

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

Climate Action Reserve
601 West 5th Street, Suite 650
Los Angeles, CA 90071
Attn: [tbd]

(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 "Grassland Owner") in connection with [insert project name and CAR project number] ("Grassland Project"), located in [insert name of county(ies), state of project].¹ The Reserve and Grassland 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 Grassland Project Protocol (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 Grassland Project Protocol to ensure that Avoided Conversion projects, as further described in the Grassland Project Protocol, registered with the Reserve shall generate a net reduction ~~and sequestration~~ of GHG emissions throughout the entire Term (defined below).

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

D. This Agreement sets forth certain liabilities, obligations and restrictions relating to the Grassland Project (defined below) and the Property, to ensure that the Grassland Project generates a net reduction ~~and sequestration~~ of GHG emissions throughout the entire Term and remains in compliance with the Grassland Project Protocol 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. Grassland Owner has completed and submitted to the Reserve that certain Grassland Project ~~Design Document~~ Monitoring Plan attached hereto as Exhibit B (the "Grassland Project Design Document ~~Design Document~~ Monitoring Plan"), and the Grassland Project ~~Design Document~~ Monitoring Plan has been approved by all of the Parties.

Comment [key1]: Will there be something like the Forest Protocol's Project Design Document for Grassland Projects? If not, remove references to PDDs in the PIA.

AGREEMENT

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: Grassland Owner may be comprised of multiple entities. Insert relevant provisions of Section 2.3 of the Grasslands Protocol for explanatory purposes of who may be a Grassland Owner; revise as appropriate]

² [Note: this provision may need to be modified, depending on nature of ownership rights of Grassland Owner. See Section 2.3 of the Grassland Project Protocol and cut and paste relevant portions of that section here for explanatory purposes. Revise the language above if appropriate Only the property that is subject to this Agreement will be described in Exhibit A.]

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, Grassland 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 Grassland Owner and the Reserve permitting the Reserve limited rights of access to the Property for the purpose of ensuring compliance by the Grassland Owner with the terms of this Agreement and the Grassland Project Protocol.
 - (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 Grassland Project of Grassland Owner set forth in the ~~Grassland Project Design Document attached hereto as Exhibit B~~ Grassland Project Protocol, 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, as set forth in the Grassland Project Protocol, which quantity has been and shall continue to be determined, monitored and verified in accordance with the Grassland Project Protocol 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 Grassland Owner's account with the Reserve immediately before Grassland Owner Retires such CRTs, (ii) issued by the Reserve to

any Avoided Conversion project (each as further described in the Grassland Project Protocol) 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. Grassland Owner shall be required to purchase CRTs if Grassland Owner does not have a sufficient quantity of Eligible CRTs to fulfill Grassland 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) "Grassland Owner Breach" has the meaning ascribed to such term in Section 11(a).
- (s) "Grassland Project" is the Avoided Conversion project of Grassland Owner that is described in the approved Grassland Project ~~Design Document~~Monitoring Plan.
- (t) "Grassland Project ~~Design Document~~Monitoring Plan" has the meaning ascribed to such term in the Recitals.
- (u) "Grassland Project Protocol" mean the Grassland 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 soil carbon 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).

~~(ff)(gg)~~ "Reversible CRTs" means CRTs that have been issued for carbon that is stored in either soil or biomass within the Property.

~~(gg)~~(hh) "Reserve Tracking System" means the Reserve's online system that tracks the status of projects registered with the Reserve.

~~(hh)~~(ii) To "Retire" a quantity of CRTs (which quantity shall be determined in accordance with this Agreement and the Grassland Project Protocol) 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, Grassland Owner holds no ownership rights, including but not limited to rights to transfer, convey or otherwise control the transferred CRTs.

~~(ii)~~(jj) A "Reversal" exists if the Reserve determines that the difference between the Carbon Stocks and the Baseline for the Grassland 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)~~(kk) "Term" has the meaning ascribed to such term in Section 4.

~~(kk)~~(ll) "Termination Notice" has the meaning ascribed to such term in Section 4(b).

~~(ll)~~(mm) "Total CRTs Issued" has the meaning ascribed to such term in Section 4(b)(1).

~~(mm)~~(nn) "Transfer" has the meaning ascribed to such term in Section 7(a).

~~(nn)~~(oo) "Unavoidable Reversal" has the meaning ascribed to such term in Section 10(b).

