management and Avoided Conversion projects, as each project is further described in the Forest Project Protocols, registered with the Reserve shall generate a net reduction and sequestration of GHG emissions throughout the entire Term (defined below).

C. [Forest Owner is the sole owner of that certain real property described in Exhibit A attached hereto in fee simple, including without limitation the trees on said property (the "Property")].²

D. This Agreement sets forth certain liabilities, obligations and restrictions relating to the Forest Project (defined below) and the Property, to ensure that the Forest Project generates a net reduction and sequestration of GHG emissions throughout the entire Term and remains in compliance with the Forest Project Protocols and this Agreement for the entire Term (defined below).

E. This Agreement shall bind the Parties hereto and their successors, successors in interest, assigns and any other Party holding a Property Interest (defined below).

F. Forest Owner has completed and submitted to the Reserve that certain Forest Project Design Document attached hereto as Exhibit B (the "Forest Project Design Document"), and the Forest Project Design Document has been approved by all of the Parties.

¹ [All footnotes, except footnote 3 (relating to CARB's cap-and-trade program as an approved Regulatory Program), to be deleted before execution.] [Note: Forest Owner may be comprised of multiple entities. A Forest Owner is a corporation or other legally constituted entity, city, county, state agency, individual, or a combination thereof that executes the Project Implementation Agreement. Generally, a Forest Owner is the owner in fee of the property involved in a Forest Project. In some cases, one entity may be the owner in fee while another entity may have an interest in the trees or the timber on the property, in which case the Reserve will make a determination as to whether both entities are required to execute the Project Implementation Agreement and thereby collectively be considered the Forest Owner. In some cases, the Reserve may determine that an entity or individual that is not the owner in fee, nonetheless does have a complete and perpetual interest in the trees on the property which allows for complete management of the trees and sufficient access rights to the property, such that it is the appropriate entity to execute the Project Implementation Agreement and thereby be defined as the Forest Owner, in which case an additional contribution to the buffer pool will be required.]

² [Note: this provision may need to be modified, depending on nature of ownership rights of Forest Owner. See footnote 1. Only the property that is subject to this Agreement will be described in Exhibit A.]

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Forest Owner hereby voluntarily agrees to enter into this Agreement and the Parties hereby agree as follows:

1. **Defined Terms.** In addition to the terms that may be defined elsewhere in this Agreement, the following terms when used in this Agreement shall be defined as follows:
 - (a) "Access Easement" is the easement granted to the Reserve pursuant to [that certain Easement Agreement, dated as of the date hereof, between Forest Owner and the Reserve] permitting the Reserve limited rights of access to the Property for the purpose of ensuring compliance by the Forest Owner with the terms of this Agreement and the Forest Protocols.
 - (b) "Arbitration Costs" has the meaning ascribed to such term in Section 16.
 - (c) "Assignee" has the meaning ascribed to such term in Section 7(a)(1).
 - (d) "Assignment and Assumption Agreement" has the meaning ascribed to such term in Section 7(a)(2).
 - (e) "Avoidable Reversal" has the meaning ascribed to such term in Section 10(a).
 - (f) "Avoidable Reversal Notice" has the meaning ascribed to such term in Section 10(a)(1).
 - (g) "Baseline" is the baseline for this specific Forest Project of Forest Owner set forth in the Forest Project Design Document attached hereto as Exhibit B, and subject to Paragraph 20.
 - (h) "Breach Notice" has the meaning ascribed to such term in Section 11(a).
 - (i) "Carbon Stocks" are the quantity of carbon stored on or in the Property and on or in organic materials located on or in the Property, including without limitation trees, which quantity has been and shall continue to be determined, monitored and verified in accordance with the Forest Project Protocols and denominated in metric tonnes of carbon dioxide.
 - (j) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*
 - (k) "CRTs" has the meaning ascribed to such term in the Recitals.
 - (l) "CRT Costs" has the meaning ascribed to such term in Section 11(b).
 - (m) "Damages" has the meaning ascribed to such term in Section 18
 - (n) "Dispute" has the meaning ascribed to such term in Section 16.
 - (o) "Effective Date" has the meaning ascribed to such term in Section 4.

- (p) "Eligible CRTs" are CRTs that are: (i) in Forest Owner's account with the Reserve immediately before Forest Owner Retires such CRTs, (ii) issued by the Reserve to any Reforestation, Improved Forest Management or Avoided Conversion project (each as further described in the Forest Project Protocols) registered with the Reserve, and (iii) Retired for the sole purpose of compensating the Reversal and not for any other purpose including, without limitation, for the purpose of offsetting the GHG emissions of third parties. Forest Owner shall be required to purchase CRTs if Forest Owner does not have a sufficient quantity of Eligible CRTs to fulfill Forest Owner's obligations to Retire Eligible CRTs under this Agreement.
- (q) "Extended Term" has the meaning ascribed to such term in Section 5(b).
- (r) "Forest Owner Breach" has the meaning ascribed to such term in Section 11(a).
- (s) "Forest Project" is the [Reforestation, Improved Forest Management or Avoided Conversion] project of Forest Owner that is described in the approved Forest Project Design Document.
- (t) "Forest Project Design Document" has the meaning ascribed to such term in the Recitals.
- (u) "Forest Project Protocols" mean the forest Project Protocol [Insert applicable Protocol version here] incorporated herein by reference.
- (v) "GHG" has the meaning ascribed to such term in the Recitals.
- (w) "GHG Reduction Projects" has the meaning ascribed to such term in the Recitals.
- (x) "Indemnify" has the meaning ascribed to such term in Section 18.
- (y) "Indemnified Parties" mean the Reserve and its directors, officers, employees, agents, contractors and representatives.
- (z) "Notice" has the meaning ascribed to such term in Section 14.
- (aa) "Person" means an individual, partnership, firm, association, corporation, limited liability company, trust and any other form of governmental or business entity.
- (bb) The "Property" has the meaning ascribed to such term in the Recitals.
- (cc) "Property Interest" is either a fee simple interest in the Property or an interest in the trees and standing timber located on the Property; *provided, however*, that no security interest held by a third-party mortgagee in connection with Qualified Financing will constitute a "Property Interest" hereunder.
- (dd) "Qualified Appraiser" means an individual reasonably acceptable to the Reserve who has satisfied the requirements for certification in a state whose criteria for certification as a real estate appraiser meet the minimum criteria for certification issued by the Appraiser Qualification Board (an independent board of the Appraisal Foundation, an Illinois not-for-profit corporation), is currently licensed and who has had not less than five (5) years' experience in appraising and valuing properties of the size, type and nature of the Property.

