

ANNEX AH – RULES FOR APPEALS ON REGISTRATION, ISSUANCE AND LABELLING

CONTENTS

Introduction

Section I. Introductory Rules

- Scope of Application (Article 1)
- Notice, Calculation of Periods of Time (Article 2)
- Notice of Arbitration (Article 3)
- Representation and Assistance (Article 4)

Section II. Composition of the Arbitral Tribunal

- Number of Arbitrators (Article 5)
- Appointment of Arbitrators (Articles 6 to 8)
- Challenge of Arbitrators (Articles 9 to 12)
- Replacement of an Arbitrator (Article 13)
- Repetition of Hearings in the Event of the Replacement of an Arbitrator (Article 14)

Section III. Arbitral Proceedings

- General Provisions (Article 15)
- Place of Arbitration (Article 16)
- Language (Article 17)
- Statement of Claim (Article 18)
- Statement of Defence (Article 19)
- Amendments to the Claim or Defence (Article 20)
- Pleas as to the Jurisdiction of the Arbitral Tribunal (Article 21)
- Further Written Statements (Article 22)
- Periods of Time (Article 23)
- Evidence and Hearings (Articles 24 and 25)
- Interim Measures of Protection (Article 26)
- Experts (Article 27)
- Failure to Appear or to Make Submissions (Article 28)
- Closure of Hearings (Article 29)
- Waiver of Rules (Article 30)

Section IV. The Award

- Decisions (Article 31)
- Form and Effect of the Award (Article 32)
- Applicable Law (Article 33)
- Other Grounds for Termination (Article 34)
- Interpretation of the Award (Article 35)
- Correction of the Award (Article 36)
- Additional Award (Article 37)
- Costs (Articles 38 to 40)
- Deposit of Costs (Article 41)

Schedule 1 Gold Standard Defined Terms

Schedule 2 Model Arbitration Clauses

INTRODUCTION

These Rules provide for appeals by way of arbitration regarding disputes arising from certain decisions and actions of The Gold Standard Foundation with respect to Registration, Issuance and Labelling, following the date on which these Rules enter into force. Capitalized terms shall have the meaning ascribed thereto in Schedule 1 (*Gold Standard Defined Terms*).

The Rules are based on the Permanent Court of Arbitration Optional Rules for Arbitration of Disputes Relating to Natural Resources and/or the Environment, which are based on the UNCITRAL Arbitration Rules, with certain amendments in order to:

- (i) reflect the particular characteristics of Gold Standard projects and The Gold Standard project cycle;
- (ii) define the role of the Secretary-General and the International Bureau of the Permanent Court of Arbitration (PCA), located at the Peace Palace in The Hague;
- (iii) allow parties to choose an arbitral tribunal consisting of one or three arbitrators;
- (iv) provide for the establishment of a list of specialized arbitrators mentioned in article 8(2) of these Rules.
- (v) provide suggestions for establishing procedures aimed at ensuring transparency.

The Rules emphasize flexibility and party autonomy. For example:

- (i) The Rules may be used in connection with an arbitration that is initiated by a Project Representative, a Project Owner or a Project Participant against The Gold Standard Foundation regarding decisions related to Registration, Issuance or Labelling (as each of these terms is defined in The Gold Standard Terms and Conditions).
- (ii) In order to provide a fail-safe mechanism to prevent frustration or delay of the arbitration, the Rules provide that the Secretary-General will act as the appointing authority if the parties do not agree on the person(s) to be appointed as arbitrator(s).

Mindful of the possibility of multiparty involvement in disputes in relation to a Gold Standard project, these Rules provide specifically for multiparty appointment of arbitrators.

Where the dispute is to be referred to an arbitral tribunal of three arbitrators, parties should particularly bear in mind that these Rules do not empower the appointing authority to appoint all arbitrators when multiple claimants or respondents fail to make a joint appointment. Such a provision, if desirable to the parties, may be added to the arbitration agreement.

Where arbitrations deal with scientific or technical questions, provision is made in article 24(4) for the submission to the arbitral tribunal of a document agreed to by the parties, summarizing and providing background to any scientific or technical issues which the parties may wish to raise in their memorials or at oral hearings.

A model clause that parties may consider inserting in agreements to provide for arbitration of future disputes, and a model clause for arbitration of existing disputes are set forth in Schedule 2 (*Model Arbitration Clauses*).

THE GOLD STANDARD RULES FOR APPEALS ON REGISTRATION, ISSUANCE AND LABELLING

*Effective [**] 2010*

SECTION I. INTRODUCTORY RULES

Scope of Application

Article 1

1. Where all parties have agreed in writing that a claim against The Gold Standard Foundation that may arise or that has arisen regarding decisions related to Registration, Issuance or Labelling shall be referred to arbitration under The Gold Standard Rules for Appeals, such disputes shall be settled in accordance with these Rules subject to such modification as the parties may expressly agree upon in writing. The expression 'agreed upon in writing' includes provisions in agreements, contracts, The Gold Standard Terms and Conditions or reference upon consent of the parties by a court.
2. These Rules shall apply to those disputes identified in Article 1.1 of these Rules for Large Scale Projects, Programmes of Activities, Micro Scale and Small Scale Projects.
3. Agreement by a party to arbitration under these Rules constitutes a waiver of any right of sovereign immunity from jurisdiction, in respect of the dispute in question, to which such party might otherwise be entitled. A waiver of immunity relating to the execution of an arbitral award must be explicitly expressed.
4. The International Bureau of the Permanent Court of Arbitration (the 'International Bureau') shall take charge of the archives of the arbitration proceeding. In addition, upon written request of all the parties or of the arbitral tribunal, the International Bureau shall act as a channel of communication between the parties and the arbitral tribunal, provide secretariat services and/or serve as registry.

