

Annex M

Terms and Conditions



The following Terms and Conditions are written to protect the reputation and market differentiation of The Gold Standard brand and quality label system for the benefit of all market actors:

1. Introduction

1.1 Purpose

The purpose of these Terms and Conditions (“T&C”) is to provide a master agreement between the Gold Standard Foundation (“GS” or “GSF”) and those who wish to use or otherwise participate in the Gold Standard-quality label system for carbon credits. Such uses or methods of participation may include, but are not limited to: (1) the Gold Standard procedure leading from application to registration of emissions reduction projects (“Projects”) and for the labeling, issuance and handling of emissions reduction credits generated from registered Projects (“GS-Credits”); (2) for any use of The Gold Standard Brand; and (3) for use of The Gold Standard Registry.

1.2 Definitions¹

1.2.1 “Brand User”

A party who seeks to use the Gold Standard Brand (see, *infra*, 1.2.4) to an extent exceeding the free use as described in the Brand Rules (see Annex I to the Gold Standard Toolkit).

1.2.2 “Certification”

The written assurance by the designated operational entity that, during a specified time period, a project activity achieved the reductions in anthropogenic emissions by sources of greenhouse gases (GHG) as verified. Credits labeled or issued from a Registered Project are called Gold Standard “Certified”.

1.2.3 “Fixed Cash-Per-Credit Fee Structure”

The fixed cash registration and issuance fees to be paid for each project based on number of credits issued/labeled. Projects currently listed or registered in the registry using the Fixed Cash-Per-Credit Fee Structure have the option to upgrade to the “Share of Proceeds Fee Structure” at any time by written request to the Gold Standard. Any upgrade is final and irreversible.

1.2.4 “Gold Standard Brand”

The “Gold Standard Brand” includes the “Gold Standard Trademark” and the “Gold Standard Name”.

1.2.5 “Gold Standard Name”

The “Gold Standard Name” is any symbol containing the words “GOLD STANDARD” used to designate a person or a legal entity.

¹ This section incorporates the definitions found in Chapter 2 of the Gold Standard Requirements.

1.2.6 “Gold Standard Trademark”

The “Gold Standard Trademark” is any logo, label or word mark, registered or not, containing the word element “GOLD STANDARD” and being used to certify or otherwise label emissions reduction projects and/or emissions reduction credits as well as any associated goods or services such as trade, financing, consulting, monitoring, technical supervision, quality control, sponsoring, or related activity.

1.2.7 “Issuance”

The process by which GS VERs are issued into the “Gold Standard Registry” by the Gold Standard Foundation.

1.2.8 “Labeling”

The process of labeling Gold Standard CERs or ERUs.

1.2.9 “Project Applicant”

The legal owner or an authorized representative of the legal owner of a specific project who wants to use the Gold Standard Brand for marketing a specific project prior to registration.

1.2.10 “Project Proponent” or “Project Owner”

The legal owner or an authorized representative of the legal owner of a specific project that is already registered with the Gold Standard or is seeking registration with the Gold Standard.

1.2.11 “Registration”

The process of registering a given project design to the Gold Standard for the purpose of subsequent verification and certification of claimed emission reductions.

1.2.12 “Registry User”

A party who uses the Gold Standard Registry for entering, obtaining or managing information about Projects, Gold Standard Credits and transfers involving Gold Standard Credits outside of the publicly accessible domain of the The Gold Standard Registry.

1.2.13 “Share of Proceeds Fee Structure”

For a project applying under the regular project cycle that has not submitted the complete Local Stakeholder Consultation Report (see Gold Standard Toolkit, Section 2.6 & 2.9) by August 1, 2009, or for a project applying under the retroactive project cycle that has not submitted the complete documentation required for a pre-feasibility assessment (see Gold Standard Toolkit, Table 2.9) and has not paid the pre-feasibility assessment fee by August 1, 2009, the mandatory transfer and delivery of 2% of all Voluntary Emission Reduction credits issued or 1.5% of all Certified Emissions Reductions credits labeled, or the equivalent substitution of any other Gold Standard VER or CER, respectively, to the Gold Standard Foundation in lieu of the fixed cash registration and issuance fees.