- (ee) “Qualified Financing” means third-party financing of all or any portion of the Property that is secured in whole or in part by a first priority deed of trust or mortgage.
 - (ff) “Regulatory Program” has the meaning ascribed to such term in Section 4(c).
 - (gg) “Reserve Tracking System” means the Reserve’s online system that tracks the status of projects registered with the Reserve.
 - (hh) To “Retire” a quantity of CRTs (which quantity shall be determined in accordance with this Agreement and the Forest Project Protocols) means to transfer a quantity of CRTs into an account, which is designated by the Reserve and dedicated to retiring CRTs, such that after the transfer, Forest Owner holds no ownership rights, including but not limited to rights to transfer, convey or otherwise control the transferred CRTs.
 - (ii) A “Reversal” exists if the Reserve determines that the difference between the Carbon Stocks and the Baseline for the Forest Project (such difference a “Net Carbon Reduction”) for a given year is less than the Net Carbon Reduction for the year immediately preceding the given year.
 - (jj) “Term” has the meaning ascribed to such term in Section 4.
 - (kk) “Termination Notice” has the meaning ascribed to such term in Section 4(b).
 - (ll) “Total CRTs Issued” has the meaning ascribed to such term in Section 4(b)(1).
 - (mm) “Transfer” has the meaning ascribed to such term in Section 7(a).
 - (nn) “Unavoidable Reversal” has the meaning ascribed to such term in Section 10(b).
2. **Forest Owner Obligations.** Forest Owner shall: (i) fulfill all Forest Owner covenants, obligations, duties and responsibilities in both this Agreement and the Forest Project Protocols; (ii) ensure that use of and activity on the Property and the Forest Project complies with both this Agreement and the Forest Project Protocols; (iii) not use or permit any other Person to use any portion of the Property in violation of this Agreement or the Forest Project Protocols; and (iv) prevent any activity on the Property that violates any aspect of this Agreement or the Forest Project Protocols.
 3. **Issuance of CRTs.** The Reserve shall issue CRTs to Forest Owner in amounts to be determined by the Reserve, in its reasonable discretion, based on the determination of the Reserve-approved verification body in accordance with the Forest Project Protocols, at which time the Forest Owner shall have the right to control said CRTs. Nothing in this Section 3 shall be construed or interpreted as giving Forest Owner any right to ongoing CRTs or obligating the Reserve to issue CRTs to the Forest Project or Forest Owner in the future.
 4. **Term.** This Agreement shall be effective as of the date hereof (the “Effective Date”) and shall continue in full force and effect until the date which is one hundred (100) years following the Effective Date (the “Term”); *provided, however*, that this Agreement shall terminate prior to the end of the Term, subject to Section 18, if the requirements of subsection 4(a), 4(b), 4(c), or 4(d) below are satisfied, in which case the Parties shall execute and record a memorandum of termination indicating that this Agreement and the Access Easement have been terminated.

- (a) The Reserve determines that: (i) an Unavoidable Reversal has occurred, (ii) as a result of the Unavoidable Reversal, the Reserve has Retired a certain quantity of CRTs from the Buffer Pool (as defined in the Forest Project Protocols) pursuant to Section 10(b), and (iii) the Carbon Stocks for the year in which the Unavoidable Reversal occurs is less than the Baseline for that given year.
- (b) Forest Owner provides the Reserve with sixty (60) days' notice of Forest Owner's intent to terminate this Agreement ("Termination Notice"), and if the Forest Project was registered as:
- (1) a Reforestation or Avoided Conversion project, Forest Owner Retires a quantity of Eligible CRTs equal to the total number of CRTs issued by the Reserve to the Forest Project during the preceding one hundred (100) years ("Total CRTs Issued"), or
 - (2) an Improved Forest Management project, Forest Owner Retires a quantity of Eligible CRTs equal to Total CRTs Issued multiplied by the Compensation Rate in the following table that corresponds to the number of years that have elapsed between the Effective Date and the date of the Termination Notice.

| Number of Years that have Elapsed Between the Effective Date and the date of the Termination Notice | Compensation Rate |
|---|-------------------|
| 0-5 | 1.40 |
| 6-10 | 1.20 |
| 11-20 | 1.15 |
| 21-30 | 1.10 |
| 31-50 | 1.05 |
| >50 | 1.00 |

- (c) Forest Owner provides Reserve with a Termination Notice and each of the following requirements are satisfied as a condition precedent to the effectiveness of the termination of this Agreement, as determined by the Reserve in its reasonable discretion: (1) Forest Owner has registered with and covenants to participate in a federal or state regulatory program which primarily aims to offset GHG emissions (the "Regulatory Program")³; (2) the Regulatory Program has similar goals to those of the Forest Project Protocols, applies stringent standards and methodologies, and recognizes or otherwise accounts for CRTs issued by the Reserve to avoid double counting; and (3) Forest Owner transfers over all CRTs issued in connection with the Forest Project to the Regulatory Program, or alternately, the Regulatory Program agrees to assume liability for enforcing the permanence of all CRTs that are not transferred over to the Regulatory Program. Forest Owner may choose to cancel CRTs that are not eligible for transfer to the Regulatory

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The California Air Resources Board's cap-and-trade program, established pursuant to AB 32, is an approved Regulatory Program for purposes of satisfying this Section 4(c).

Program in order to comply with this Section 4(c)(3), provided the CRTs have not been retired and are in Forest Owner's account at the time of cancellation.

- (d) Forest Owner provides Reserve with a Termination Notice and each of the following requirements are satisfied as a condition precedent to the effectiveness of the termination of this Agreement, as determined by the Reserve in its reasonable discretion: (1) No CRTs issued by the Reserve in connection with the Forest Project have been transacted or retired; (2) Forest Owner pays any and all outstanding Reserve Account Holder fees, including CRT issuance fees at the prevailing rate as of the time of payment. Issuance fees shall be paid at the time of Forest Project registration and subsequent issuance fees shall be paid upon Reserve approval of subsequent verifications that result in the issuance of credits; and (3) Forest Owner exercises the cancellation option provided by this Section 4(d) within three years of Forest Project registration. The Compensation Rate set forth in Section 4(b) above shall not apply if the Reserve determines that these conditions precedent are satisfied. Upon successful termination pursuant to this Section 4(d), the Reserve shall cancel all CRTs issued in connection with the Forest Project.

5. **Limitation on Termination and Term Extension.**

- (a) No Forest Owner Breach shall give Forest Owner the right to cancel, rescind, or otherwise terminate this Agreement or the Forest Project Protocols before the end of the Term. Notwithstanding the immediately preceding sentence, nothing herein shall limit the Reserve's right to terminate, cancel, rescind or otherwise terminate this Agreement subject to the terms of this Agreement and the Forest Project Protocols.
- (b) At any time after the Effective Date, if the Reserve issues CRTs in accordance with Section 3, then the Term of this Agreement shall be automatically extended for one hundred (100) years from the date of issuance of such additional CRTs (the "Extended Term"; *provided, however*, that in no event shall the Term of this Agreement extend beyond one-hundred and ninety-nine (199) years after the Effective Date. Following any extension of the Term as provided in this Section 5(b), at the request of either Party to this Agreement, the Parties shall execute and record memorandum of such extension of the Term of this Agreement in accordance with Section 23.