Notice, Calculation of Periods of Time

Article 2

1. For the purposes of these Rules, any notice, including a notification, communication or proposal, is deemed to have been received when it has been delivered to the addressee by any means by which it can be ascertained that notice has reached its destination. Notice shall be deemed to have been received on the day it is so delivered.
2. For the purposes of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice is received. If the last day of such period is an official holiday or a non-work day in the State of the addressee, the period is extended until the

first work day which follows. Official holidays or non-work days occurring during the running of the period of time are included in calculating the period.

Notice of Arbitration

Article 3

1. The party or parties initiating recourse to arbitration (hereinafter called the 'claimant') shall give to the other party or parties (hereinafter called the 'respondent') a notice of arbitration.
2. Arbitral proceedings shall be deemed to commence on the date on which the notice of arbitration is received by the respondent.
3. The notice of arbitration shall include the following:
 - a. A demand that the dispute be referred to arbitration;
 - b. The names and addresses of the parties;
 - c. A reference to any rule, decision, agreement, contract, convention, treaty, constituent instrument of an organization or agency, or relationship out of, or in relation to which, the dispute arises;
 - d. The pertinent arbitration clause or separate arbitration agreement;
 - e. The general nature of the claim and the type of project to which it relates, if any;
 - f. The relief or remedy sought;
 - g. A proposal as to the number of arbitrators (i.e. one or three).
4. The notice of arbitration may also include the statement of claim referred to in article 18.

Representation and Assistance

Article 4

The parties may be represented or assisted by a person or persons of their choice. The name and address of that person or persons must be communicated in writing to the other party, to the International Bureau and to the arbitral tribunal after he/she has been appointed.

SECTION II. COMPOSITION OF THE ARBITRAL TRIBUNAL

Number of Arbitrators

Article 5

If the parties have not previously agreed on the number of arbitrators (i.e. one or three), and if within thirty days after the receipt by the respondent of the notice of arbitration the parties have not agreed on the number of arbitrators:

- (i) One arbitrator, in respect of Micro Scale and Small Scale Projects; or
- (ii) Three arbitrators, in respect of Large Scale Projects and Programmes of Activities;

shall be appointed pursuant to the appointment procedure in articles 6 to 8.

Appointment of Arbitrators (Articles 6 to 8)

Article 6

1. If a sole arbitrator is to be appointed, any party may propose to the other the names of one or more persons out of the list of arbitrators mentioned in article 8(2) of these Rules (the 'List of Arbitrators'), one of whom would serve as the sole arbitrator.
2. If within thirty days after receipt by a party of a proposal made in accordance with paragraph 1 the parties have not reached agreement on the choice of a sole arbitrator, the sole arbitrator shall be appointed from the List of Arbitrators by the Secretary-General of the Permanent Court of Arbitration at The Hague (the 'Secretary-General') acting as appointing authority.
3. The Secretary-General shall, at the request of one of the parties, appoint the sole arbitrator as promptly as possible. In making the appointment the Secretary-General shall use the following list-procedure, unless all parties agree that the list-procedure should not be used, or used with such modifications as the parties may agree upon, or unless the Secretary-General determines in its discretion that the use of the list-procedure is not appropriate for the case:
 - a. At the request of any of the parties the Secretary-General shall communicate to all parties an identical list containing at least three names from the List of Arbitrators;
 - b. Within thirty days after the receipt of this list, each party shall return the list to the Secretary-General after having commented on the names provided and numbered the names on the list in the order of its preference;
 - c. After the expiration of the above period of time the Secretary-General shall appoint the less objectionable candidate as sole arbitrator from among the lists returned to it and in accordance with the order of preference indicated by the parties where the parties have agreed upon the order of preference;

- d. If for any reason the appointment cannot be made according to this procedure, the Secretary-General may exercise his/her discretion in appointing the sole arbitrator from the List of Arbitrators.
4. In making the appointment, the Secretary-General shall have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator.
5. Where the Secretary-General proposes to appoint a person not suggested by the parties, the parties shall, before such appointment is made, be consulted by the Secretary-General in regard to any possible objections on the grounds of justifiable doubts as to the proposed appointee's impartiality or independence or that he or she does not possess the requisite qualifications.