2. **Grassland Owner Obligations.** Grassland Owner shall: (i) fulfill all Grassland Owner covenants, obligations, duties and responsibilities in both this Agreement and the Grassland Project Protocol; (ii) ensure that use of and activity on the Property and the Grassland Project complies with both this Agreement and the Grassland Project Protocol; (iii) not use or permit any other Person to use any portion of the Property in violation of this Agreement or the Grassland Project Protocol; and (iv) prevent any activity on the Property that violates any aspect of this Agreement or the Grassland Project Protocol.
3. **Issuance of CRTs.** The Reserve shall issue CRTs to Grassland 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 Grassland Project Protocol, at which time the Grassland Owner shall have the right to control said CRTs. Nothing in this Section 3 shall be construed or interpreted as giving Grassland Owner any right to ongoing CRTs or obligating the Reserve to issue CRTs to the Grassland Project or Grassland 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 up to one hundred and fifty (150) 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 Grassland Project Protocol) 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~~ Grassland Owner determines that the area unaffected by the Unavoidable Reversal is too small to constitute a Grassland Project (in which case subsection 4(b) applies to the area unaffected by the Unavoidable Reversal).
- (b) Grassland Owner provides the Reserve with sixty (60) days' notice of Grassland Owner's intent to terminate this Agreement ("Termination Notice"), and retires a quantity of Eligible CRTs equal to the total number of CRTs issued by the Reserve to the Grassland Project during the preceding one hundred and fifty (150) years ("Total CRTs Issued")
- (c) Grassland 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) Grassland 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 Grassland Project Protocol, applies stringent standards and methodologies, and recognizes or otherwise accounts for CRTs issued by the Reserve to avoid double counting; and (3) Grassland Owner transfers over all CRTs issued in connection with the Grassland 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. Grassland Owner may choose to cancel CRTs that are not eligible for transfer to the Regulatory Program in order to comply with this Section 4(c)(3), provided the CRTs have not been retired and are in Grassland Owner's account at the time of cancellation.
- (d) Grassland 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 Grassland Project have been transacted or retired; (2) Grassland 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 Grassland Project registration and subsequent issuance fees shall be paid upon Reserve approval of subsequent verifications that result in the issuance of credits; and (3) Grassland Owner exercises the cancellation option provided by this Section 4(d) within three years of Grassland Project registration. Upon successful termination pursuant to this Section 4(d), the Reserve shall cancel all CRTs issued in connection with the Grassland Project.

³

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).

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

- (a) No Grassland Owner Breach shall give Grassland Owner the right to cancel, rescind, or otherwise terminate this Agreement or the Grassland Project Protocol 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 Grassland Project Protocol.
- (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 fifty (150) 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 shall have the right to enter the Property at reasonable times and from time to time for purposes of monitoring and verifying Grassland Owner's compliance with this Agreement and the Grassland Project Protocol, provided that: (i) the Reserve gives no less than fifteen (15) business days' advance written notice to Grassland Owner, (ii) the Reserve adheres to reasonable health and safety practices while on the Property and (iii) the Reserve provides Grassland 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, Grassland Owner has granted to the Reserve the Access Easement and the Grassland 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.** Grassland 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 Grassland Project Protocol unconditionally without modification or amendment, unless the Reserve, in its sole and absolute discretion, agrees in writing to a modification or amendment;
 - (2) Grassland Owner and Assignee both duly execute the Assignment and Assumption Agreement in the form attached hereto as Exhibit C-B (the "Assignment and Assumption Agreement") prior to any Transfer of any Property Interest;
 - (3) Grassland 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) Grassland 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 Grassland Owners. If more than one Person has executed this Agreement as "Grassland Owner," then any individual Grassland 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 Grassland Owner Transfers a Property Interest in compliance with subpart (a), above, Grassland 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 Grassland Owner from this Agreement, Grassland Owner shall remain obligated to and liable for all Grassland Owner Breaches that arose during the time that Grassland Owner held a Property Interest.
 - (d) Copies. Grassland Owner shall provide the Assignee with copies of the Grassland Project Protocol, this Agreement and all exhibits attached hereto and any amendments thereto. Assignee shall be deemed to have received the Grassland Project Protocol, 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 Grassland Owner Transfers a Property Interest in all, or any portion, of the Property. If Grassland 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, Grassland 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. Grassland 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 Grassland Project Protocol and (ii) specifically state that the Property Interest thereby Transferred is subject to this Agreement, the Grassland Project Protocol and the Access Easement.
 - (h) Assignee Deemed a Grassland Owner After Transfer. Once a Property Interest has been Transferred, the Assignee shall be deemed to be a "Grassland 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, Grassland 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 Grassland Owner is not in default or breach, Grassland Owner may request that this Paragraph 9 be amended as set forth below in exchange for Grassland 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 Grassland 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 Grassland Project Protocol and shall be an ongoing obligation of Grassland 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 Grassland Owner is not in default or breach, including but not limited to its contributions to the Buffer Pool, Grassland 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 Grassland Owner has contributed the required additional CRTs to the Buffer Pool as described herein. Prior to the Reserve's execution of Exhibit D, the Grassland 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. Grassland Owner acknowledges that Reserve would not agree to this Paragraph 9 without Grassland 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 Grassland Project Protocol and shall be an ongoing obligation of Grassland 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 Grassland Owner is not in default of its obligations hereunder, including but not limited to its contributions to the Buffer Pool, Grassland 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 Grassland 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 Grassland Owner Upon a Reversal.** Pursuant to the Grassland Project Protocol, Grassland Owner bears an affirmative responsibility to notify the Reserve of a potential Reversal. Deadlines for notification of a potential Reversal are included in the Grassland 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) Grassland Owner's negligence, gross negligence or willful misconduct, including without limitation, crop conversion, 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 Grassland Owner of the Avoidable Reversal ("Avoidable Reversal Notice"); and
- (2) Grassland 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-area of the Property in on~~ 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~~ total Reversible CRTs issued for the area of the Property on which the Avoidable Reversal occurred.

