



TEMPLATE

DEVIATION REQUEST FORM

PUBLICATION DATE **11.04.2021**

Version **5.0**

A. To be completed by Gold Standard

1 | Decision

1.1 | Date – 25/01/2023

1.2 | Decision

In light of the background information provided in the deviation request, it is established that the customary land rights lawfully exist in the host country. The deviation request is thus approved, subject to fulfilment of the following three conditions:

- The participating farmer has signed the Farmer Agreement with KKFU.
- The participating farmer must provide any of the three evidences:
 - (1) proof of legal land ownership
 - (2) written evidence of long-term user rights for the duration of the project (until 2052) from the relevant legal land owner (i.e. the local Chief)
 - (3) the farmer must declare as part of signing the agreement that his/her right to the use of the land is not contested and he/she is not aware of proceedings to contest his/her right for the duration of the Project (until 2052).

- The participating farmer must register with the Forestry Commission of Ghana for all the timber trees planted as part of this Project in the name of the farmer.

The above shall be verified by VVB, using their local and sectoral expertise.

1.3 | Is this decision applicable to other project activities under similar circumstances?

No.

- B. **To be completed by the Project Developer/Coordinating and Managing Entity and/or VVB requesting deviation** (Submit deviation request form in Microsoft Word format)

2 | Background information

| | | |
|----------------------------|------------------------------------|--------------|
| Deviation Reference Number | DEV_364 | |
| Date of decision | 23/01/2023 | |
| Precedent (YES/NO) | No | |
| Precedent details | [to be completed by Gold Standard] | |
| Date of submission | 06/01/2023 | |
| Project/PoA/VPA | Project | ID - GS11569 |
| | <input type="checkbox"/> PoA | ID - GSXXXX |
| | <input type="checkbox"/> VPA | ID - GSXXXX |

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| Project/PoA/VPA title | Sankofa Project – Empowered by Alliances for Action |
| Date of listing | Not yet listed |
| GS Standard version applicable | Gold Standard for the Global Goals |
| Date of transition to GS4GG (if applicable) | n/a |
| Date of transition to Gold Standard from another standard (e.g. CDM) (if applicable) | n/a |
| Date of design certification/inclusion (if applicable) | n/a |
| Location of project/PoA/VPA | Ghana |
| Scale of the project/PoA/VPA | <input checked="" type="checkbox"/> Microscale <input type="checkbox"/> Small scale <input type="checkbox"/> Large scale |
| Gold Standard Impact Registry link of the project/PoA/VPA | n/a |
| Status of the project/PoA/VPA | <input checked="" type="checkbox"/> New <input type="checkbox"/> Listed <input type="checkbox"/> Certified design <input type="checkbox"/> Certified project |
| Title/subject of deviation | Land tenure |

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| <p>Specify applicable rule/requirements/methodology, with exact paragraph reference and version number</p> | <p>General Eligibility Criteria of the Land Use and Forestry Activity Requirements (Version 1.2.1, Published April 2020), under section 2b) Secured Titles, Gold Standard requires the following in paragraphs 2.1.9 and 2.1.10:</p> <p>"2.1.9 For all project participants, the following information and evidence shall be provided:</p> <ul style="list-style-type: none"> (a) Name and contact details (b) Each entity's legal registration number and documentation by the governing jurisdiction that proves that the entity is in good standing. AND (c) For the duration of the crediting period the Project Developer shall: <ul style="list-style-type: none"> i. where a Gold Standard Certified Statement or Product (e.g. GSVERs) is sought, Project Developers must own the CO2 user rights or carbon sequestration rights for the project area, AND ii. hold an uncontested legal land title for the Project Area, AND iii. own the rights for timber and non-timber forest products for the project area, AND iv. hold all necessary permits to implement the project (planting permits, infrastructure permits, harvesting permits, etc.), AND v. participate in the financing of the project. <p>2.1.10 If the Project Developer does not meet all of the above requirements, the persons or legal entities that do meet those respective requirements shall endorse the proposed project through an agreement that aligns with the duration of the crediting period."</p> <p><u>Comment:</u> For section 2.1.9 c) i. it is important to understand, that "CO2 user rights" are rights that grant the titleholder any benefit that could be generated from the certification of the carbon sequestration or greenhouse gas reduction by the project.</p> <p>For land use projects, the holder of the CO2 user rights is usually the owner of the land, where the project activity takes place – except when such rights have been expressly transmitted to another person or entity by the land owner, or when an authority act / decision / order / regulation assigns such rights to a different person than the land owner.</p> |
| <p>Specify the monitoring period for which the request is valid (if applicable)</p> | <p>n/a</p> |
| <p>Submitted by</p> | <p>Contact person name: Chetan Aggarwal Email ID: standards@southpole.com c.aggarwal@southpole.com</p> |

