

## EXHIBIT J

### BURDELL RANCH WETLAND MITIGATION BANK MITIGATION CREDIT PURCHASE AGREEMENT

#### RECITALS

This Agreement is made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (Effective Date) between the Mount Burdell Enterprises/Burdell Ranch Partners, LTD. (Burdell), Seller, and \_\_\_\_\_ (Purchaser) for the sale and purchase of Mitigation Credits held at the Burdell Ranch Wetland Mitigation Bank.

*Whereas*, The Mount Burdell Enterprises/Burdell Ranch Partners, LTD., is the owner/administrator of the Burdell Ranch Wetland Mitigation Bank (Mitigation Bank) located in Marin County, near the town of Novato (depicted on attached Exhibit A). The Bank was established to provide for mitigation of adverse impacts to wetlands affected by construction projects within the Credit Area; and,

*Whereas*, The Land Bank has been authorized by the California Department of Fish and Game (CDFG), U.S. Army Corps of Engineers (Corps), U.S. Fish and Wildlife Service (USFWS), and U.S. Environmental Protection Agency (EPA) (collectively referred to as the Mitigation Bank Review Team (MBRT)) pursuant to the Burdell Ranch Wetland Mitigation Bank Memorandum of Agreement, dated \_\_\_\_\_, and has received approval of the MBRT to operate as a Mitigation Bank with habitat credits available for sale for the wetland types identified below, with available Mitigation Credits on a basis of a 0.1 acre = 1 unit of Mitigation Credit. A maximum total of 547 credits are designated in the Mitigation Bank. Maximum credits available by active Phase are:

Type of Wetland*	Number of Credits Available		
	<u>Phase 1</u>	<u>Phase 2</u>	<u>Reserve Area</u>
Riparian	13	78	
Seasonal Marsh	142	221	67
Marsh		<u>26</u>	
Total	<u>155</u>	<u>325</u>	<u>67</u>

\* Actual acreage established by habitat may vary. Final acreage of the various habitats will be determined following plan implementation.

*Whereas*, the Project Proponent has been authorized by the MBRT under Section 404 of the Clean Water Act Permit number and/or Streambed Alteration Agreement number \_\_\_\_\_ to purchase from the Bank (amount and type) wetland habitat credits;

*Now therefore*, the parties agree to arrange for the sale and purchase of Mitigation

Credits under the terms and conditions set forth herein.

## TERMS AND CONDITIONS

### Credits to be sold

1. Burdell agrees to sell to \_\_\_\_\_ (Purchaser) \_\_\_\_\_ units of Mitigation Credit(s) for the \_\_\_\_\_ (Wetland habitat type) which is known to occur at the Burdell Ranch Wetland Mitigation Bank. Each credit shall equate to one-tenth acre (0.1) of habitat as approved and accepted by the MBRT.

### Consideration/Sales Price

2. The purchase price shall be based on the amount of \$ \_\_\_\_\_ per credit unit. The total purchase price to be paid by Purchaser (excluding other fees herein described) is \$ \_\_\_\_\_, and shall be made by check, draft or money order payable to Mount Burdell Enterprises/Burdell Ranch Partners, LTD.
3. Purchaser agrees to pay an additional sum (endowment fund) to be used for the maintenance and management of the Mitigation Bank. This payment shall be \$ \_\_\_\_\_ per credit unit purchased. A total payment for the endowment fund shall be \$ \_\_\_\_\_, and shall be made by check, draft or money order payable to the STATE OF CALIFORNIA, **DEPARTMENT OF FISH AND GAME.**

### Satisfaction of MBRT Mitigation

4. Within 10 days after the effective date of this Agreement, Burdell shall notify the MBRT of a pending sale to the Purchaser and shall arrange for a letter notification from the Corps or CDFG to the Purchaser indicating the acceptability or non-acceptability of the Mitigation Credits as mitigation to comply with Corps or CDFG requirements imposed or to be imposed on Purchaser's project(s).
5. The Parties agree that consideration to be paid in clauses 2 and 3 of this Agreement shall be made within 15 days after Purchaser's receipt of an acceptable notification by MBRT as provided herein above. Purchaser retains the right to cancel this Agreement if the notification is unacceptable and shall, within the 15 days after receipt of the unacceptable MBRT notification, provide a written request to Burdell to terminate this Agreement.

### Notices

6. All notices or other communications required or permitted hereunder including transmittal of payments shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below, or sent by electronic facsimile, where available, to the telefacsimile numbers set forth below. All such notices or other communications shall be deemed received upon the earlier of (I) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, or (iii) if given by electronic facsimile, when received by the other party if received Monday through Friday between 9:00 am and 5:00 p.m. so long as such day is not a state or federal holiday and otherwise on the next day provided that if the next day is a Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

TO Bank Operator:

Mount Burdell Enterprises and Burdell Ranch Partners, Ltd.  
C/O James McKenney  
365 Bel Marin Keys Boulevard  
Novato, CA 94949, Suite 100  
Tel (415) 884-2164; Fax (415) 884- 2261

TO THE PURCHASER:

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Representations:

6. This transaction involves the sale and conveyance of Mitigation Credits only, from the property designated as the Burdell Ranch Wetland Mitigation Bank. The sale does not include any real property rights and the State of California shall retain ownership and fee title in the property.

Uses of the Property

7. Any use of the property shall be subject to restrictions imposed by CDFG in accordance with the Resource Management Plan prepared for the property.
8. This Agreement shall commence on the herein effective date.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as to the date herein above set forth.

**SELLER:**

**PURCHASER:**

**Bank Operator**

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\_\_\_\_\_

By: \_\_\_\_\_

By \_\_\_\_\_