(b) **Unavoidable Reversals.** If the Reserve determines that a Reversal has occurred that is not due to Grassland Owner's negligence, gross negligence or willful misconduct, including, without limitation, wildfires or disease that are not due to Grassland 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 Grassland Project Protocol) 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~~ total amount of Reversible CRTs issued for the area of the Property on which the Unavoidable Reversal occurred (as determined according to the Grassland Project Protocol).

11. **Remedies.**

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

Comment [key2]: Update as appropriate to be consistent with Section 5.4.1 of the Grassland Protocol. Perhaps define "Avoidable Reversal" as a reversal that is not caused by natural causes. However, that definition (from the protocol) doesn't address the possibility that the grassland owner's negligence could result in natural causes leading to a reversal. In the forest context this could happen because there's disease in some of the trees that the forest owner does not address in time to prevent its spread. This came up recently on an OPR call—would such a reversal be considered avoidable? Perhaps we want to be consistent with ARB on this in the forest protocol context?

Also, both the definition of "Avoidable Reversal" and "Unavoidable Reversal" are defined in the negative, and the nature of the definitions are such that I think it might lead to confusion/situations where there could be overlap in the execution: "A reversal is considered avoidable when it is not caused by natural forces." And "An unavoidable reversal is any reversal not due to eminent domain or the Project Operator's negligence, gross negligence, or willful intent."

Comment [key3]: Update this section as appropriate to be consistent with the Grassland Protocol

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

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

~~i)(2) a Reforestation or Avoided Conversion project, Retire a quantity of Eligible CRTs equal to the Total Reversible 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.~~

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

(b) The Parties agree that the Reserve will suffer damages in the event of Grassland Owner's Breach or a termination of this Agreement by Grassland 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 Grassland Owner shall retire pursuant to Section 4(b) or this Section 11 (the "CRT Costs") is a reasonable estimate of the Reserve's loss in the event of Grassland Owner's Breach or termination of this Agreement by Grassland Owner pursuant to Section 4(b). Thus, the Reserve and Grassland 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 Grassland Owner as set forth in this Agreement and the Grassland Project Protocol.

The Reserve and Grassland 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 NAME OF ENTITY]

By: _____
Name: Gary Gero
Title: President

By: _____
Name: [insert name of signatory]
Title: [insert 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 Grassland Project Protocol, and (ii) set forth in this Agreement or the Grassland Project Protocol.

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

- (a) As of the Effective Date, Grassland Owner does hereby represent and warrant that:
 - (1) All reports, statements, certificates and other data, including without limitation the Grassland Project ~~Design Document~~Monitoring Plan, provided by and on behalf of Grassland Owner to the Reserve in connection with the Grassland Project Protocol, this Agreement, the Property and the Grassland Project are true, correct and complete;
 - (2) [Grassland Owner is the sole owner in fee simple of the Property;]⁴
 - (3) Grassland Owner owns and holds all right, title and interest in and to the soil carbon located on the Property;
 - (4) Grassland Owner owns and holds all right, title and interest in and to the Grassland Project;
 - (5) Grassland Project is located completely within the boundaries of the Property;
 - (6) The execution and recordation of this Agreement by Grassland Owner and any consummation by Grassland 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