6. **Monitoring Rights of the Reserve.** The Reserve and its agents, including, without limitation, any and all accredited third-party verifiers approved by the Reserve, shall have the right to enter the Property at reasonable times and from time to time for purposes of monitoring and verifying Forest Owner's compliance with this Agreement and the Forest Project Protocols, provided that: (i) the Reserve gives no less than fifteen (15) business days' advance written notice to Forest Owner, (ii) the Reserve adheres to reasonable health and safety practices while on the Property and (iii) the Reserve provides Forest Owner with proof of insurance, which shows that the Reserve is insured for damage the Reserve may cause due to the Reserve's negligence or gross negligence, up to the Reserve's maximum insurance policy coverage. To facilitate the implementation of this Section 6, Forest Owner has granted to the Reserve the Access Easement and the Forest Owner shall record the Access Easement concurrently herewith, in accordance with Section 21.

7. **Transfer of Property Interest.** This Agreement shall be binding upon the Parties hereto and their successors, successors in interest, assigns and any other party holding, acquiring, or owning a Property Interest. Any assignment and assumption of this Agreement in violation of this Section 7 shall be void.

- (a) Assignment and Assumption. Forest Owner shall not, directly or indirectly, transfer, assign, delegate or convey (collectively, "Transfer") any Property Interest unless the:
- (1) Third party obtaining a Property Interest (the "Assignee") agrees to assume and be bound by this Agreement and the Forest Project Protocols unconditionally without modification or amendment, unless the Reserve, in its sole and absolute discretion, agrees in writing to a modification or amendment;
 - (2) Forest Owner and Assignee both duly execute the Assignment and Assumption Agreement in the form attached hereto as Exhibit C (the "Assignment and Assumption Agreement") prior to any Transfer of any Property Interest;
 - (3) Forest Owner ensures that a fully executed copy of the Assignment and Assumption Agreement is recorded in the office of the recorder of each county in which the Property is located within two (2) business days of the Transfer of any Property Interest; and
 - (4) Forest Owner delivers a copy of the fully executed and recorded Assignment and Assumption Agreement to the Reserve within fifteen (15) days after its recordation in the office of the recorder of each county in which the Property is located.
- (b) Multiple Forest Owners. If more than one Person has executed this Agreement as "Forest Owner," then any individual Forest Owner seeking to Transfer any Property Interest shall comply with the obligations of this Section 7 as to its Property Interest being transferred.
- (c) Release. If Forest Owner Transfers a Property Interest in compliance with subpart (a), above, Forest Owner shall not be released from this Agreement unless and until Reserve provides its written consent, which consent shall not be unreasonably withheld. Notwithstanding any consent by the Reserve that releases Forest Owner from this Agreement, Forest Owner shall remain obligated to and liable for all Forest Owner Breaches that arose during the time that Forest Owner held a Property Interest.
- (d) Copies. Forest Owner shall provide the Assignee with copies of the Forest Project Protocols, this Agreement and all exhibits attached hereto and any amendments thereto. Assignee shall be deemed to have received the Forest Project Protocols, this Agreement and all exhibits attached hereto, and any amendments thereof, in accordance with the notice provisions in Section 14 of this Agreement.
- (e) Partial Transfers of the Property. This Section 7 shall apply if Forest Owner Transfers a Property Interest in all, or any portion, of the Property. If Forest Owner Transfers a Property Interest in only a portion of the Property, this Section 7 shall apply to only the Property Interest in the portion of the Property being Transferred.
- (f) Notice. For all notices required under this Section 7, Forest Owner shall provide the Reserve with the full names and addresses of all grantees, lessees, mortgagees, and other interested parties, of the Transfer.

- (g) Incorporation into Deeds, Leases and Subleases. Forest Owner shall ensure that all future deeds, mortgages, leases, subleases and other instruments or encumbrances which may Transfer a Property Interest to another party: (i) incorporate by reference this Agreement and the Forest Project Protocols and (ii) specifically state that the Property Interest thereby Transferred is subject to this Agreement, the Forest Project Protocols and the Access Easement.
- (h) Assignee Deemed a Forest Owner After Transfer. Once a Property Interest has been Transferred, the Assignee shall be deemed to be a "Forest Owner" under this Agreement and require any future party holding, owning or acquiring a Property Interest to assume this Agreement in accordance with this Section 7.
8. **Subordination.** Subject to paragraph 9, Forest Owner shall ensure that any deed, mortgage, lien, lease or other encumbrance on or affecting the Property that arises subsequent to the date of this Agreement shall be subordinate to this Agreement.
9. **Subordination and Buffer Pool Contribution Adjustments. [TYPE 1]** Notwithstanding Paragraph 8, so long as Forest Owner is not in default or breach, Forest Owner may request that this Paragraph 9 be amended as set forth below in exchange for Forest Owner's contribution of additional CRTs to the Buffer Pool in an amount which matches the additional contribution that would have been made at the time of the execution of this Agreement and for each subsequent year thereafter had Forest Owner chosen at that time to execute a version of the project implementation agreement which would have made this Agreement automatically subordinate to subsequent deeds and mortgages, as shown in the "Additional Buffer Pool Contributions" attached hereto as Exhibit E. The contributions to the Buffer Pool as shown in Exhibit E are in addition to the Buffer Pool contributions required in the Forest Project Protocols and shall be an ongoing obligation of Forest Owner for the Term; *provided, however,* that the Reserve may, from time to time, decrease or increase the required additional Buffer Pool contributions if the Reserve determines, in its reasonable discretion— with the Reserve maintaining the right to determine reasonableness in its sole and absolute discretion—that the percentages as listed in Exhibit E are either too high or too low, or otherwise should be modified. So long as Forest Owner is not in default or breach, including but not limited to its contributions to the Buffer Pool, Forest Owner may request from time to time that Reserve execute the "Subordination of Restrictive Covenant and Project Implementation Agreement" in the form attached hereto as Exhibit D. Reserve's consent to execute the "Subordination of Restrictive Covenant and Project Implementation Agreement" in the form attached hereto as Exhibit D shall not be unreasonably withheld so long as Forest Owner has contributed the required additional CRTs to the Buffer Pool as described herein. Prior to the Reserve's execution of Exhibit D, the Forest Owner shall provide an appraisal of the Property prepared by a Qualified Appraiser within the previous six months. From and after the recordation of the "Subordination of Restrictive Covenant and Project Implementation Agreement," this Paragraph 9 shall be deleted and shall be replaced in its entirety with the following new Paragraph 9:

"Subordination and Buffer Pool Contribution. This Agreement shall be subordinate to any deed or mortgage on or affecting the Property that arises subsequent to the date of this Agreement. Forest Owner acknowledges that Reserve would not agree to this Paragraph 9 without Forest Owner's increased contribution to the Buffer Pool in accordance with the 'Buffer Pool Contributions' attached hereto as Exhibit E. The contributions to the Buffer Pool as shown in Exhibit E are in addition to the Buffer Pool contributions required by the Forest Project Protocols and shall be an ongoing obligation

of Forest Owner for the Term; provided, however that the Reserve may, from time to time, decrease or increase the required additional Buffer Pool contributions if the Reserve determines, in its sole and absolute discretion, that the percentages as listed in Exhibit E are either too high or too low, or otherwise should be modified. So long as Forest Owner is not in default of its obligations hereunder, including but not limited to its contributions to the Buffer Pool, Forest Owner may request from time to time that Reserve execute the 'Subordination of Restrictive Covenant and Project Implementation Agreement' in the form attached hereto as Exhibit D. Reserve's consent to execute the 'Subordination of Restrictive Covenant and Project Implementation Agreement' in the form attached hereto as Exhibit D shall not be unreasonably withheld. Prior to the Reserve's execution of Exhibit D, the Forest Owner shall provide an appraisal of the Property prepared by a Qualified Appraiser within the previous six months."

