

**Credit Sale Agreement**  
**[SALE WITHOUT A TRANSFER]**

This Credit Sale Agreement (“**Agreement**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between [enter Bank Sponsor Name] (“**Bank Sponsor**”) and the \_\_\_\_\_ (“**Purchaser**”), jointly referred to as the “Parties,” as follows:

RECITALS

- A. The Bank Sponsor has developed the [enter Bank Name] located in the city of \_\_\_\_\_, \_\_\_\_\_ County, California (“**Bank**”); and
- B. The Bank has been developed pursuant to that certain [choose: Bank Enabling Instrument (“**BEI**”) or Conservation Banking Enabling Instrument (“**CBEI**”)] entered into by and among Bank Sponsor; \_\_\_\_\_ (“**Property Owner**”); and [Select all that apply: U.S. Army Corps of Engineers (“**USACE**”), U.S. Environmental Protection Agency (“**USEPA**”), National Marine Fisheries Service (“**NMFS**”), U.S. Fish and Wildlife Service (“**USFWS**”), California Department of Fish and Wildlife (“**CDFW**”), State Water Resources Control Board (“**State Water Board**”), and the California Regional Quality Control Board (“**Regional Water Board**”)] referred to individually sometimes as “**Signatory Agency**,” and collectively as “**Signatory Agencies**,” on [enter date approved]; and
- C. The Bank is currently in good standing with the Signatory Agencies; and
- D. The Bank Sponsor has received approval from the Signatory Agencies to sell [list Credit types here] credits from the Bank (“**Credits**”) to compensate for unavoidable adverse impacts to these resources, through the [choose: CBEI or BEI] and any amendments thereto; and
- E. The [choose: BEI or CBEI] defines “**Sale**” as the sale of Credits by the Bank Sponsor, and a “**Transfer**” as the use or application of Credits to mitigate for a particular project’s impacts by a person or entity seeking the Transfer (“**Permittee**”). The terms “Sale,” “Transfer,” and “Permittee,” shall have the same meanings in this Agreement as in the [choose: BEI or CBEI]; and
- F. Pursuant to the terms of the [choose: BEI or CBEI], a Transfer may occur only if: Bank Sponsor has received (i) a copy of the permit(s)/approval(s)/authorization(s) by the agency approving the use of the specified purchased Credits; and (ii) written notice from the Permittee that it is electing to use the specified purchased Credits toward the permit(s)/approval(s)/authorization(s) obligation; and Bank Sponsor has accepted the legal responsibility for providing the required compensatory mitigation of such permit(s)/approval(s)/authorization(s); and
- G. Purchaser has not yet secured any permits, approvals, and/or authorizations for any particular project impact(s); and
- H. Bank Sponsor wishes to sell and Purchaser wishes to purchase [enter number of credits and credit type] Credits (“**Purchased Credits**”) before securing any permits, approvals, and/or authorizations for any particular project impact(s).

NOW, THEREFORE, the Parties agree as follows:

1. Purchase Price: The purchase price for the Purchased Credits shall be \$ \_\_\_\_\_. The purchase price shall be paid by means acceptable to Bank Sponsor on the Closing Date (defined below).

2. Acknowledgement of Sale. On the Closing Date, Bank Sponsor shall deliver to Purchaser a fully executed Bill of Sale (Exhibit A) and payment receipt (Exhibit B).

3. Closing; Closing Date. The closing will occur on or before \_\_\_\_\_, 20\_\_\_\_, or such other date to which the Purchaser and Bank Sponsor mutually agree in writing (the "**Closing Date**"). On the Closing Date, Purchaser shall pay the Purchase Price to Bank Sponsor and Bank Sponsor shall deliver the fully executed Bill of Sale and payment receipt to Purchaser.

4. Integration. The Parties agree that all negotiations, discussions, understandings and agreements heretofore made between them or their respective agents or representatives are merged in this Agreement and the Exhibits attached hereto, and this written Agreement alone fully and completely expresses their agreement with respect to the subject matter hereof and supersedes all prior agreements and understandings between the Parties relating to the subject matter of this Agreement.

5. Termination. In the event Purchaser has not delivered the Purchase Price to Bank Sponsor on or before the Closing Date, this Agreement shall automatically terminate without the need for any further action by Bank Sponsor and Bank Sponsor shall have no further obligations to Purchaser under this Agreement.

6. Transfer.

A. Purchaser acknowledges that a Sale without a Transfer does not guarantee that the Purchased Credits will be acceptable compensatory mitigation for any particular project(s).

B. Purchaser may request a Transfer(s) of the Purchased Credits from Bank Sponsor by providing the following: (i) a copy of the permit(s)/approval(s)/authorization(s) by the agency approving the use of the specified Purchased Credits; and (ii) written notice from the Purchaser, as Permittee, that it is electing to use the specified Purchased Credits toward the permit(s)/approval(s)/authorization(s) obligation.