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| | Organisation: South Pole Carbon Asset Management Ltd. Project participant: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| Validation and Verification body (VVB) opinion shall be included, where required by the applicable rules/requirements or request is submitted by the VVB). | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes; VVB name: VVB Staff name(s): |
| Any previous deviations approved for the same project activity/PoA/VPA(s)? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |

3 | Deviation detail

3.1 | Description of the deviation:

**Guidance* Use the space below to describe the deviation and substantiate the reason for requesting deviation from applicable rules/requirements. Please include all relevant information in support of the request. You are requested to follow the principles for requesting deviations, given in the [Deviation Approval Procedure/ Design Change Requirements](#).*

3.1.1 | Deviation detail (to be completed by Project developer):

The Sankofa Project targets the establishment of 400 hectares of a dynamic agroforestry system with approximately 400 different smallholder cocoa farmers in Ghana. As per section 2.1.9 of Land use and forestry activity requirements version 1.2.1, the project participants shall provide information or evidence for an uncontested legal land title for the Project Area.

The project will not be able to comply with Gold Standard's requirement to provide "uncontested legal land titles" for the project area for all project participants because all land tenure in Ghana is based on customary tenure arrangements rather than having 'uncontested legal land title'. This is the case throughout Ghana.

The Land Act of Ghana, 2020 (<https://landwise-production.s3.amazonaws.com/2022/06/LAND-ACT-2020-ACT-1036.pdf>) states that the following interests in land are recognized:

- (a) allodial title;
- (b) common law freehold;
- (c) customary law freehold;
- (d) usufructuary interest;

- (e) leasehold interest; and
- (f) customary tenancy

According to Asaaga¹², “available statistics indicate that 78% of Ghana’s total land is classified as customary land, with the remaining 22% falling under the domain of the state (20% exclusively owned by the state and 2% vested lands that are managed by the state but communally owned).” Similarly, Mahama et al,³ state that “In Ghana, eighty percent (80%) of land is under customary (non state sector) ownership.”

Other publications with similar content on land tenure include:

- Paaga, D. T., & Dandeebo, G. (2013). Customary land tenure and its implications for land disputes in Ghana: Cases from Wa, Wechau and Lambussie. *International Journal of Humanities and Social Science*, 3(18), 263-270.
- Offei, E., Lengoiboni, M., & Koeva, M. (2018). Compliance with residential building standards in the context of customary land tenure system in Ghana. *plaNNext–next generation planning*, 6, 25-45.
- Ghana GCFRP Emission Reductions Programme Document (ER-PD)

The Cocoa Research, Briefing 1: Legal & institutional framework for cocoa production & trade in Ghana (July 2022), by TaylorCrabbe for Client Earth, describes various common forms of customary tenancy. Under tenancy arrangements the land can only potentially revert to the original owner when the main crop (cocoa) is removed or there is a change of land use. This will not occur in the Sankofa Project because the project participants agree to maintain the cocoa for a minimum of 30 years.

In conclusion, although the participating farmers who are implementing the project on their farms do not have common law freehold (i.e. legal land title) they do have legal recognition of their land tenure for long term user rights as demonstrated in the Land Act 2020.

In addition, as part of this project all the relevant Chiefs (who are the actual land owners based on allodial title) in the project area have been engaged in the project design and

¹ Asaaga, F. A. (2021). Building on “traditional” land dispute resolution mechanisms in rural Ghana: adaptive or anachronistic?. *Land*, 10(2), 143. <https://www.mdpi.com/2073-445X/10/2/143>

² Asaaga, F.A.; Hirons, M.A. Windows of opportunity or windows of exclusion? Changing dynamics of tenurial relations in rural Ghana. *Land Use Policy* 2019, 87, 104042.

³ Mahama, C. A., & Baffour, O. A. (2009). Management of stool land revenue in Ghana: a study of the Nkawie and Toase stools of the Atwima Nwabiagya district of the Ashanti region. *Journal of Science and Technology (Ghana)*, 29(1). <https://www.ajol.info/index.php/just/article/view/46426>

local consultation in order to get their assurance that all participating farmers have uncontested land tenure based on these customary tenancy arrangements (refer to Local Stakeholder Consultation Report).