[NOTE: TEXT OF SUBORDINATION CLAUSE TYPE 2 IS IN EXHIBIT E.]

10. **Obligations of Forest Owner Upon a Reversal.** Pursuant to the Forest Project Protocol, Forest Owner bears an affirmative responsibility to notify the Reserve of a Reversal. Deadlines for notification of a Reversal are included in the Forest Project Protocol, and vary, depending on whether the Reversal is an Avoidable or an Unavoidable Reversal.
- (a) **Avoidable Reversals.** If the Reserve determines that a Reversal has occurred due to either (i) Forest Owner's negligence, gross negligence or willful misconduct, including without limitation, over-harvesting, development, or harm to the Property; or (ii) any act, error or omission of any Person pursuant to the exercise of a right, duty or obligation under a Property Interest or any agreement affecting the Property, including without limitation, an access right, an easement, a covenant, a mineral right, a mining right, a timber right, a mortgage, a deed of trust, a license or any other right to use the Property (each, an "Avoidable Reversal"), then:
- (1) the Reserve may deliver written notice to Forest Owner of the Avoidable Reversal ("Avoidable Reversal Notice"); and
 - (2) Forest Owner shall: (i) within thirty (30) days of receiving the Avoidable Reversal Notice, provide a written description and explanation of the Reversal to the Reserve; (ii) within ninety (90) days of receiving the Avoidable Reversal Notice, provide the Reserve with an accounting of the Carbon Stocks for the year in which the Avoidable Reversal occurred; and (iii) within one-hundred-and-twenty (120) days of receiving the Avoidable Reversal Notice, Retire a quantity of Eligible CRTs equal to the difference between the Net Carbon Reduction for the year in which the Avoidable Reversal occurred and the Net Carbon Reduction of the immediately preceding year, for each year in which there has been an Avoidable Reversal.
- (b) **Unavoidable Reversals.** If the Reserve determines that a Reversal has occurred that is not due to Forest Owner's negligence, gross negligence or willful misconduct, including, without limitation, wildfires or disease that are not due to Forest Owner's negligence, gross negligence or willful misconduct ("Unavoidable Reversal"), the Reserve may Retire a quantity of CRTs from the Reserve's Buffer Pool (as described in the Forest Project Protocols) up to the difference between the Net Carbon Reduction for the year in which

the Unavoidable Reversal occurred and the Net Carbon Reduction of the immediately preceding year, for each year in which there has been an Unavoidable Reversal.

11. **Remedies.**

(a) If the Reserve determines that Forest Owner has breached or violated this Agreement ("Forest Owner Breach"), the Reserve shall deliver written notice to Forest Owner of the Forest Owner Breach ("Breach Notice"). If Forest Owner fails to cure the Forest Owner Breach within sixty (60) days of receiving the Breach Notice, the:

(1) Reserve may (but shall not be obligated to): (i) place a notice of breach with respect to the Forest Project, Property and Forest Owner on the Reserve Tracking System, (ii) freeze any activity of Forest Owner on the Reserve Tracking System that relates to the Forest Project and Property, including without limitation the transfer of CRTs, (iii) require Forest Owner to cease and desist from the activity, use or alteration to the Property that gives rise to the Forest Owner Breach and/or (iv) remove the Forest Project from the Reserve Tracking System.

(2) Forest Owner shall: (i) within ninety (90) days of receipt of the Breach Notice, provide a written description and explanation of the Forest Owner Breach to the Reserve and (ii) within one-hundred-and-twenty (120) days of receiving the Breach Notice, if the Forest Project was registered with the Reserve as:

i) a Reforestation or Avoided Conversion project, Retire a quantity of Eligible CRTs equal to the Total CRTs Issued; or

ii) an Improved Forest Management project, Retire a quantity of Eligible CRTs equal to the Total CRTs Issued multiplied by the Compensation Rate in the following table that corresponds to the number of years that have elapsed between the Effective Date and the date of the Breach Notice.

| Number of Years that have Elapsed Between the Effective Date and the date of the Breach Notice | Compensation Rate |
|--|-------------------|
| 0-5 | 1.40 |
| 6-10 | 1.20 |
| 11-20 | 1.15 |
| 21-30 | 1.10 |
| 31-50 | 1.05 |
| >50 | 1.00 |

(b) The Parties agree that the Reserve will suffer damages in the event of Forest Owner's Breach or a termination of this Agreement by Forest Owner pursuant to Section 4(b).

Although the amount of such damages is difficult or impossible to determine, the Parties agree that the cost of the CRTs Forest Owner shall retire pursuant to Section 4(b) or this Section 11(b) (the "CRT Costs") is a reasonable estimate of the Reserve's loss in the event of Forest Owner's Breach or termination of this Agreement by Forest Owner pursuant to Section 4(b). Thus, the Reserve and Forest Owner agree that the CRT Costs shall be liquidated damages but not a penalty. In no event shall this Section limit the Reserve's rights against Forest Owner as set forth in this Agreement and the Forest Project Protocols.

The Reserve and Forest Owner acknowledge that they have read and understood the provisions of the foregoing liquidated damages provision and by their signatures immediately below agree to be bound by its terms. THE PROVISIONS OF THIS SECTION 11(b) ARE INTENDED BY THE PARTIES TO COMPLY WITH THE STATUTORY REQUIREMENTS SET FORTH IN CALIFORNIA CIVIL CODE SECTION 1671.

CLIMATE ACTION RESERVE

[insert signature block of Forest Owner]

By: _____
Name: Gary Gero
Title: President

By: _____
Name: _____
Title: _____

- (c) Any failure, delay or election not to act by either Party shall not be deemed to be a waiver or a forfeiture of any right or remedy on the part of the non-acting Party with respect to this Agreement.
- (d) Without limiting any of the Reserve's remedies set forth in this Section 11 and subject to Section 16 the Reserve shall have the right to seek any and all remedies: (i) available, including those remedies at law or in equity, for any breach of this Agreement or the Forest Project Protocols, and (ii) set forth in this Agreement or the Forest Project Protocols.

12. **Representations, Warranties and Covenants.**

- (a) As of the Effective Date, Forest Owner does hereby represent and warrant that:
 - (1) All reports, statements, certificates and other data, including without limitation the Forest Project Design Document, provided by and on behalf of Forest Owner to the Reserve in connection with the Forest Project Protocols, this Agreement, the Property and the Forest Project are true, correct and complete;
 - (2) [Forest Owner is the sole owner in fee simple of the Property;]⁴
 - (3) Forest Owner owns and holds all right, title and interest in and to the trees and standing timber located on the Property;

⁴ [Note: Provision may need to be modified depending on nature of ownership rights of Forest Owner. See footnote 1.]