Article 7

1. If three arbitrators are to be appointed, each party shall appoint one arbitrator from the List of Arbitrators. The two arbitrators thus appointed shall choose the third arbitrator from the List of Arbitrators who will act as the presiding arbitrator of the tribunal.
2. If within thirty days after the receipt of a party's notification of the appointment of an arbitrator the other party has not notified the first party of the arbitrator it has appointed, the first party may request the Secretary-General to appoint the second arbitrator. In that case, the Secretary-General may exercise his/her discretion in appointing the arbitrator from the List of Arbitrators.
3. If within thirty days after the appointment of the second arbitrator the two arbitrators have not agreed on the choice of the presiding arbitrator, the presiding arbitrator shall be appointed by the Secretary-General in the same way as a sole arbitrator would be appointed under article 6.
4. Where the notice of arbitration names more than one claimant and the parties have not agreed upon a procedure of appointment, the claimants shall make a joint appointment of an arbitrator in their notice of arbitration. The appointment of the second arbitrator and the presiding arbitrator shall, subject to paragraph 5 of this article, take place in accordance with this article.
5. Where the notice of arbitration names more than one respondent and the parties have not agreed upon a procedure of appointment, the respondents shall jointly appoint an arbitrator. If, for whatever reason, the respondents do not make a joint appointment of an arbitrator within thirty days after receiving the notice of arbitration, the appointment of the second arbitrator shall take place in accordance with paragraph 2 of this article.
6. If, in the situation contemplated in paragraphs 4 and 5 above, within thirty days after the appointment of the second arbitrator the two arbitrators have not agreed on the choice of the presiding, such arbitrator shall be appointed by the Secretary-General in the same way as a sole arbitrator would be appointed under article 6.

Article 8

1. When the Secretary-General is requested to appoint an arbitrator pursuant to article 6 or article 7, the party which makes the request shall send to the Secretary-General a copy of the notice of arbitration including copies of the documents mentioned in article 3, paragraph 3(c) and (d). The Secretary-General may request from any party such additional information as it deems necessary to fulfil his/her function.
2. For the purpose of assisting the parties and the Secretary-General, the Secretary-General will make available a list of persons considered to have expertise in the subject-matters of the dispute at hand for which these Rules have been designed. In appointing arbitrators pursuant to these Rules, the parties and the Secretary-General shall appoint persons who are listed in this List of Arbitrators, unless the parties otherwise agree in writing. The List of Arbitrators shall be maintained and revised by The Gold Standard Appeals Appointing Committee.

Challenge of Arbitrators (Articles 9 to 12)

Article 9

A prospective arbitrator shall disclose to those who approach him/her in connection with his/her possible appointment any circumstances likely to give rise to justifiable doubts as to his/her impartiality or independence. An arbitrator, once appointed or chosen, and thereafter promptly, shall disclose such circumstances to the parties unless they have already been informed by him/her of these circumstances.

Article 10

1. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
2. A party may challenge the arbitrator appointed by it only for reasons of which it becomes aware after the appointment has been made.

Article 11

1. A party who intends to challenge an arbitrator shall send notice of its challenge within thirty days after it has received notice of the appointment of the challenged arbitrator or within thirty days after the circumstances mentioned in articles 9 and 10 became known to that party.
2. The challenge shall be notified to the other party or parties, to the arbitrator who is challenged and to the other members of the arbitral tribunal. The notification shall be in writing and shall state the reasons for the challenge.
3. When an arbitrator has been challenged by one party, the other party may agree to the challenge. The arbitrator may also, after the challenge, withdraw from his/her office. In neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases

the procedure provided in article 6 or 7 shall be used in full for the appointment of the substitute arbitrator, even if during the process of appointing the challenged arbitrator a party had failed to exercise its right to appoint or to participate in the appointment.

Article 12

1. If the other party or parties do not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge will be made by the Secretary-General.
2. If the Secretary-General sustains the challenge, a substitute arbitrator shall be appointed or chosen pursuant to the procedure applicable to the appointment or choice of an arbitrator as provided in articles 6 to 9 except that, when this procedure would call for the designation of an appointing authority, the appointment of the arbitrator shall be made by the Secretary-General.

Replacement of an Arbitrator

Article 13

1. In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed or chosen pursuant to the procedure provided for in articles 6 to 9 that was applicable to the appointment or choice of the arbitrator being replaced. In the case of a three-person tribunal, resignation by any arbitrator shall be addressed to the arbitral tribunal and shall not be effective unless the arbitral tribunal determines that there are sufficient reasons to accept the resignation, and if the arbitral tribunal so determines the resignation shall become effective on the date designated by the arbitral tribunal. In the event that an arbitrator whose resignation is not accepted by the tribunal nevertheless fails to participate in the arbitration, the provisions of paragraph 3 of this article shall apply.
2. In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility of his/her performing his/her functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in the preceding articles shall apply, subject to the provisions of paragraph 3 of this article.
3. If an arbitrator on a three-person tribunal fails to participate in the arbitration, the other arbitrators shall, unless the parties agree otherwise, have the power in their sole discretion to continue the arbitration and to make any decision, ruling or award, notwithstanding the failure of one arbitrator to participate. In determining whether to continue the arbitration or to render any decision, ruling or award without the participation of an arbitrator, the other arbitrators shall take into account the stage of the arbitration, the reason, if any, expressed by the arbitrator for such non-participation, and such other matters as they consider appropriate in the circumstances of the case. In the event that the other arbitrators determine not to continue the arbitration without the non-participating arbitrator, the arbitral tribunal shall declare the

office vacant, and a substitute arbitrator shall be appointed pursuant to the provisions of articles 6 to 9, unless the parties agree on a different method of appointment.

