

Appendix D: Legal Instruments

Registration of a grassland project under this protocol requires the use of a number of specific legal instruments. This appendix provides additional guidance on the intent and usage of these instruments, as well as any requirements for their use with a grassland project. Table ?.1 below lists the related legal instruments and their relevant protocol sections.

Legal instrument	When required	Protocol section(s)
GHG reduction rights contract	Required when ownership of GHG emission reduction rights are not determined in the conservation easement	Section 2.3.2
Indemnification agreement	Required when there are multiple Grassland Owners who are not party to the legal instruments related to the project	Section 2.3.2
Cooperative contract	Optional	Section 3.2.1
Conservation easement	Required, unless project area is owned by the Federal government	Section 2.2, Section 3.2, Section 6.2.1.2
Qualified Conservation Easement	Required, unless project area is owned by the Federal government	Section 3.5.1
Project Implementation Agreement	Required for all projects	Section 3.5.2
Reserve attestations (title, voluntary implementation, regulatory compliance)	Required for all projects	Section 2.3.2, Section 3.3.2, Section 3.6
Instruments associated with concurrently-joined conservation programs	Required only if the project area is enrolled in other conservation payment/credit programs	Section 3.3.2.1

1.1 GHG Reduction Rights Contract

Purpose: This contract is required in order to clearly establish ownership over the GHG emission reductions associated with the grassland project. In order to meet the definition of a Project Developer, an entity must be able to demonstrate ownership of the GHG emission reductions associated with the project. Unless existing contracts specify otherwise, it is assumed that the Grassland Owner holds the rights to any GHG emission reductions that would be issued under this protocol. However, the recording of a conservation easement may create the expectation, on the part of the easement holder, that they hold ownership rights that include the GHG emission reductions. In addition, either the Grassland Owner or the easement holder may wish to transfer these rights to a third-party project developer. The grantee of the GHG Reduction Rights contract will be the Project Developer of record (the Account Holder) with the Reserve, and will be the entity to whom the CRTs are issued upon successful registration of a reporting period. The Project Developer is also the entity who will execute the Project Implementation Agreement.

Parties involved: Grassland Owner, Project Developer, easement holder.

Timing: Ownership of the GHG emission reductions associated with the project activities must be documented during project verification.

Notes:

- May be a standalone document, or it may be incorporated into another legal document, such as the project's conservation easement.
- Must clarify the ownership of the GHG emission reductions at the time of their creation, rather than just the sale of those credits
- Must clearly define ownership of rights for GHG reductions related to the project activities
- Must be signed by the landowner and the easement holder, and the Project Developer.
- Must include clauses that specify steps to be taken if ownership changes for either the land, the GHG reduction rights, or the conservation easement
- Recommended inclusions:
 - Description of the project area
 - Description of the offset project and the offset project registry
 - Reference to the GPP as the method of quantifying GHG emission reductions
 - Specific reference to sources of GHG emissions which are covered by GHG assessment boundary for the GPP
 - Discussion of responsibilities in the event of a reversal (see Section 5.4)
 - Any potential exclusions (i.e. GHG or other benefits not covered by this contract)

1.2 Indemnification Agreement

Purpose: Where there may be multiple entities who could meet the definition of Grassland Owner, the Reserve must be indemnified against future GHG reduction claims by those entities which are not acting as Grassland Owner for the purposes of the protocol, and are not party to the GHG reduction rights contract.

Parties involved: Grassland Owner, Project Developer, Climate Action Reserve.

Timing: This agreement must be executed following the initial verification, prior to registration by the Reserve.

Notes: Must indemnify the Reserve in connection with any claims brought by other grassland owners or would-be grassland owners against the Reserve.¹

1.3 Cooperative contract

Purpose: For projects participating in a cooperative, this is a contract between the Project Developer and the Cooperative Developer. In general, this contract lays out the terms of the PD's participation in the cooperative. However, its relevance for this protocol is its usefulness as a clear signal from the PD of their intent to initiate a GHG offset project. This is particularly useful for determining the project start date, in order to ensure the additionality of the project (see Section 3.2.1).

Parties involved: Project Developer, Cooperative Developer.

¹ A sample indemnification agreement is available at:
<http://www.climateactionreserve.org/how/protocols/grassland/>.