For the purposes of the "Share of Proceeds Fee Structure" (i) with respect to Gold Standard-labeled CERs or ERUs, any CERs labeled as Gold Standard credits to be delivered to the

Gold Standard Foundation shall be delivered to the Gold Standard Foundation's account in the national registry of Switzerland ("GS CERs SOP Account"), and (ii) with respect to Gold Standard-issued VERs, any Gold Standard credits to be delivered to the Gold Standard Foundation shall be delivered to the Gold Standard account in the Gold Standard Registry ("GS VERs SOP Account"),

1.3 Binding Character

Once accepted, these T&C in each case represent a binding agreement between The Gold Standard Foundation, based in Switzerland ("GSF"), and any of the following counterparties:

- the Project Proponent or Project Owner,
- the Project Applicant,
- the Brand User, and
- The Registry User.

1.4 Auxiliary Documents

The following documents are referred to and form an integral part of these T&C:

- Technical Rules and Procedures (also commonly referred to as the "Requirements" and the "Toolkit") in the version applicable at the date of submission of the Project,
- The Gold Standard Brand and Sponsors Manual; particularly Annex C,
- Terms of Use of Gold Standard Registry, including all further documents referred to therein, and
- Standardized License contracts.

2. Acceptance

2.1 Acceptance Requirement

Acceptance of these T&C is an integral and mandatory part of the GS registration process. It is also a necessary precondition for Project Applicants use of The Gold Standard Registry and any other authorized use of the Gold Standard Brand. Any use of the Gold Standard Brand without acceptance of these Terms and Conditions will be prosecuted as a violation of The GSF's intellectual property rights.

To accept these Terms and Conditions, send a signed copy to the GSF via mail (The Gold Standard Foundation, 79 Avenue Louis-Casai, 1216 Geneva-Cointrin, Switzerland), Fax (+41 22 788 70 82) or scanned as an email to info@cdmgoldstandard.org. A signed copy of these Terms and Conditions may also be uploaded on the Gold Standard Registry.

Project Applicants should accept these Terms and Conditions prior to (1) the submission of the Initial/Local Stakeholder Report if pursuing the regular project cycle, or (2) the submission of the required documentation for the pre-feasibility assessment if pursuing retroactive registration. Should the Project Applicant change or should a new Project Proponent be added before registration is completed, then the new party

shall send a signed copy of these Terms and Conditions at the time the Cover Letter is submitted for project registration.²

2.2 Project Specific Acceptance

Acceptance of the T&C for Project Proponents and Project Applicants is Project-specific and must be repeated for *each and every Project*, even if several Projects are submitted for registration, and even if the Project Applicants and Project Proponents already have accepted the Terms of Use for the Gold Standard Registry. Project Proponents and Project Applicants shall upload the signed T&C for each new Project record in the Project Proponent's registry account. The signed T&C shall be uploaded prior to and is a pre-requisite for (1) the review of the Initial/ Local Stakeholder Report for projects pursuing the regular project cycle or (2) the pre-feasibility assessment in the case of retroactive registration. Should the Project Applicant change or should a new Project Proponent be added before registration is completed, then the new party shall send a signed copy of these Terms and Conditions at the time the Cover Letter is submitted for project registration.³

3. Use of Gold Standard Brand

3.1 Preconditions

The Gold Standard Brand is protected by worldwide, exclusive rights, especially by trademark and name rights. Any use of the Brand apart from "free use" as defined in the Annex I is only permitted under the following conditions:

- Written acceptance and submission of these T&C;
- Compliance with the rules on brand use contained in these T&C (including general brand rules in Annex I);
- Compliance with the guidelines and terms outlined in The Gold Standard Brand Manual
- Written acceptance and submission of the Logo Release Form; Annex C of the Brand Manual

3.2 Default

Any Brand User not meeting all of these conditions at all times is not authorized to use the Gold Standard Brand. In such case, the GSF explicitly reserves all of its rights to the fullest extent permitted by law.