Repetition of Hearings in the Event of the Replacement of an Arbitrator

Article 14

If under articles 11 to 13 the sole arbitrator is replaced, any hearings already held shall as far as necessary be repeated, unless the parties agree otherwise. If one of several arbitrators (including the presiding arbitrator) is replaced, unless the parties agree otherwise or the arbitral tribunal so decides, hearings already held shall not be repeated.

SECTION III. ARBITRAL PROCEEDINGS

General Provisions

Article 15

1. Subject to these Rules, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, provided that the parties are treated with equality and that at any stage of the proceedings each party is given a full opportunity to present its case.
2. If any claimant or respondent so requests at any appropriate stage of the proceedings, the arbitral tribunal shall hold hearings for the presentation of evidence by witnesses, including expert witnesses, or for oral argument. In the absence of such a request, the arbitral tribunal shall decide whether to hold such hearings or whether the proceedings shall be conducted solely on the basis of documents and other materials.
3. All documents or information supplied to the arbitral tribunal by one party shall at the same time be communicated by that party to the other party and a copy shall be filed with the International Bureau.
4. A party invoking the confidentiality of any information it wishes or is required to submit in the arbitration, including to an expert appointed by the arbitral tribunal, shall make an application to have the information classified as confidential by notice containing the reasons for which it considers the information confidential to the arbitral tribunal, with a copy to the other party.
5. The arbitral tribunal shall determine whether the information is to be classified as confidential and of such a nature that the absence of special measures of protection in the proceedings would be likely to cause serious harm to the party or parties invoking its confidentiality. If the arbitral tribunal so determines, it shall decide and communicate in writing to the parties and the Registry under what conditions and to whom the confidential information may in part or in whole be disclosed and shall require any person to whom the confidential information is to be disclosed to sign an appropriate confidentiality undertaking.

6. The arbitral tribunal may also, at the request of a party or on its own motion, appoint a confidentiality advisor as an expert in accordance with article 27 in order to report to it, on the basis of the confidential information, on specific issues designated by the arbitral tribunal without disclosing the confidential information either to the party from whom the confidential information does not originate or to the arbitral tribunal.

Place of Arbitration

Article 16

1. Unless the parties have agreed otherwise, the place where the arbitration is to be held shall be The Hague, The Netherlands. If the parties agree that the arbitration shall be held at a place other than The Hague, the International Bureau shall inform the parties and the arbitral tribunal whether it is in a position to provide the secretariat and registrar services referred to in article 1, paragraph 3, and the services referred to in article 25, paragraph 3.
2. The arbitral tribunal may determine the locale of the arbitration within the country agreed upon by the parties. It may hear witnesses and hold meetings for consultation among its members at any place it deems appropriate, including by means of conference call or video conference, having regard to the circumstances of the arbitration.
3. After inviting the views of the parties, the arbitral tribunal may meet at any place it deems appropriate for the inspection of property or documents. The parties shall be given sufficient notice to enable them to be present at such inspection.
4. The award shall be made at the place of arbitration.

Language

Article 17

1. Unless the parties have agreed otherwise, the language of the proceedings shall be English. This determination shall apply to the statement of claim, the statement of defence and any further written statements, and if oral hearings take place, to the language or languages to be used in such hearings.
2. The arbitral tribunal may order that any documents annexed to the statement of claim or statement of defence, and any supplementary documents or exhibits submitted in the course of the proceedings, delivered in their original language, shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Statement of Claim

Article 18

1. Unless the statement of claim was contained in the notice of arbitration, within a period of time to be determined by the arbitral tribunal, the claimant shall communicate its statement of claim in writing to the respondent and to each of the arbitrators. A copy of the documents mentioned in article 3, paragraph 3(c) and (d), shall be annexed thereto.
2. The statement of claim shall include a precise statement of the following particulars:
 - a. The names and addresses of the parties;
 - b. A statement of the facts supporting the claim;
 - c. The points at issue between the parties;
 - d. The relief or remedy sought.

The claimant shall annex to its statement of claim all documents it relies upon or deems relevant or may add a reference to the documents or other evidence it will submit.

Statement of Defence

Article 19

1. Within a period of time to be determined by the arbitral tribunal, the respondent or each of the respondents shall communicate its statement of defence in writing to the claimant and to each of the arbitrators.
2. The statement of defence shall reply to the particulars (b), (c) and (d) of the statement of claim (art. 18, para. 2). The respondent may annex to its statement the documents on which it relies for its defence or may add a reference to the documents or other evidence it will submit.
3. In its statement of defence, or at a later stage in the arbitral proceedings if the arbitral tribunal decides that the delay was justified under the circumstances, the respondent may make a counter-claim, or a claim for a set-off, arising out of, or in connection with, any of the items mentioned in article 3, paragraph 3(c).
4. The provisions of article 18, paragraph 2, shall apply to a counter-claim and a claim relied on for the purpose of a set-off.

Amendments to the Claim or Defence

Article 20

During the course of the arbitral proceedings any party may amend or supplement its claim or defence unless the arbitral tribunal considers it inappropriate to allow such amendment or supplement having

regard to the delay in making it or prejudice to the other party or any other circumstances. However, a claim may not be amended or supplemented in such a manner that the resulting claim falls outside the scope of the arbitration clause or separate arbitration agreement.