⁴ [Note: Provision may need to be modified depending on nature of ownership rights of Grassland Owner. See footnote 1. Delete this footnote when language in document is updated]

organizational documents of Grassland 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 Grassland Owner is a party or by which Grassland Owner or the Property may be bound;

- (7) The signatory of this Agreement has the authority to execute this Agreement on behalf of Grassland Owner, and this Agreement and the Grassland Project Protocol are binding on and enforceable against Grassland Owner;
- (8) Grassland Owner has not registered any portion of the Property, the Grassland Project, or any enterprise on the Property that is similar to the Grassland 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) Grassland 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 Grassland Project Protocol; and
- (10) If Grassland Owner is not a natural person, Grassland 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 Grassland Owner and attached hereto as Exhibit A is a complete and accurate description of the project area which is the subject of the Grassland Project Design Document and this Agreement.

(b) For the Duration of the Term, Grassland Owner does hereby covenant to and with the Reserve that:

- (1) Grassland Owner shall transfer, hold and retire CRTs for the Grassland 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) Grassland Owner shall not register any portion of the Property, the Grassland Project, or any enterprise on the Property that is similar to the Grassland 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

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 Grassland Project Protocol, 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.** Grassland 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 Grassland Project; *provided, however*, that Grassland Owner shall not be obligated to Indemnify the Indemnified Parties for: (a) Arbitration Costs awarded to Grassland Owner upon Grassland Owner prevailing in arbitration pursuant to Section 16, (b) Damages caused by the Reserve and its agents entering the Property pursuant to Section 6, that are not due to Grassland 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, Grassland 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 Grassland Project or this Agreement; or that fewer or no CRTs should have been issued pursuant to this Agreement or the Grassland 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. **Grassland 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 Grassland Project Protocol, nothing in this Agreement or the Grassland Project Protocol shall give Grassland Owner any right to, ownership of or control over the Reserve's Buffer Pool.
20. **No Change to Grassland Project or Baseline.** Grassland Owner shall not change, modify or revise the Grassland 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 Grassland Project or Baseline, then the Grassland Project ~~Design Document~~Monitoring Plan attached hereto as Exhibit B shall be updated and recorded in accordance with Section 23.
21. **Recordation.** Grassland 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 Grassland Project Protocol 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 Grassland Owner. Notwithstanding this provision, the Reserve may, in its sole discretion, update Exhibits C-E, attached hereto, as it deems appropriate, without Grassland Owner's approval. For any CRTs issued in the future, the Term of this Agreement may be extended in accordance with this Section 23. Grassland 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 Grassland Project Protocol, or the application thereof to any person or circumstance, is found invalid, the remainder of the provisions of this Agreement and the Grassland Project Protocol, 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 Grassland Project Protocol are for the sole and exclusive benefit of the Reserve, and its successors, successors in interest and assigns, and Grassland 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 Grassland Project Protocol.
28. **Definitions.** Any capitalized terms used herein, which are not defined herein, shall have the meanings for such terms as set forth in the Grassland Project Protocol.
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 Grassland Project Protocol, the definitions, terms and provisions in this Agreement shall govern.
30. **Entire Agreement.** This Agreement, including any exhibits attached hereto, and the Grassland Project Protocol, represent the entire agreement of the Parties with respect to the Property, Grassland Owner Project, this Agreement and the Grassland Project Protocol 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 “Grassland 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

GRASSLAND OWNER

[insert name of entity, type of entity]

By:

Name: [insert name of signator]

Title: [insert title of signator]

EXHIBIT LIST

Exhibit A: Legal Description of the Property

Exhibit B: Grassland Project ~~Design Document~~ Monitoring Plan

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

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY
(See attached)

EXHIBIT B

**GRASSLAND PROJECT ~~DESIGN DOCUMENT~~ MONITORING PLAN (Approved
Version)**

(See attached)

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 Grassland 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 Grassland Project Protocol, 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 Grassland Owner Obligations with respect to the interest in the Property or Property Interest that is conveyed, transferred, or granted to Assignee. Assignor retains all Grassland 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 Grassland 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 "Grassland 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]

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 [____] ("Grassland 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 Grassland 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 Grassland 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 Grassland Owner to be secured by a [deed of trust/mortgage] (the "Mortgage") of the real property described in Exhibit AB 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 Grassland Owner has requested that the Project Implementation Agreement be subordinated to the lien created by the Mortgage.

E. By this Subordination, Reserve, Grassland 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, Grassland 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: _____

GRASSLAND OWNER:

[INSERT SIGNATURE BLOCK OF GRASSLAND 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 ~~DE~~ are in addition to the contributions described in ~~Appendix D~~Section 5.4 of the Grassland Protocol, including but not limited to, the contributions listed in "Table D.2. Financial Risk Identification" of the Grassland Project Protocol.