Timing: If being used to denote the project start date, then the notarization date of this contract will be chosen by the CD as a date which will result in more efficient management of the cooperative. This date can be no earlier than the earliest recorded easement on any project in the cooperative.

Notes:

- This contract is only required for projects which wish to use it to denote the project start date. In those cases, this contract must be notarized.

1.4 Qualified Conservation Easement (QCE)

Purpose: The conservation easement is the principle mechanism by which the project area is protected against land use change during the project period, and in perpetuity. The QCE is a label applied to a conservation easement whose terms either explicitly prevent reversals of CRTs by referencing the Grassland Project Protocol, or implicitly prevent reversals of CRTs by including land use limitations which are sufficient to prevent land use that would disturb soil carbon in the project area.

Parties involved: Grassland Owner, easement holder, Project Developer (optional).

Timing: In most cases, the execution of the QCE will denote the project start date. In all cases the QCE must be executed prior to completion of the initial verification.

Notes:

- It is recommended that the QCE also include clear discussion of both the carbon rights and the GHG emission reduction rights, as defined in Section 9 (see section above regarding the GHG emission reduction rights contract).
- It is required that the QCE include enforceable provisions for the ongoing monitoring of compliance with the terms of the easement.
- It is recommended that access rights be granted to the Project Developer and the Reserve for the purposes of monitoring and enforcing the provisions of the Protocol.
- If the project is at all likely to include livestock grazing, it is recommended that the QCE include prescriptive guidance for grazing management which explicitly limits grazing intensity.
- It is recommended that the QCE make reference to and incorporate the PIA.

1.5 Project Implementation Agreement (PIA)

Purpose: The PIA is a contract between the Reserve and the Project Developer which binds the Project Developer to the terms of the protocol, including the avoidance of and compensation for reversals, and the monitoring of the project during the permanence period. If the Grassland Owner is the Project Developer, they may elect to have the PIA recorded on the deed to the property, thus binding the landholder to the protocol and reducing the risk of uncompensated reversals.

Parties involved: Project Developer, Climate Action Reserve.

Timing: The PIA is executed during the initial verification of the project, prior to registration and CRT issuance. The terms of the PIA are applicable for 100 years following the issuance of

CRTs. The PIA is updated at each subsequent registration in order to extend its term to cover the new CRT issuance, as well as to potentially reflect any changes in project ownership.

Notes:

- The Recorded PIA includes a clause specifying whether the PIA may be subordinated to any subsequent deed restrictions. The Project Developer will choose whether to use the Type I (not able to be subordinated) or the Type II (able to be subordinated) clause. Use of the Type II clause results in a value of 0.1 for the risk of financial failure in the calculation of the project's contribution to the risk buffer pool. Use of the Type I clause results in a value of 0 for this parameter.
- The Contract PIA, where the project area itself is not bound by the contract, always results in a value of 0.1 for the risk of financial failure in the calculation of the project's contribution to the risk buffer pool.

1.6 Reserve attestations

Required attestations:

- Attestation of Title
- Attestation of Voluntary Implementation
- Attestation of Regulatory Compliance

Purpose: These attestations are legal documents whereby the Project Developer legally attests to the truth of the statements and facts necessary to support the conclusions of a positive verification report. The Attestation of Title confirms that the Project Developer is the legal owner of the rights to the GHG emission reductions represented by the CRTs which will be issued into their account. The Attestation of Voluntary Implementation confirms that the project passes the Legal Requirement Test. The Attestation of Regulatory Compliance confirms that the project met the eligibility requirements of Section 3.# during the reporting period(s).

Parties involved: Project Developer.

Timing: These attestations are completed during verification and apply to a specific period of time for which CRTs are to be issued. The Attestation of Title and Attestation of Regulatory Compliance are completed at every verification. The Attestation of Voluntary Implementation is only completed during the initial verification.

1.7 Other instruments associated with concurrently-joined conservation programs

Purpose: If a project area is enrolled in any other credit or payment program, the contracts or legal instruments associated with that program are relevant to the verification of the offset project. These contracts or instruments must be disclosed to the verifier during the verification process. The verifier shall assess each payment or crediting program against the guidance of Section #, conferring with the Reserve for guidance where appropriate.

Parties involved: Grassland Owner, others as relevant.

Timing: At every verification.