Pleas as to the Jurisdiction of the Arbitral Tribunal

Article 21

1. The arbitral tribunal shall have the power to rule on objections that it has no jurisdiction, including any objections with respect to the existence or validity of the arbitration clause or of the separate arbitration agreement.
2. The arbitral tribunal shall have the power to determine the existence or the validity of any legal instrument of which an arbitration clause forms a part. For the purposes of this article, an arbitration clause which forms part of such instrument and which provides for arbitration under these Rules shall be treated as an agreement independent of the other terms of such instrument. A decision by the arbitral tribunal that the instrument is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.
3. A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than in the statement of defence or, with respect to a counter-claim, in the reply to the counter-claim.
4. In general, the arbitral tribunal should rule on a plea concerning its jurisdiction or deal with its determination *motu proprio* of its own jurisdiction as a preliminary question. However, the arbitral tribunal in its discretion may proceed with the arbitration and rule on such a plea in its final award.

Further Written Statements

Article 22

The arbitral tribunal shall, after inviting the views of the parties, decide which further written statements, in addition to the statement of claim and the statement of defence, shall be required from the parties or may be presented by them and shall fix the period of time for communicating such statements.

Periods of Time

Article 23

The periods of time fixed by the arbitral tribunal for the communication of written statements (including the statement of claim and statement of defence) should not exceed sixty days. However, the arbitral tribunal may set longer time limits, if it concludes that an extension is justified.

Evidence and Hearings (Articles 24 and 25)

Article 24

1. Each party shall have the burden of proving the facts relied on to support its claim or defence.
2. The arbitral tribunal may, if it considers it appropriate, require a party to deliver to the tribunal and to the other party, within such a period of time as the arbitral tribunal shall decide, a summary of the documents and other evidence which that party intends to present in support of the facts in issue set out in its statement of claim or statement of defence.
3. At any time during the arbitral proceedings the arbitral tribunal may call upon the parties to produce documents, exhibits or other evidence within such a period of time as the tribunal shall determine. The arbitral tribunal shall take into account any refusal to do so as well as any reasons given for such refusal.
4. The arbitral tribunal may request the parties jointly or separately to provide a non-technical document summarizing and explaining the background to any scientific, technical or other specialized information which the arbitral tribunal considers to be necessary to understand fully the matters in dispute.
5. The arbitral tribunal may not consider any evidence that was not available to The Gold Standard when it made the underlying decision or took the underlying action which is the subject of the arbitration.

Article 25

1. In the event of an oral hearing, the arbitral tribunal shall give the parties adequate advance notice of the date, time and place thereof.
2. If witnesses are to be heard, at least thirty days before the hearing each party shall communicate to the arbitral tribunal and to the other party the names and addresses of the witnesses it intends to present, the subject upon and the languages in which such witnesses will give their testimony.
3. The International Bureau shall make arrangements in consultation with the parties for the translation of oral statements made at a hearing and for a record of the hearing if either is deemed necessary by the tribunal under the circumstances of the case, or if the parties have agreed thereto and have communicated such agreement to the tribunal and the International Bureau at least thirty days before the hearing or such other period before the hearing as the arbitral tribunal may determine.
4. Hearings shall be held *in camera* unless the parties agree otherwise. The arbitral tribunal may require the retirement of any witness or witnesses during the testimony of other witnesses. Taking account of the views expressed by the parties, the arbitral tribunal is free to determine the manner in which witnesses are examined.

5. Evidence of witnesses may also be presented in the form of written statements signed by them.
6. The arbitral tribunal shall determine the admissibility, relevance, materiality and weight of the evidence offered.

Interim Measures of Protection

Article 26

1. Unless the parties otherwise agree the arbitral tribunal may, at the request of any party and having obtained the views of all the parties, take any interim measures including provisional orders with respect to the subject-matter of the dispute it deems necessary to preserve the rights of any party or to prevent serious harm to the environment falling within the subject-matter of the dispute.
2. Such interim measures may be established in the form of an interim award. The arbitral tribunal shall be entitled to require appropriate security for such measures.
3. A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.

Experts

Article 27

1. After having obtained the views of the parties, the arbitral tribunal may upon notice to the parties appoint one or more experts to report to it, in writing, on specific issues to be determined by the tribunal. A copy of the terms of reference of the expert(s), established by the arbitral tribunal, shall be communicated to the parties.
2. The parties shall give the expert any relevant information or produce for his/her inspection any relevant documents or goods, subject to the provisions for confidentiality in article 15, paragraphs 4 to 6, that he/she may request of them. Any dispute between a party and such expert as to the relevance and appropriateness of the required information or production shall be referred to the arbitral tribunal for decision.
3. Upon receipt of the expert's report, the arbitral tribunal shall communicate a copy of the report to the parties who shall be given the opportunity to express, in writing, their opinion on the report. A party shall be entitled to examine any document subject to article 15, paragraphs 4 and 5, on which the expert has relied in his/her report.
4. At the request of any party the expert, after delivery of the report, may be heard at a hearing where the parties shall have the opportunity to be present and to interrogate the expert. At this hearing any party may present expert witnesses in order to testify on the points at issue. The provisions of article 25 shall be applicable to such proceedings.