[CHOOSE AN OPTION FOR SUBPARAGRAH C BELOW:]

[OPTION] C. All Transfer requests by Purchaser shall be made [**Choose one**: within *[insert appropriate number of years]* (the "**Sunset Date**") after the Closing Date **or** by *[insert date]* (the "**Sunset Date**")]. Bank Sponsor agrees to not close the Bank before the Sunset Date. Purchaser understands and agrees that upon Bank closure, no further Transfer of the Purchased Credits shall be allowed. If Bank remains open past the Sunset Date, Purchaser and Bank Sponsor may agree to either buy back the remaining Purchased Credits or extend the Sunset Date in accordance with Section 7 below. The Bank Sponsor must provide Signatory Agencies with written notice of any proposed buy back of remaining Purchased Credits not less than 60 days prior to the buy back.

[OPTION] C. Bank Sponsor agrees not to propose Bank closure before the Transfer of all Purchased Credits.

D. Purchaser and Bank Sponsor acknowledge and agree that legal responsibility for providing compensatory mitigation for any particular project(s) is not transferred unless and until there is a Transfer associated with a specific permit, approval, or authorization made pursuant to a written Credit

Transfer Agreement, in the form of Exhibit C attached hereto and incorporated herein, or substantially similar form approved in writing by the Signatory Agencies. Unless otherwise stated in the Credit Transfer Agreement, Purchaser retains legal responsibility for providing the compensatory mitigation associated with its project(s). Notwithstanding the foregoing, legal responsibility for providing compensatory mitigation required by CDFW remains with the Permittee upon Transfer.

7. Amendments and Modifications. This Agreement may not be amended or modified except by an agreement in writing signed by the Parties. Promptly after execution, Bank Sponsor shall provide Signatory Agencies a copy of each amendment or modification and upload the amended agreement into the cyber repository in RIBITS. All amendments and modifications shall be appended to this Agreement.

8. Counterparts. This Agreement may be executed and delivered in any number of identical counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

9. Miscellaneous.

A. The Sale herein is not intended as a sale or transfer to Purchaser of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

B. The Purchased Credits shall be non-transferable and non-assignable, and shall not be used as compensatory mitigation except as set forth in Exhibit C.

C. Purchaser shall have no obligation whatsoever by reason of this Agreement to support, pay, fix, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense of maintenance in perpetuity of the Bank associated with the Purchased Credits.

D. By reason of the Sale of the Purchased Credits, Purchaser shall not assume the obligations of Bank Sponsor or Property Owner under the *[choose: BEI or CBEI]*.

E. Any notice or other written communication given pursuant to this Agreement shall be delivered to the other Party by first class U.S. mail, certified or registered U.S. mail, facsimile mail, electronically, or \_\_\_\_\_, with mailed copy as follows:

Bank Sponsor:  
Add contact information

Purchaser:  
Add contact information

F. By signing below, each Party warrants and represents that the person signing this Agreement on its behalf has authority to bind that Party and that the Party's execution of this Agreement is not in violation of any bylaw, covenants, and/or other restrictions placed upon them by their respective entities.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

BANK SPONSOR:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
NAME  
TITLE

PURCHASER:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
NAME  
TITLE

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Exhibit "A"  
Attach to Credit Sale Agreement  
[Sale without a Transfer]

[NAME OF BANK]

**BILL OF SALE**

Contract # \_\_\_\_\_ [Bank Reference Number]

In consideration of \$ \_\_\_\_\_, receipt of which is hereby acknowledged,  
\_\_\_\_\_ ("Bank Sponsor") does hereby recognize that \_\_\_\_\_ ("Purchaser"), has  
acquired \_\_\_\_\_ [enter # and credit type] credits from the \_\_\_\_\_ Bank in the  
city of \_\_\_\_\_, \_\_\_\_\_ County, California.

Bank Sponsor represents and warrants that it has good title to the Credits, has good right  
to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Bank Sponsor covenants and agrees with the Purchaser to warrant and defend the Sale of  
the Credits hereinbefore described against all and every person and persons whomsoever  
lawfully claiming or to claim the same.

DATED: \_\_\_\_\_

BANK SPONSOR

Add legal name of Bank Sponsor

By: \_\_\_\_\_  
NAME and TITLE

Exhibit "B"  
To be attached to Credit Sale Agreement  
[Sale without a Transfer]

*[NAME OF BANK]*

Click or tap here to enter credit types. **PAYMENT RECEIPT**

**PURCHASER INFORMATION**

Name: Click or tap here to enter text.

Address: Click or tap here to enter text.

Telephone: Click or tap here to enter text.

Contact: Click or tap here to enter text.

**PAYMENT INFORMATION**

Payee: Click or tap here to enter text.

Payer: Click or tap here to enter text.

Amount: Click or tap here to enter text.

Method of payment:  Cash  Check No. Enter text.  Money Order No. Enter text. Other:

Received by: \_\_\_\_\_  
(Bank Sponsor Signature)

Date: Enter a date.

Print Name: Enter text. Title: Enter text.

Exhibit "C"

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