In addition, during farmer selection, checks are made on all farmers to ensure that there are no land conflicts in the selected project areas and that the participants demonstrate the required long term user rights. All participating farmers then sign an agreement with the Project Developer (Kuapa Kokoo Farmers Union: KKFU) committing to maintain the project forest area for a minimum of 30 years.

As a further mechanism to demonstrate that the farmers have long term user rights on their project areas, the trees planted by the farmers as part of the project will be registered in the farmers (project participant) own name with the Forestry Commission of Ghana.

Thus, we request for deviation from Gold Standard requirements that 2.1.9 c) ii) ("hold an uncontested legal land title for the Project Area") shall be fulfilled if a participating farmer:

- 1) Has signed the Farmer Agreement with KKFU which states that the participating farmer:
 - Must either (1) provide proof of legal land ownership or (2) provide written evidence of long term user rights for the duration of the project (until 2052) from the relevant legal land owner (i.e. the local Chief) or (3) the farmer must vouch at the time of signing the agreement that his/her right to the use of the land is not contested and he/she is not aware of proceedings to contest his/her right for the duration of the Project (until 2052).
 - Must register with the Forestry Commission of Ghana all the timber trees planted as part of this Project in the name of the farmer that has signed this agreement.

3.1.2 | VVB opinion (to be completed by VVB, if applicable):

**Guidance* If required by SustainCERT or Gold Standard for this particular deviation, please add here the VVB's opinion.*

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3.2 | Assessment of the deviation:

**Guidance* Use the space below to describe how the deviation complies with the requirements, and, where applicable, the accuracy, completeness and conservativeness is ensured. Please include all relevant information in support of the request.*

3.2.1 | Deviation assessment (to be completed by Project developer):

The deviation request complies (in essence) with all the requirements of 2.1.9 c):

- i. where a Gold Standard Certified Statement or Product (e.g. GSVERs) is sought, Project Developers must own the CO2 user rights or carbon sequestration rights for the project area, AND

No GS VERs are sought from this project.

- ii. **hold an uncontested legal land title for the Project Area, AND**

All participating farmers have uncontested, long term user rights for the Project area which are agreed upon through customary arrangements and verified during Local Stakeholder Consultation and farmer selection.

- iii. own the rights for timber and non-timber forest products for the project area, AND

All participating farmers own the rights for timber and non-timber products for the project area. All timber trees planted will be registered in the farmer's name with the Forestry Commission of Ghana.

- iv. hold all necessary permits to implement the project (planting permits, infrastructure permits, harvesting permits, etc.), AND

No planting permits are required and no harvesting of timber trees will take place for the duration of the project (30 years) although by registering the trees with the Forestry Commission of Ghana, the farmers hold the right to harvest the trees.

- v. participate in the financing of the project."

All the farmers participate directly in the project planting trees on their own land.

3.2.2 | VVB opinion (to be completed by VVB, if applicable):

**Guidance* If required by SustainCERT or Gold Standard for this particular deviation, please add here the VVB's opinion.*

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3.3 | Impact of the deviation:

**Guidance* Use the space below to describe the impact of the deviation on project design, safeguarding principles assessment, SDG assessment, emissions reductions, monitoring frequency, data quality, potential risk or any other relevant aspect of the project. Please substantiate the impact assessment with relevant and verifiable data/information.*

3.3.1 | Impact assessment (to be completed by Project developer):

The proposed deviation will have no impact on the project design, safeguards emission reductions or any other potential project risks, as evidenced by the participation of traditional authorities (Chiefs) during the local stakeholder consultation who confirmed their support for the project and the signing of farmer agreements by all participating farmers.

3.3.2 | VVB opinion (to be completed by VVB, if applicable):

**Guidance* If required by SustainCERT or Gold Standard for this particular deviation, please add here the VVB's opinion.*

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3.4 | Documents:

**Guidance* List of documents provided (note that once a decision has been made by Gold Standard, this deviation form along with supporting documents will be made public on the Gold Standard website. If any of the supporting documents are confidential, please indicate here to ensure they are omitted.)*

| Version number | Release date | Description |
|----------------|--------------|--|
| 5 | 11.04.2022 | Additional information added: <ul style="list-style-type: none"> - date of listing, design certification, transition - standard version - specific reference to a requirement deviated from - any previous deviations/design changes approved Guidance on VVB opinion |
| 4 | 14.01.2021 | |
| 3 | 16.07.2020 | |
| 2 | 03.05.2018 | |
| 1 | 01.07.2017 | Initial adoption |