5. The International Bureau of the PCA maintains a list of scientific experts pursuant to the Permanent Court of Arbitration Optional Rules for Arbitration of Disputes Relating to Natural Resources and/or the Environment. In appointing one or more experts pursuant to paragraph 1 above, the arbitral tribunal may consider, but shall not be limited in its choice to, any person or persons appearing on the indicative list of experts.

Failure to Appear or to Make Submissions

Article 28

1. If, within the period of time fixed by the arbitral tribunal, the claimant has failed to communicate its claim without showing sufficient cause for such failure, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings. If, within the period of time fixed by the arbitral tribunal, the respondent has failed to communicate its statement of defence without showing sufficient cause for such failure, the arbitral tribunal shall order that the proceedings continue.
2. If one of the parties, duly notified under these Rules, fails to appear at a hearing, without showing sufficient cause for such failure, the arbitral tribunal may proceed with the arbitration.
3. If one of the parties, duly invited to produce documentary evidence, fails to do so within the established period of time, without showing sufficient cause for such failure, the arbitral tribunal may draw appropriate inferences from such failure and make the award on the evidence before it.

Closure of Hearings

Article 29

1. The arbitral tribunal may inquire of the parties if they have any further proof to offer or witnesses to be heard or submissions to make and, if there are none, it may declare the hearings closed.
2. The arbitral tribunal may, if it considers it necessary owing to exceptional circumstances, decide, on its own motion or upon application of a party, to reopen the hearings at any time before the award is made.

Waiver of Rules

Article 30

A party who knows that any provision of, or requirement under, these Rules has not been complied with and nevertheless proceeds with the arbitration without promptly stating its objection to such non-compliance, shall be deemed to have waived its right to object.

SECTION IV. THE AWARD

Decisions

Article 31

1. When there are three arbitrators, any award or other decision of the arbitral tribunal shall be made by a majority of the arbitrators.
2. In the case of questions of procedure, when there is no majority or when the arbitral tribunal so authorizes, the presiding arbitrator may decide on his/her own.

Form and Effect of the Award

Article 32

1. In addition to making a final award, the arbitral tribunal shall be entitled to make interim, interlocutory, or partial awards.
2. The award shall:
 - a. determine whether the decision or action of The Gold Standard Foundation which is the subject of the arbitration was arbitrary and capricious, defined as a decision or action made without a reasonable basis or without the proper consideration of the circumstances and the applicable Gold Standard Terms and Conditions and Gold Standard Rules; and
 - b. if the decision or action of The Gold Standard Foundation which is the subject of the arbitration is determined to be arbitrary and capricious, the arbitral tribunal may reverse the decision and stipulate an alternative decision or stipulate an alternative action which The Gold Standard Foundation must undertake.
3. The arbitral tribunal shall not award any damages or other compensation to any of the parties (other than cost awards in accordance with articles 38 to 40).
4. The award shall be made in writing and shall be final and binding on the parties. The parties undertake to carry out the award without delay.
5. The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.
6. An award shall be signed by the arbitrators and it shall contain the date on which and the place where the award was made. Where there are three arbitrators and any one of them fails to sign, the award shall state the reason for the absence of the signature(s).
7. Separate or dissenting opinions (if any) shall be in writing and signed by the dissenting arbitrator or arbitrators.
8. The award shall be made public unless parties otherwise agree in writing.

9. Copies of the award signed by the arbitrators shall be communicated to the parties by the International Bureau.

Applicable Law

Article 33

1. In resolving the dispute, the arbitral tribunal shall apply the law or rules of law designated by the parties as applicable to the substance of the dispute. Failing such designation by the parties, the arbitral tribunal shall apply the national and/or international law and rules of law it determines to be appropriate.
2. This provision shall not prejudice the power of the arbitral tribunal to decide a case *ex aequo et bono*, if the parties expressly agree thereto.

Other Grounds for Termination

Article 34

1. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason, the arbitral tribunal shall inform the parties of its intention to issue an order for the termination of the proceedings. The arbitral tribunal shall have the power to issue such an order after receiving the views of the parties thereon, unless a party raises justifiable grounds for objection.
2. Copies of the order for termination of the arbitral proceedings, signed by the arbitrators, shall be communicated to the parties by the International Bureau.

Interpretation of the Award

Article 35

1. Within thirty days after the receipt of the award, any party, with notice to the other party or parties, may request that the arbitral tribunal give an interpretation of the award.
2. The interpretation shall be given in writing within thirty days after the receipt of the request. The interpretation shall form part of the award and the provisions of article 32, paragraphs 2 to 6, shall apply.

Correction of the Award

Article 36

1. Within thirty days after the receipt of the award, any party, with notice to the other party or parties, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. The arbitral tribunal may within thirty days after the communication of the award make such corrections on its own initiative.

2. Such corrections shall be in writing, and the provisions of article 32, paragraphs 2 to 6, shall apply.

Additional Award

Article 37

1. Within thirty days after the receipt of the award, any party, with notice to the other party or parties, may request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.
2. If the arbitral tribunal considers the request for an additional award to be justified and considers that the omission can be rectified without any further hearings or evidence, it shall complete its award within thirty days after the receipt of the request.
3. When an additional award is made, the provisions of article 32, paragraphs 2 to 6, shall apply.