- (4) Forest Owner owns and holds all right, title and interest in and to the Forest Project;
 - (5) Forest Project is located completely within the boundaries of the Property;
 - (6) The execution and recordation of this Agreement by Forest Owner and any consummation by Forest Owner of the transactions contemplated hereby will not (i) violate any judgment, order, injunction, decree, regulation or ruling of any court or governmental entity or (ii) conflict with, result in a breach of, or constitute a default under the organizational documents of Forest Owner, any note or other evidence of indebtedness, any mortgage, deed of trust or indenture, or any lease or other material agreement or instrument to which Forest Owner is a party or by which Forest Owner or the Property may be bound;
 - (7) The signatory of this Agreement has the authority to execute this Agreement on behalf of Forest Owner, and this Agreement and the Forest Project Protocols are binding on and enforceable against Forest Owner;
 - (8) Forest Owner has not registered any portion of the Property, the Forest Project, or any enterprise on the Property that is similar to the Forest Project simultaneously with the Reserve and another entity or organization that tracks credits, benefits, emissions reductions, offsets and allowances attributable to the sequestration and reduction of carbon dioxide and GHGs;
 - (9) Forest Owner has all corporate and other authority and all regulatory and other consents, approvals and authorizations necessary for it to legally: (i) enter into and perform the obligations, duties and responsibilities of this Agreement and (ii) engage in all activity, including without limitation, the creation and transfer of CRTs, relating to this Agreement and the Forest Project Protocols; and
 - (10) If Forest Owner is not a natural person, Forest Owner is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to do business in the state in which the Property is located.
 - (11) The legal description provided by the Forest Owner and attached hereto as Exhibit A is a complete and accurate description of the project area which is the subject of the Forest Project Design Document and this Agreement.
- (b) For the Duration of the Term, Forest Owner does hereby covenant to and with the Reserve that:
- (1) Forest Owner shall transfer, hold and retire CRTs for the Forest Project only in accordance with the Reserve's Terms of Use and Program Manual, each as they may be amended from time to time;

- (2) Forest Owner shall not register any portion of the Property, the Forest Project, or any enterprise on the Property that is similar to the Forest Project simultaneously with the Reserve and another entity or organization that tracks credits, benefits, emissions reductions, offsets and allowances attributable to the sequestration and reduction of carbon dioxide and GHGs; and
- (3) All reports, statements, certificates and other data, including without limitation the annual reporting documents, provided by and on behalf of Forest Owner to the Reserve in connection with the Forest Project Protocols, this Agreement, the Property and the Forest Project shall be true, correct and complete.

13. **Conservation Easements Permitted.** Nothing in this Agreement shall prevent Forest Owner from encumbering the Property with a conservation easement pursuant to California Civil Code Sections 815 *et seq.* or other similar statutory scheme provided that the obligations owing to the Reserve under this Agreement and the Access Easement shall remain senior to the conservation easement.

14. **Notices.** All notices, instructions, requests, or other communications required or permitted under this Agreement or the Forest Project Protocols ("Notice") shall be in writing and sent by (i) certified or registered mail, return receipt requested, postage prepaid, (ii) overnight delivery service or (iii) personal delivery addressed as follows:

If to the Reserve:

Climate Action Reserve
 523 W. Sixth Street, Suite 428
 Los Angeles, CA 90014
 Attn: Gary Gero, President

If to Forest Owner:

[_____

 _____]

Any Notice shall be deemed received and effective at the following times: (i) on the fourth business day after mailing, (ii) on the first business day after delivery to the overnight delivery service and (iii) if personally delivered, upon delivery to the addressee. Notwithstanding the foregoing, whenever a Notice under this Agreement is received on a day that is not a business day or is required to be delivered on or before a specific day which is not a business day, the day of receipt or required delivery shall automatically be extended to the next business day. The Parties may change the addresses of notices, demands, requests, or other communications hereunder by giving notice pursuant to this Section 14.

15. **Costs.** Forest Owner retains all duties, obligations and responsibilities and shall bear all liabilities and costs related to the ownership, operation, upkeep, and maintenance of the Property and performance of its obligations, duties and responsibilities under this Agreement.
16. **Dispute Resolution.** Any dispute regarding any aspect of this Agreement or the Forest Project Protocols, any act or omission which allegedly has or will breach any provision of this Agreement or the Forest Project Protocols, or any material breach of any law related to the Forest Project activity (each a "Dispute") shall be submitted to arbitration in Los Angeles, California, before an experienced arbitrator selected in accordance with the rules of the American Arbitration Association or its successor. The decision of the arbitrator shall be the exclusive remedy for any Dispute, final, conclusive and binding upon the Parties. The prevailing Party in such arbitration shall be entitled to recover its costs and expenses incurred as a result of such arbitration, including reasonable attorneys' fees, and any such costs and expenses shall be recoverable separately from and in addition to any other amount awarded through arbitration ("Arbitration Costs"). Should any Party to this Agreement pursue any Dispute by any method other than said arbitration in violation of this Section 16, the responding Party shall be entitled to recover from the initiating Party all damages, costs, expenses and attorneys' fees incurred as a result of such action or proceeding.
17. **Attorney Fees.** If any action is brought by any party to this Agreement to enforce or interpret its terms or provisions or the terms or provisions of the Forest Protocols, the prevailing party will be entitled to reasonable attorney fees and costs incurred in connection with such action regardless of whether the Parties enter arbitration pursuant to Section 16.
18. **Indemnity.** Forest Owner shall indemnify, hold harmless and defend, using counsel appointed by the Reserve (collectively, "Indemnify"), the Indemnified Parties from and against all damages, liabilities, penalties, costs, losses, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees and legal costs (collectively, "Damages"), arising from or in any way connected with this Agreement or the Forest Project; *provided, however*, that Forest Owner shall not be obligated to Indemnify the Indemnified Parties for: (a) Arbitration Costs awarded to Forest Owner upon Forest Owner prevailing in arbitration pursuant to Section 16, (b) Damages caused by the Reserve and its agents, including verifiers, entering the Property pursuant to Section 6, that are not due to Forest Owner's negligence, gross negligence or willful misconduct and (c) Damages resulting from the Reserve's gross negligence or willful misconduct except that with respect to Damages occurring in connection with an entry on the Property pursuant to Section 6, the provisions of that Section shall control. Notwithstanding anything to the contrary in this Agreement including but not limited to exceptions (a), (b) and (c) listed in the previous sentence in this Section 18, Forest Owner shall Indemnify the Indemnified Parties from and against all Damages arising or in any way connected to any claim by any Person that it has or had any right or interest to any CRTs issued pursuant to this Forest Project or this Agreement; or that fewer or no CRTs should have been issued pursuant to this Agreement or the Forest Project where such issuance is alleged to be the result of the Reserve's misinterpretation or misapplication of the Reserve's own rules. This Section 18 shall survive the expiration or termination of this Agreement.
19. **Forest Owner Holds No Right to, Ownership of or Control over the Buffer Pool.** The Reserve holds all rights to, ownership of and control over the Buffer Pool. Notwithstanding any other terms in this Agreement or the Forest Project Protocols, nothing in this Agreement or the Forest Project Protocols shall give Forest Owner any right to, ownership of or control over the Reserve's Buffer Pool.