3.3 Ownership of IP Rights

For avoidance of any doubt, ownership of all rights to the Gold Standard Brand remains with the GSF. Unless agreed to otherwise in an explicit written and legally binding agreement, the Brand User receives worldwide, non-exclusive licenses to use the brand.

² See Annex N to the Gold Standard Toolkit.

³ See Annex N to the Gold Standard Toolkit.

4. Pre-Registration

4.1 Preconditions

A Project in the pre-registration phase may claim official status as a “Project Applicant” subject to the following preconditions:

- Written acceptance and submission of these T&C;
- Listing of the Project Applicant in the Gold Standard Registry, account is in good standing, and all related invoices have been paid in full.
- Full compliance with the procedures and conditions set forth in the Technical Rules and Procedures for the pre-registration phase (both for the conventional and the retroactive registration project cycles).

4.2 Default

Any Project that does not meet these conditions at all times or does not pass the validation process is not / ceases to be authorized to claim status as a “Project Applicant” and must be removed from the Gold Standard Registry within 10 days of such notification of rejection.

4.3 Authorized Use of Brand for Project Applications

Project Proponents are authorized to use the Gold Standard Trademark in the form shown hereafter in order to communicate that a specific, clearly identified Project has reached “Project Application” status:



In such use, the guidelines contained in the Brand Rules (Annex I) and the Brand Manual fully apply. Any use of the Gold Standard Brand beyond the above described form and purpose is prohibited, unless separately authorized under these T&C. Any false impression that would make the applicant Project seem to be a registered Project has to be avoided.

Upon request of the Gold Standard, Project Applicants have to submit a copy of all materials that feature the Gold Standard Trademark and that are publicly accessible (i.e. at conferences, on websites, annual reports, brochures etc.).

5. Registration

5.1 Preconditions

A Project is “GS-registered” when the following preconditions have been fulfilled:

- Successful validation of the Project as defined in the Technical Rules and Procedures, with validation statement provided by an accredited DOE and successful passage of 6 or 8 week review period. Any request for review or

- revision to the Project will suspend the review period until the GS issues a statement that the issue has been satisfactorily addressed and/or clarified;
- Gold Standard Registry account is in good standing, and all related invoices have been paid in full;
 - Binding commitment to a scheme of periodic verification of Gold Standard-Conformity of the Project through the periodic verification procedures as defined in the Technical Rules and Procedures.

The issuance of GS VER Credits derived from a GS-registered VER Project or the Gold Standard labeling of CER Credits derived from a GS-registered CDM project is subject to the following preconditions:

- Compliance with all the preconditions for registration as defined above, including acceptance of these T&C and Project registration.
- Project verification, as defined in the Technical Rules and Procedures;
- In the case of GS-registered CDM Projects under the Share of Proceeds Fee Model, if the share of GS-Credits due either from the Project in question or an alternative GS-registered CDM Project has been transferred to, and has been received by the GSF in, the GS CERs SOP Account.
- In the case of GS-registered VER Projects, if the Project Proponent has either approved the deduction of the share of credits due from the volume of credits to be issued and such share of credits has been received by the GSF in the GS VERs SOP Account or if an amount equivalent to the share of credits due from another GS-registered VER Project has been transferred to, and has been received by the GSF in the GS VERs SOP Account.
- In the case of CERs or ERUs, confirmation of credit issuance by the CDM Executive Board or the relevant JI host country, as the case may be, including the communication of unique serial numbers allowing to track the credits,
- Gold Standard Registry account is in good standing, and all related invoices have been paid in full.