Costs (Articles 38 to 40)

Article 38

The arbitral tribunal shall fix the costs of arbitration in its award. The term 'costs' includes only:

- a. The fees of the arbitral tribunal;
- b. The travel and other reasonable expenses incurred by the arbitrators;
- c. The costs of expert advice and of other assistance required by the arbitral tribunal;
- d. The travel and other expenses of witnesses to the extent such expenses are approved by the arbitral tribunal;
- e. Any fees and expenses of the Secretary-General and the International Bureau.

Article 39

The fees of the arbitral tribunal shall be in accordance with the Fee Agreement¹ with The Gold Standard Foundation.

Article 40

1. Each party shall bear its own costs of arbitration. However, the arbitral tribunal may apportion each of such costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case.

¹ To be further elaborated in a separate document.

2. When the arbitral tribunal issues an order for the termination of the arbitral proceedings or makes an award on agreed terms, it shall fix the costs of arbitration referred to in article 38 and article 39, paragraph 1, in the text of that order or award.
3. No additional fees may be charged by an arbitral tribunal for correction of its award under articles 35 to 37.

Deposit of Costs

Article 41

1. The International Bureau, following the commencement of the arbitration, may request the claimant to deposit an amount in accordance with The Gold Standard Terms and Conditions or any other arbitration agreement between the parties, as an advance for the costs referred to in article 38, paragraphs (a), (b), (c) and (e). All amounts deposited by the claimant pursuant to this paragraph and paragraph 2 of this article shall be directed to the International Bureau, and disbursed by it for such costs, including, *inter alia*, fees to the arbitrators, the Secretary-General and the International Bureau.
2. Security for the costs of interim measures shall be directed to the International Bureau and disbursed by it upon order from the arbitral tribunal.
3. During the course of the arbitral proceedings the International Bureau may request supplementary deposits from the parties.
4. If the requested deposits are not paid in full within thirty days after the receipt of the request, the arbitral tribunal shall so inform the parties in order to proceed that one or another of them may make the required payment. If such payment is not made, the arbitral tribunal may order the suspension or termination of the arbitral proceedings.
5. After the award has been made, the International Bureau shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties.

SCHEDULE 1

GOLD STANDARD DEFINED TERMS

"Gold Standard Appeals Appointing Committee" means the appointing committee in charge of the creation, maintenance and revision of the List of Arbitrators and the list of mediators for disputes, controversies or claims governed by Article 10 of The Gold Standard Terms and Conditions (or any other written arbitration or mediation agreements), which shall be composed by the chair of the Technical Advisory Committee, a representative of the Permanent Court of Arbitration and a chair to be appointed by them jointly.

"Gold Standard Foundation" means the non-profit organisation formed under Swiss Law, whose operational activities are managed by the Gold Standard Secretariat based in Geneva, Switzerland.

"Gold Standard Rules" means the most current version of The Gold Standard documentation available on The Gold Standard website, <http://www.cdmgoldstandard.org/Current-GS-Rules.102.0.html>, consisting of (1) The Gold Standard Requirements; (2) The Gold Standard Toolkit and its annexes, including its annexed Gold Standard Terms and Conditions, templates and Cover Letter; (3) The Gold Standard Registry Terms of Use; (4) any and all Gold Standard VER Additionality Tools; (5) any and all Gold Standard VER Methodologies; (6) any and all decisions, guidelines, modalities and procedures made pursuant to the UNFCCC and the Kyoto Protocol that have been incorporated into such documentation and applied by The Gold Standard Secretariat; and (7) any and all decisions, guidelines and procedures made by the Technical Advisory Committee that have been published on The Gold Standard website and applied by The Gold Standard Secretariat.

"Gold Standard Rules for Appeals" or "Rules" means these Gold Standard Rules for Appeals on Registration, Issuance and Labelling.

"Gold Standard Secretariat" means the administrative Gold Standard body based in Geneva, Switzerland which (1) manages the operational activities of The Gold Standard, including capacity building, marketing & communications, certification, registration and issuance as well as maintenance of The Gold Standard rules and procedures; and (2) is the contact point for all market actors applying The Gold Standard certification scheme or making use of The Gold Standard.

"Gold Standard Terms and Conditions" means the document that sets out the preconditions related to The Gold Standard certification and provides the guidelines, rules and limitations for the use by a person or entity of The Gold Standard's goods and services.

"Large Scale Project" means every emissions reduction project which exceeds the boundary for Small-Scale Projects.

"Micro Scale Project" means a Gold Standard voluntary emission reduction (VER) project which can claim emission reductions under 5,000 tCO₂ equivalent per annum for each year of the crediting period.

"Programme of Activities" means a set of interrelated and coordinated actions to reduce greenhouse gas emissions or result in net anthropogenic greenhouse gas removals by sinks, applied within a designated area defined in the baseline methodology.

"Project Representative" means the legal owner or an authorized representative of the legal owner of a specific project who serves as the focal point for a project seeking registration with The Gold Standard.

"Project Participant or Project Owner" means 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.