20. **No Change to Forest Project or Baseline.** Forest Owner shall not change, modify or revise the Forest Project or Baseline in any way unless the Reserve consents to such change, modification or revision. If the Reserve consents to modification or revision of the Forest Project or Baseline, then the Forest Project Design Document attached hereto as Exhibit B shall be updated and recorded in accordance with Section 23.
21. **Recordation.** Forest Owner shall record this Agreement and the agreement granting the Reserve the Access Easement in the office of the recorder of each county in which the Property or some portion thereof is situated within ten (10) days of the date this Agreement is fully executed.
22. **Governing Law.** This Agreement and the Forest Project Protocols shall be governed and construed in accordance with the laws of the State of California without reference to any conflict of laws principles that would require the application of the laws of any other jurisdiction.
23. **Amendments.** This Agreement may not be amended, supplemented, or modified unless such amendment, supplement, or modification is in writing and signed by both the Reserve and Forest Owner. Notwithstanding this provision, the Reserve may, in its sole discretion, update Exhibits C-E, attached hereto, as it deems appropriate, without Forest Owner's approval. For any CRTs issued in the future, the Term of this Agreement may be extended in accordance with this Section 23. Forest Owner shall record a memorandum of any such amendment in the office of the recorder of each county in which the Property or some portion thereof is situated within ten (10) days of the date the amendment is fully executed.
24. **Severability.** If any portion of this Agreement or the Forest Project Protocols, or the application thereof to any person or circumstance, is found invalid, the remainder of the provisions of this Agreement and the Forest Project Protocols, or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected.
25. **Incorporation of Recitals and Exhibits.** The recitals stated in this Agreement are fully incorporated herein by this reference with the same force and effect as though restated herein. All exhibits attached hereto are deemed incorporated into this Agreement by reference.
26. **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
27. **No Third-Party Beneficiaries.** This Agreement and the Forest Project Protocols are for the sole and exclusive benefit of the Reserve, and its successors, successors in interest and assigns, and Forest Owner, and its successors, successors in interest and assigns, and except as set forth in Section 18, no third party will have any rights under this Agreement or the Forest Project Protocols.
28. **Definitions.** Any capitalized terms used herein, which are not defined herein, shall have the meanings for such terms as set forth in the Forest Project Protocols.
29. **Terms of this Agreement Govern.** In the event that any definitions, terms and provisions in this Agreement conflict with the definitions, terms and provisions in the Forest Project Protocols, the definitions, terms and provisions in this Agreement shall govern.

30. **Entire Agreement.** This Agreement, including any exhibits attached hereto, and the Forest Project Protocols, represent the entire agreement of the Parties with respect to the Property, Forest Owner Project, this Agreement and the Forest Project Protocols and supersede any conflicting terms in any prior or contemporaneous oral or written agreements and all other communications.
31. **Successors and Assigns.** References to any natural person, governmental authority, publication, website, regulatory proceeding, corporation, partnership or other legal entity include its successors and lawful assigns.
32. **Binding on Successors and Runs with the Land.** This Agreement and the covenants, terms, conditions, restrictions, rights, and obligations created herein shall run with the land, shall constitute an equitable servitude and shall be binding upon, and inure to the benefit of the Parties hereto and their respective representatives, successors, and assigns, and on all Parties having or acquiring a Property Interest.
33. **CERCLA.** The Parties do not intend for the Reserve to be an owner, operator, manager or responsible party pursuant to CERCLA, or otherwise be liable under CERCLA, as a result of this Agreement.
34. **Construction.** The Parties acknowledge that each party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.
35. **Joint and Several Liability.** If more than one Person has executed this Agreement as “Forest Owner,” the representations, covenants, warranties and obligations of all such Persons hereunder shall be joint and several.
36. **Counterparts.** This Agreement may be executed in one or more counterparts, and all of the counterparts shall constitute but one and the same agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

THE RESERVE

Climate Action Reserve,
a California nonprofit public benefit corporation

By: _____

Name: Gary Gero

Title: President

FOREST OWNER

[_____]

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT LIST

Exhibit A: Legal Description of the Property

Exhibit B: Forest Project Design Document

Exhibit C: Form of Assignment & Assumption Agreement

Exhibit D: Form of Subordination of Restrictive Covenant and Project Implementation Agreement

Exhibit E: Additional Buffer Pool Contribution

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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

(See attached)

DRAFT

EXHIBIT B

FOREST PROJECT DESIGN DOCUMENT (Approved Version)

(See attached)

DRAFT

EXHIBIT C

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Climate Action Reserve
523 W. Sixth St., Suite 428
Los Angeles, CA 90014
Attention: Gary Gero

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

ASSIGNMENT AND ASSUMPTION OF RESTRICTIVE COVENANT AND PROJECT IMPLEMENTATION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF RESTRICTIVE COVENANT AND PROJECT IMPLEMENTATION AGREEMENT ("**Assignment and Assumption Agreement**") is made as of the [] day of [], 20__, by and between [] ("**Assignor**") and [] ("**Assignee**"). Capitalized terms used and not otherwise defined shall have the meanings ascribed to them in the Restrictive Covenant and Project Implementation Agreement (as defined below).

RECITALS

A. The Climate Action Reserve, a California nonprofit public benefit corporation ("**Reserve**"), and Assignor entered into that certain Restrictive Covenant and Project Implementation Agreement, dated [], 20__ (the "**PIA**"), which was recorded on [], 20__ as Instrument No. [] in the Official Records of [].

B. Assignor holds an interest in the Property as defined under Exhibit A of the PIA and attached thereto.

C. Assignor is Transferring the Property or a Property Interest to Assignee. In connection therewith, Assignor desires to delegate and Assignee desires to accept all of the Assignor's Forest Owner Obligations arising from and after the date hereof with respect to the Property or Property Interest, subject to all of the terms, conditions and restrictions set forth in the PIA.

D. Pursuant to the PIA, Assignor shall not, directly or indirectly, Transfer any Property or Property Interest in violation of Section 7 of the PIA.

E. In accordance with Section 7 of the PIA, Assignor (i) will ensure that a fully executed copy of this Assignment and Assumption Agreement will be recorded in the office of the recorder of each county in which the Property is located within two (2) business days of the Transfer, (ii) shall deliver a copy of this Assignment and Assumption Agreement, fully executed and recorded, to the Reserve within fifteen (15) days of the date of recordation, and (iii) has provided Assignee with copies of the Forest Protocols, the PIA and all exhibits attached thereto and any amendments thereto.