5.2 Default

Any Project not meeting these conditions at all times is not / ceases to be authorized to claim status as a “GS-registered” Project and must be removed from the Gold Standard Registry within 10 days of such notification of non-conformity. Only (i) GS VERs issued to the Project, or (ii) GS CERs/ GS ERUs labeled prior to removal of the GS-registered status may continue to claim Gold Standard status after removal from the GS registry; these credits will continue to appear as Gold Standard certified in the registry’s public reports.

Any Project not meeting these conditions at all times is not / ceases to be authorized to have GS VERs issued or GS CERs / GS ERUs labeled.

5.3 Authorized Use of Brand for GS-Registered Projects with or without issued credits

The use of the Gold Standard Trademark for registered Projects and credits issued to these Projects is authorised in the form shown hereafter, together with the Project registration number in order to communicate that a *specific* Project has been registered to the GS:



In such use, the guidelines contained in the Brand Rules (Annex I) and the Brand Manual fully apply.

In case communications refer to multiple Projects/multiple registration numbers or baskets of credits from several registered Projects, use of the Gold Standard Trademark projects is authorized in the form shown hereafter. The asterisk must refer to accompanying text that lists the Project registration numbers in the same document/on the same website and in a font size no smaller than 8 points.



In such use, the guidelines contained in the Brand Rules (Annex I) and the Brand Manual fully apply.

Any use of the Gold Standard Brand beyond the above described form and purpose is prohibited, unless otherwise authorized under these T&C.

Upon request of the GSF, licence users have to submit a copy of all materials that feature the Gold Standard Trademark and that are publicly accessible (i.e. at conferences, on websites, annual reports, brochures etc.).

6. Use of Gold Standard Registry

6.1 Mandatory Use of Registry

Registration of Projects in the Gold Standard Registry is a mandatory requirement during the registration process and is a precondition for the issuance of GS-Credits.

6.2 Preconditions

Any use of the Gold Standard Registry for entering, obtaining or managing information about Projects, GS-Credits and GS-Credit transfers beyond information available through the registry's public reports is subject to the following preconditions:

- Written acceptance and submission of these T&C; and
- Written acceptance and submission of the "Terms of Use of the Gold Standard Registry".

6.3 Default

Any user of the Registry not meeting these conditions at all times is not authorized to use the Registry. In such case, the GSF explicitly excludes any liability whatsoever and reserves all of its rights.

7. Protection of the GSF's Reputation

Project Proponents, Project Applicants, Brand Users and Registry Users are at all times obliged to refrain from any behavior that may damage the reputation of the GSF and its services. This includes also compliance with internationally recognized principles on the protection of the environment and human rights.

8. Ownership of Information, Confidentiality, Data Protection

Project Proponents, Project Applicants, Brand Users and Registry Users are obliged to provide true, accurate and adequately verified data to the GSF and its subcontractors. With the exception of data agreed to be published in the Gold Standard Registry according to the requirements of the Technical Rules and Procedures and the "Terms of Use of the Gold Standard Registry" all such data will be held confidential. Such data will be used by the GSF only for the purposes foreseen in these T&C, namely for Project registration, GS-Credit issuance, operation of the Gold Standard Registry and licensing.

Parties or individuals other than DOEs having access to data that is not for public viewing (e.g. Technical Advisory Committee, Gold Standard secretariat members, and Expert reviewers) are subject to bilateral agreements with the GSF that bounds them to full confidentiality. Information reviewed from such documents may only be used for the respective review process, and may not be downloaded, stored, printed or otherwise transferred. In the case of a conflict of interest and upon request of a project proponent, this confidentiality may be expanded to be in place between members of the Technical Advisory Committee or Expert Reviewers at the discretion of the Gold Standard Technical Advisory Committee Chair.