"Small Scale Project" means:

- a. A Gold Standard voluntary emission reduction (VER) project;
- b. A Track 2 Joint Implementation project under Article 6 of the Kyoto Protocol; or
- c. A project implemented under the Clean Development Mechanism of Article 12 of the Kyoto Protocol,

which (i) in the case of a renewable energy project, has a capacity of less than 15 MW; or (ii) in the case of an energy efficiency project, has an improvement potential of less than 60 GWh per annum.

"Technical Advisory Committee" means the independent body which oversees The Gold Standard project approval process, approves new Gold Standard methodologies for voluntary emission reductions (VER) projects, approves new Gold Standard rules and procedural changes, and advises the board of The Gold Standard Foundation on strategic changes of The Gold Standard scope.

SCHEDULE 2

MODEL ARBITRATION CLAUSES

FOR USE IN CONNECTION WITH THE GOLD STANDARD RULES FOR APPEALS

Future Disputes

Project Representatives, Project Participants or Project Owners who have not signed the Terms and Conditions of The Gold Standard [v.**] may choose to enter into a mediation and arbitration agreement which shall include the following model clause to have disputes submitted to mediation and thereafter, if applicable, referred to arbitration under The Gold Standard Rules for Appeals:

1. *In the event of any dispute, controversy, or claim by a Project Representative, a Project Owner or a Project Participant against The Gold Standard regarding decisions related to Registration, Issuance or Labelling (as these terms are defined in The Gold Standard Terms and Conditions), the parties involved in the dispute shall, within 6 weeks of the date of the decision or action being disputed, first enter into a mediation for a period of [40 days]. In respect of such mediation:*
 - (a) *Both parties shall agree within [10 days] on the person which will serve as the mediator to be elected from the list of mediators available at The Gold Standard Foundation;*
 - (b) *If within [10 days] the parties have not agreed on the appointment of the mediator, the mediator shall be appointed within [15 days] by the chair of The Gold Standard Appeals Appointing Committee;*
 - (c) *Within 10 days of his/her appointment, the mediator shall organise a session to hear both parties to the dispute, or more sessions if he/she considers it necessary, such session(s) may be attended in person, by conference call or videoconference;*
 - (d) *No later than within 20 days of the first session, the parties shall attempt to find a solution to the dispute with the support of the mediator;*
 - (e) *If after 40 days of the beginning of the dispute the parties have not reached an agreed solution, any of the parties may within 6 weeks after the expiration of the 40 day period, initiate arbitration proceedings in accordance with Article 2 below.*
2. *In the event any of the disputes specifically listed in Article 1 above is not resolved through mediation in accordance with Article 1, such dispute, controversy of claim shall be settled by final and binding arbitration in accordance with The Gold Standard Rules for Appeals, as in effect on the date of this agreement (the 'Rules'). The International Bureau of the Permanent Court of Arbitration located at the Peace Palace in The Hague shall serve as registry for the proceedings.*

Parties may wish to consider adding:

2.1 The language to be used in the arbitral proceedings shall be English.

2.2. The place of arbitration shall be The Hague, the Netherlands.

2.3. The claimant shall upon commencement of the arbitration proceedings deposit an amount in accordance with the Appeals Fee Schedule² as an advance to cover arbitration related costs, as further described in the Rules.

Existing Disputes

If a Project Representative, Project Participant or Project Owner has not signed the Terms and Conditions of The Gold Standard and has not already entered into a mediation and/or arbitration agreement, or if it mutually agrees with The Gold Standard Foundation to modify a previous agreement in order to provide for mediation and thereafter, if applicable, arbitration under The Gold Standard Rules for Appeals, they may enter into an agreement in the following form (no later than within 6 weeks of the date of the decision or action being disputed):

- 1. The Parties agree to submit the dispute described in Article 3 (the 'Dispute') to mediation for a period of 40 days. In respect of such mediation:*
 - (a) both parties shall agree within 10 days on the person which will serve as the mediator to be elected from the list of mediators available at The Gold Standard Foundation;*
 - (b) if within 10 days the parties have not agreed on the appointment of the mediator, the mediator shall be appointed within 15 days by the chair of The Gold Standard Appeals Appointing Committee;*
 - (c) within 10 days of his/her appointment, the mediator shall organise a session to hear both parties to the dispute, or more sessions if he/she considers it necessary, such session(s) may be attended in person, by conference call or videoconference;*
 - (d) no later than within 20 days of the first session, the parties shall attempt to find a solution to the dispute with the support of the mediator;*
 - (e) if after 40 days of the beginning of the dispute the parties have not reached an agreed solution, any of the parties may within 6 weeks after the expiration of the 40 day period, initiate arbitration proceedings in accordance with Article 2 below.*

² Currently, the following deposit fees apply: EUR 2,500 for micro-scale projects, EUR 10,000 for small scale projects and EUR 20,000 for large scale projects.

2. *In the event the Dispute is not resolved through mediation in accordance with Article 1, the Parties agree to submit the Dispute to final and binding arbitration in accordance with The Gold Standard Rules for Appeal, as in effect on the date of this agreement.*
3. [Insert brief description of dispute].
4. Parties may wish to consider adding to Article 2 additional information as set forth above in paragraphs 2.1-2.3 in 'Future Disputes'.