NOW THEREFORE, in consideration of the foregoing facts and the mutual covenants and conditions herein below set forth, it is agreed:

1. **Assignment.** Assignor hereby assigns and transfers to Assignee all of the Forest Owner Obligations with respect to the interest in the Property or Property Interest that is conveyed, transferred, or granted to Assignee. Assignor retains all Forest Owner Obligations under the PIA with respect to any portion of the Property or Property Interest that is not conveyed, transferred, or granted that the Assignor continues to own.

2. **Assumption.** Assignee hereby assumes all of the Forest Owner Obligations under the PIA with respect to Assignor's right, title and interest in the Property or Property Interest, and agrees to observe and fully perform all of the duties and obligations of Assignor under the PIA, and to be subject to the terms and conditions thereof, it being the express intention of both Assignor and Assignee that, upon execution of this Assignment and Assumption Agreement and conveyance of the Property or Property Interest to Assignee, Assignee shall become substituted for Assignor as "Forest Owner" and "Party" under the PIA with respect to the Property or Property Interest.

3. **Representations.** Assignor warrants and represents to Assignee that Assignor has full right and authority to make this Assignment and Assumption Agreement and vest in Assignee the rights, interests, powers and benefits hereby assigned.

4. **Counterparts.** This Assignment and Assumption Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

5. **Binding Effect.** The provisions of this instrument shall be binding upon and inure to the benefit of Assignor and Assignee and each of their respective successors and assigns, and Assignee may assign its rights and obligations in accordance with the PIA.

6. **Conflict.** This Assignment is executed pursuant to the terms of the PIA and is intended to implement and be consistent with the terms and conditions of the PIA. If any of the provisions hereof are in conflict with the provisions of the PIA, the PIA shall control.

7. **Further Assurances.** Assignor and Assignee each hereby covenants that it will, at any time and from time to time, execute any documents and take such additional actions as the other, or its respective successors or assigns, shall reasonably require in order to more completely or perfectly carry out the transfers intended to be accomplished by this Assignment and Assumption Agreement.

8. **Governing Law.** This Assignment and Assumption Agreement shall be construed and interpreted in accordance with the laws of the State of [California].

9. **Recording.** Assignee shall record this Assignment and Assumption Agreement, with all referenced exhibits, and any amendments hereto, in the office of the recorder of each county in which the

Property is situated within two (2) days of the date when this Assignment and Assumption Agreement is fully executed.

10. **Validity.** If any portion of this Assignment and Assumption Agreement, or the application thereof to any person or circumstance, is found invalid, the remainder of the provisions of this Assignment and Assumption Agreement, or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected.

11. **Modification and Amendment.** This Assignment and Assumption Agreement may not be amended, supplemented, or modified unless such amendment, supplement, or modification is in writing and executed by the Assignor, Assignee, and the Reserve.

[SIGNATURE PAGES TO FOLLOW]

[10077755_4.DOC](#)

DRAFT

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption Agreement as of the date first set forth above by their duly authorized representatives.

“ASSIGNOR”

[_____] ,
a [_____]

By: _____
Name: _____
Title: _____

“ASSIGNEE”

[_____] ,
a [_____]

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT D

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

SUBORDINATION OF RESTRICTIVE COVENANT AND PROJECT IMPLEMENTATION

AGREEMENT¹

This SUBORDINATION OF RESTRICTIVE COVENANT AND PROJECT IMPLEMENTATION AGREEMENT ("Subordination"), dated as of [____], is made between Climate Action Reserve, a California non-profit corporation, whose address is [____] ("Reserve"); [____], a [____], whose address is [____] ("Forest Owner"), and [____] BANK ("Lender"), whose address is [____]. Capitalized terms used and not otherwise defined shall have the meanings ascribed to them in the Project Implementation Agreement (as defined below).

RECITALS

A. Reserve and Forest Owner are parties to that certain Restrictive Covenant and Project Implementation Agreement dated [____], 20[____], and recorded on [____], 20[____] as Instrument No. [____] in the Official Records of [____] (as amended, modified, replaced and/or supplemented from time to time, the "Project Implementation Agreement").

B. The Project Implementation Agreement sets forth certain liabilities, obligations and restrictions relating to that certain property described in Exhibit A attached hereto and incorporated herein (the "Property"), so that the Forest Project (as defined in the Project Implementation Agreement) generates a net reduction and sequestration of greenhouse gas emissions.

¹ Appropriate revisions to allow for recording and notarization in applicable state will be made.

C. Lender has agreed to make a loan to Forest Owner to be secured by a [deed of trust/mortgage] (the "Mortgage") of the real property described in Exhibit B attached hereto and incorporated herein (the "Mortgaged Property"), which Mortgaged Property includes the Property. The Mortgage is to be recorded in the Official Records of the County of [_____] and shall constitute a lien upon the Mortgaged Property (the "Loan").

D. Pursuant to Section 9 of the Project Implementation Agreement, the Forest Owner has requested that the Project Implementation Agreement be subordinated to the lien created by the Mortgage.

E. By this Subordination, Reserve, Forest Owner and Lender wish to evidence the subordination of the Project Implementation Agreement to the Mortgage.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, Reserve, Forest Owner and Lender hereby irrevocably and unconditionally agree as follows:

1. The Loan and any and all present or future substitutions, replacements, restatements, renewals, modifications, amendments or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the Mortgaged Property, prior and superior to the Project Implementation Agreement.

2. Lender would not make the Loan without the execution, delivery and recordation of this Subordination.

3. All of Reserve's right, title, interest, claim and estate in and to the Mortgaged Property, if any, under or pursuant to the Project Implementation Agreement is and shall remain junior and subordinate in priority (a) to each and every lien and the security interest created by the Loan, and (b) to any and all extensions, replacements, substitutions, amendments, modifications and renewals thereof; *provided, however*, that nothing contained in this Subordination shall otherwise limit, modify or extinguish any of Reserve's rights, interests, claims, or remedies as described in the Project Implementation Agreement.

4. This Subordination shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. This Subordination shall be governed by and construed in accordance with the laws of California.

6. This Subordination may be executed in any number of counterparts and by different parties in separate counterparts, all of which taken together shall constitute one and the same document, binding upon all the parties.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Subordination as of the date first above written.

LENDER:

[INSERT SIGNATURE BLOCK OF LENDER]

By: _____

Name: _____

Title: _____

FOREST OWNER:

[INSERT SIGNATURE BLOCK OF FOREST OWNER]

By : _____

Name: _____

Title: _____

RESERVE:

CLIMATE ACTION RESERVE,

a California nonprofit public benefit corporation

By: _____

Name: Gary Gero

Title: President

ACKNOWLEDGMENT

State of California)

County of)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

ACKNOWLEDGMENT

State of California)

County of)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

ACKNOWLEDGMENT

State of California)

County of)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

EXHIBIT E

ADDITIONAL BUFFER POOL CONTRIBUTION

The contributions to the Buffer Pool listed in the following Table 1 of this Exhibit E are in addition to the contributions described in Appendix D of the Forest Protocols, including but not limited to, the contributions listed in "Table D.2. Financial Risk Identification" of the Forest Protocols.