Project Proponents, Project Applicants, Brand Users and Registry Users also warrant to the GSF that all documents and other intellectual property submitted to the GSF or its subcontractors do not violate the rights of third parties. Project Proponents, Project Applicants, Brand Users and Registry Users will hold the GSF and its subcontractors free from any damages suffered as a result of any such third party claims.

9. Ownership and Legal Title

With the Acceptance of these T&C, entities applying for Registration confirm their exclusive ownership and legal title to the specific Project in question and their full and unimpeded capacity to legally act as "Project Applicant" or "Project Proponent".

In respect to the GS VERs, the Project Proponent further acknowledges that the GS VERs are created upon their issuance in the Gold Standard Registry. The Project Proponent represents that upon issuance and upon giving any transfer instructions to the Gold Standard

Registry, it has the best and most comprehensive legal title (to the fullest extent available under applicable law) to the relevant GS VERs.

In case the Share of Proceeds Fee Model is applicable, the Project Proponent further represents that it has the best and most comprehensive legal title (to the extent available under applicable law) to any GS-Credits transferred to the GSF. The Project Proponent also warrants that the GS-Credits transferred to the GSF under the Share of Proceeds Fee Model are free of any and all legal burdens e.g. have not been assigned, transferred, sublicensed, pledged, mortgaged or otherwise encumbered to the detriment of the GSF.

10. Sanctions

10.1 Contractual Sanctions

Violation of these T&C (including any conditions named in the Annex and/or the Auxiliary Documents) is sanctioned at the discretion of the GSF and violators are subject to one or any combination of the following sanctions:

- Contractual fine of up to CHF 100'000 per violation for non-authorized use of Gold Standard Brand and/or for providing false information related to Projects and/or GS-Credits;
- Partial or complete withdrawal of right to use the Gold Standard Brand;
- Complete withdrawal of right to enter the Gold Standard Registry;
- Removal of information from the Gold Standard Registry and/or from the GSF's website and/or freezing accounts in the Gold Standard Registry;
- In severe cases, if reasonable proof of violation is available: Publication of name and circumstances of violation.

As an exception to the above mentioned sanction of withdrawing the right to use the Gold Standard Brand, certified GS-Credits will not in any case be cancelled / decertified. However, in case the GS-Certification has been obtained on the basis of intentionally false information or otherwise misleading conduct, the GSF has the right to:

- upon reasonable suspicion freeze the account in the Gold Standard Registry of the responsible Project Proponent;
- demand repayment from the Project Proponent of such erroneously certified GS-Credits with an equal, additional volume of GS-Credits.

10.2 Reservation of Right to Seek Further Relief

Complying with these sanctions does not release from further compliance with these Terms and Conditions. Additional claims for damages and any other rights or actions of the GSF to seek further relief remain reserved at all times.

11. Liability and Warranty

11.1 Limits to the Scope of The Gold Standard Foundation's Services

The GSF operates the GS-quality label system. This system consists of defined certification rules, validation and verification procedures. With the registration of a Project, The GSF confirms only conformity of a Project based *on the existing rules, validation and verification procedures. The registration is in vital parts granted on the basis of information and assessments provided by third parties (DOEs, CDM EB, etc.), as described in the Technical Documents.*

For avoidance of doubt, the GSF does not carry out any validation and/or verification activities other than those defined in the existing rules and regulations. Especially, information and assessments provided by third parties (DOEs, CDM EB, etc.) are not verified to an extent exceeding the existing rules and regulations. Anyone interested in further verification of Project data or information about GS-Credits may do so in their own responsibility, without any further obligations of the GSF.

11.2 Limitation of Warranty

The GSF does not provide any guarantee or warranty for information on Project Applications, registered Projects, GS-Credits or GS-Credit transactions beyond diligent selection of subcontractors and diligent validation and verification according to the existing rules and regulations. Specifically, the GSF does not provide any guarantee or warranty for information and assessments received in good faith from third parties (DOEs, CDM EB, etc.).