Comment [key4]: This document will need to be updated to be consistent with the buffer pool requirements of the Grassland Project Protocol

Table 1

Risk Category	PIA with "Subordination Clause Type 2"	PIA with "Subordination Clause Type 1"
Financial Failure	10%*	0*

*The Reserve may, from time to time, transfer CRTs from the Buffer Pool to the Grassland 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 Grassland Owner is not in default or breach, Grassland Owner may request that this Paragraph 9 be amended as set forth below in exchange for Grassland 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 Grassland 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 Grassland Project Protocol and shall be an ongoing obligation of Grassland 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 Grassland Owner is not in default or breach, including but not limited to its contributions to the Buffer Pool, Grassland

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 Grassland Owner has contributed the required additional CRTs to the Buffer Pool as described herein. Prior to the Reserve's execution of Exhibit D, the Grassland 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. Grassland Owner acknowledges that Reserve would not agree to this Paragraph 9 without Grassland 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 Grassland Project Protocol and shall be an ongoing obligation of Grassland 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 Grassland Owner is not in default of its obligations hereunder, including but not limited to its contributions to the Buffer Pool, Grassland 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 Grassland 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. Grassland Owner acknowledges that Reserve would not agree to this Paragraph 9 without Grassland 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 Grassland Project Protocol and shall be an ongoing obligation of Grassland 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 Grassland Owner is not in default of its obligations hereunder, including but not limited to its contributions to the Buffer

Pool, Grassland 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 Grassland 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 Grassland Owner in Year 3 requests that the PIA be amended and subordinated to a mortgage and in exchange Grassland Owner contributes to the Buffer Pool in an amount equal to what the Grassland 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 Grassland Owner would need to contribute an additional ~~98.8%~~ to the Buffer Pool for Years 1 through 3, for a total of ~~379-314~~ CRTs to the Buffer Pool in Year 3. In future years beyond Year 3, Grassland Owner would contribute 10% to the Buffer Pool for risks associated with subordination clause, 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	1000	1000	1000
Hypothetical Contribution to Buffer Pool (assume fire risk at 3%)	11.52%	11.52%	20.311.8%
CRTs contributed to Buffer Pool for Current Year	115-20 CRTs	115-20 CRTs	203-118 CRTs
Adjustment, based on applying current Buffer Pool contribution % to previous CRTs	88-98 CRTs	88-98 CRTs	88-98 + 88-98 + 203-118 = 379-314 Total CRTs due in Year 3

Example Buffer Pool Calculation with PIA Subordination Clause Type 1

$$100\% - \left((1 - \text{DefaultFinancialFailure}\%) \times (1 - \text{IllegalForestBiomassRemoval}\%) \right. \\ \times (1 - \text{Conversion}\%) \times (1 - \text{OverHarvesting}\%) \times (1 - \text{SocialRisk}\%) \\ \times (1 - \text{Wildfire}\%) \times \left(1 - \frac{\text{Disease}}{\text{InsectOutbreak}} \right) \\ \left. \times (1 - \text{OtherCatastrophicEvents}\%) \times (1 - \text{PIASubordination}\%) \right)$$

$$100\% - \left((1 - 0.024) \times (1 - 0) \times (1 - 0) \times (1 - 0) \times (1 - 0.02) \times (1 - 0.03) \times \right. \\ \left. (1 - 0.03) \times (1 - 0.03) \times (1 - 0) \right) = 11.52\%$$

Example Buffer Pool Calculation with PIA Subordination Clause Type 2

$$100\% - \left((1 - \text{DefaultFinancialFailure}\%) \times (1 - \text{IllegalForestBiomassRemoval}\%) \right. \\ \times (1 - \text{Conversion}\%) \times (1 - \text{OverHarvesting}\%) \times (1 - \text{SocialRisk}\%) \\ \times (1 - \text{Wildfire}\%) \times \left(1 - \frac{\text{Disease}}{\text{InsectOutbreak}} \right) \\ \left. \times (1 - \text{OtherCatastrophicEvents}\%) \times (1 - \text{PIASubordination}\%) \right)$$

$$100\% - \left((1 - 0.012) \times (1 - 0) \times (1 - 0) \times (1 - 0) \times (1 - 0.02) \times (1 - 0.03) \times \right. \\ \left. (1 - 0.03) \times (1 - 0.03) \times (1 - 0.10) \right) = 20.311.8\%$$