Table 1

| Risk Category | PIA with "Subordination Clause Type 2" | PIA with "Subordination Clause Type 1" |
|--------------------------|--|--|
| Financial Failure | 10%* | 2%* |

*The Reserve may, from time to time, transfer CRTs from the Buffer Pool to the Forest Owner's account or may partially waive future Buffer Pool contributions if the Reserve determines, in its sole and absolute discretion, that the previously assessed risk percentages, as listed above, were unnecessarily high. Similarly the Reserve may, from time to time, require additional Buffer Pool contributions if the Reserve determines, in its sole and absolute discretion, that the previously assessed risk percentages, as listed above, were too low, or should otherwise be modified based upon a LTV Ratio.

For purposes of this Exhibit E only, the following terms shall be defined as follows:

- 1) "PIA" is a "restrictive covenant and project implementation agreement."
- 2) "Subordination Clause Type 1" reads as follows (italics added):

Notwithstanding Paragraph 8, so long as Forest Owner is not in default or breach, Forest Owner may request that this Paragraph 9 be amended as set forth below in exchange for Forest Owner's contribution of additional CRTs to the Buffer Pool in an amount which matches the additional contribution that would have been made at the time of the execution of this Agreement and for each subsequent year thereafter had Forest Owner chosen at that time to execute a version of the project implementation agreement which would have made this Agreement automatically subordinate to subsequent deeds and mortgages, as shown in the "Additional Buffer Pool Contributions" attached hereto as Exhibit E. The contributions to the Buffer Pool as shown in Exhibit E are in addition to the Buffer Pool contributions required in the Forest Project Protocols and shall be an ongoing obligation of Forest Owner for the Term; provided, however, that the Reserve may, from time to time, decrease or increase the required additional Buffer Pool contributions if the Reserve determines, in its reasonable discretion— with the Reserve maintaining the right to determine reasonableness in its sole and absolute discretion—that the percentages as listed in Exhibit E are either too high or too low, or otherwise should be modified. So long as Forest Owner is not in default or breach, including but not limited to its contributions to the Buffer Pool, Forest Owner may request from time to time that Reserve execute

the "Subordination of Restrictive Covenant and Project Implementation Agreement" in the form attached hereto as Exhibit D. Reserve's consent to execute the "Subordination of Restrictive Covenant and Project Implementation Agreement" in the form attached hereto as Exhibit D shall not be unreasonably withheld so long as Forest Owner has contributed the required additional CRTs to the Buffer Pool as described herein. Prior to the Reserve's execution of Exhibit D, the Forest Owner shall provide an appraisal of the Property prepared by a Qualified Appraiser within the previous six months. From and after the recordation of the "Subordination of Restrictive Covenant and Project Implementation Agreement," this Paragraph 9 shall be deleted and shall be replaced in its entirety with the following new Paragraph 9:

"Subordination and Buffer Pool Contribution. This Agreement shall be subordinate to any deed or mortgage on or affecting the Property that arises subsequent to the date of this Agreement. Forest Owner acknowledges that Reserve would not agree to this Paragraph 9 without Forest Owner's increased contribution to the Buffer Pool in accordance with the 'Buffer Pool Contributions' attached hereto as Exhibit E. The contributions to the Buffer Pool as shown in Exhibit E are in addition to the Buffer Pool contributions required by the Forest Project Protocols and shall be an ongoing obligation of Forest Owner for the Term; provided, however that the Reserve may, from time to time, decrease or increase the required additional Buffer Pool contributions if the Reserve determines, in its sole and absolute discretion, that the percentages as listed in Exhibit E are either too high or too low, or otherwise should be modified. So long as Forest Owner is not in default of its obligations hereunder, including but not limited to its contributions to the Buffer Pool, Forest Owner may request from time to time that Reserve execute the 'Subordination of Restrictive Covenant and Project Implementation Agreement' in the form attached hereto as Exhibit D. Reserve's consent to execute the 'Subordination of Restrictive Covenant and Project Implementation Agreement' in the form attached hereto as Exhibit D shall not be unreasonably withheld. Prior to the Reserve's execution of Exhibit D, the Forest Owner shall provide an appraisal of the Property prepared by a Qualified Appraiser within the previous six months."

2) "Subordination Clause Type 2" reads as follows (italics added):

"Subordination and Buffer Pool Contribution. This Agreement shall be subordinate to any deed or mortgage on or affecting the Property that arises subsequent to the date of this Agreement. Forest Owner acknowledges that Reserve would not agree to this Paragraph 9 without Forest Owner's increased contribution to the Buffer Pool in accordance with the 'Buffer Pool Contributions' attached hereto as Exhibit E. The contributions to the Buffer Pool as shown in Exhibit E are in addition to the Buffer Pool contributions required by the Forest Project Protocols and shall be an ongoing obligation of Forest Owner for the Term; provided, however that the Reserve may, from time to time, decrease or increase the required additional Buffer Pool contributions if the Reserve determines, in its sole and absolute discretion, that the percentages as listed in Exhibit E are either too high or too low, or otherwise should be modified. So long as Forest Owner is not in default of its obligations hereunder, including but not limited to its contributions to the Buffer Pool, Forest Owner may request from time to time that Reserve execute the 'Subordination of Restrictive Covenant and Project Implementation Agreement' in the form

attached hereto as Exhibit D. Reserve's consent to execute the 'Subordination of Restrictive Covenant and Project Implementation Agreement' in the form attached hereto as Exhibit D shall not be unreasonably withheld. Prior to the Reserve's execution of Exhibit D, the Forest Owner shall provide an appraisal of the Property prepared by a Qualified Appraiser within the previous six months."

Table 2 below is illustrative only and provides an example relevant only to Subordination Clause Type 1, in which Forest Owner in Year 3 requests that the PIA be amended and subordinated to a mortgage and in exchange Forest Owner contributes to the Buffer Pool in an amount equal to what the Forest Owner would have contributed had it originally chosen to execute a version of the PIA with Subordination Clause Type 2, which makes the PIA subordinate to subsequent deeds and mortgages. Thus, in Year 3 Forest Owner would need to contribute an additional 8% to the Buffer Pool for Years 1 through 3, for a total of 36 CRTs to the Buffer Pool in Year 3. In future years beyond Year 3, Forest Owner would contribute 10% to the Buffer Pool for risks associated with financial failure, as if it had executed a PIA with Subordination Clause Type 2.

Table 2 EXAMPLE (illustrative only)

| Year | Year 1 | Year 2 | Year 3 |
|--|--------------------------------------|--------------------------------------|--|
| Agreement Type | PIA with Subordination Clause Type 1 | PIA with Subordination Clause Type 1 | PIA with Subordination Clause Type 2 |
| CRTs | 100 | 100 | 100 |
| Hypothetical Contribution to Buffer Pool (assume fire risk at 3%) | 12% | 12% | 20% |
| CRTs contributed to Buffer Pool for Current Year | 12 CRTs | 12 CRTs | 20 CRTs |
| Adjustment, based on applying current Buffer Pool contribution % to previous CRTs | 8 CRTs | 8 CRTs | 8 + 8 + 20 = 36 Total CRTs due in Year 3 |