Furthermore, any warranty for cases of light negligence is excluded.

11.3 Limitation of Liability

The GSF can only be held liable for the correct and diligent application of the existing rules, validation and verification procedures, including diligent selection of subcontractors. Liability for cases of light negligence is excluded.

Any liability for GS-Credit transactions is excluded. In case any one involved seeks further security in connection with Project information, information on GS-Credits and/or information on GS-Credit transactions, this must be achieved through separate bilateral contracts with the respective Project Proponents and/or GS-Credit owners, without further involvement of the GSF.

Board member, officers and employees of the GSF are not personally liable for any actions or obligations of the GSF. With the acceptance of these T&C, the accepting party also waives any right to personally hold liable the GSF's board member, officers and employees for any activities performed when acting on behalf of the GSF, this to the maximum extent permitted by law.

12. Indemnification of the GSF

With the acceptance of these T&C, the accepting party agrees to fully indemnify and hold harmless the GSF, its board member, officers, employees and agents from and against any third party claims and/or official claims resulting from the accepting party's activities under

these T&C. This includes especially third party claims against the GSF and associated persons arising out of false or inaccurate data provided by the accepting party in connection with Projects or GS Credits, violations of public order laws by the accepting party, fraudulent behavior or other criminal acts of the accepting party and violation of third party intellectual property rights by the accepting party. The indemnification covers any and all costs and losses suffered by the GSF and associated persons in such cases, including damage payments to third parties, business interruption, reputational damage, management time, attorney's costs and court fees. In addition, the accepting party undertakes to supply any and all information useful to the GSF and associated parties for their defense against such claims.

13. Transitional Rules

The T&C apply to the following extent to Projects already registered, pending Project applications or other persons already authorized to use the Gold Standard Brand:

- Pending applications: Further use of Gold Standard Label by Project Applicants is only authorized if these terms and conditions are accepted the latest by 31 December 2009.
- Registry Users: Further use of Gold Standard Registry is only authorized if these T&C are accepted the latest by 31 December 2009.
- Other authorized use of Gold Standard Brand: The existing contracts with the GSF remain in full force for their regular duration. Possible extension of such contracts after their regular duration will be subject to acceptance of these T&C.

14. Changes of the T&C

Any changes of the T&C as well as of the Auxiliary Documents must be made in writing. Acceptance of the T&C means that the accepting party also accepts within reasonable bounds any later changes to the T&C made by the GS. At any one time, the applicable Terms and Conditions are published on The Gold Standard website (www.cdmgoldstandard.org.)

15. Invalidity of Provisions

If for any reason any provisions contained in these T&C are declared invalid or void, all other provisions and the agreement as a whole shall not be affected and accordingly shall remain in full force and effect. Invalid or void provisions shall for the sake of interpretation of the agreement be replaced by terms, which are in a business perspective as close as possible in meaning to the original provisions.

16. Applicable Law / Conflict Resolution / Jurisdiction

These T&C are set under Swiss Law. In case of a dispute arising from non-compliance with the T&C (including Annex and any Auxiliary Documents), the parties shall at first aim to resolve the conflict through good faith negotiations. In case no amicable solution can be found within 10 days after the first notification of the conflict is received, either party may choose to commence legal proceedings. The courts at the registered seat of the GSF in Switzerland are exclusively competent for such proceedings.

IN WITNESS WHEREOF, the Registry Account Holder, Project Owner(s) and/or Project Representative(s) hereby accept these Terms and Conditions as of the date written below.

Signed:

Name:

Title:

On behalf of:

Place & Date:

Please fill in the following information

Project Terms and Conditions only:

Project ID (eg GS000):

Project Name:

Project Country:

Project Contact:

Project Contact Phone Number:

Project Contact Email Address:

New Registry Accounts only:

Account ID Number:

Account Manager Name:

Account Manager Phone Number:

Account Manager Email: