



# Forest Carbon Partnership Facility

## ERPA General Conditions

FCPF Carbon Fund Meeting (CF7)

Paris, June 24-25, 2013

# Overview

- I. Process of Endorsing ERPA General Conditions**
  
- II. Critical Remaining Issues for Discussion**

# Process of Endorsing ERPA General Conditions

<b>Date/Time Period</b>	<b>Action</b>
<b>March 21, 2013</b>	PC14 endorsed ERPA Term Sheet per PC Resolution requesting <b>first draft of the ERPA General Conditions (GCs) by PC15</b> (June 30-July 1, 2013 in Lombok, Indonesia) with the objective of <b>endorsement of ERPA GCs at PC16</b> (October 2013)
<b>June 21-23, 2013</b>	Meeting of the <b>CF Working Group on the Methodological Framework</b>
<b>June 24-25, 2013</b>	CF7 in Paris France to <b>discuss remaining issues of ERPA GCs</b>
<b>June 28, 2013</b>	<b>Pre-PC15 Workshop</b> (Lombok, Indonesia) on ERPA GCs
<b>June 30-July 1, 2013</b>	PC15 (Lombok, Indonesia) to <b>present the first draft of the ERPA GCs</b> and discuss remaining issues
<b>August-October 2013</b>	<b>Review &amp; Commenting Period(s) / Revisions(s) of ERPA GCs / Telephone-/Videoconference(s)</b>
<b>October 2013</b>	<b>Pre-PC16 Workshop</b> (ERPA GCs); <b>Endorsement of ERPA GCs at PC16</b>

# Critical Remaining Issues (1)

Issues	Current Solution
Legal title to ERs	<ul style="list-style-type: none"><li>• Legal title to transferred ERs passes to CFP upon payment</li><li>• Program Entity's warranty of full legal title to transferred ERs</li><li>• If Program Entity fails to comply with warranty, this could be a material breach (Event of Default) triggering an Action Plan/ Cure Period and, if not cured, potentially additional remedies</li></ul> <p><i><b>Q: Is the strict full legal title warranty necessary/practicable? Are there any acceptable alternative ways to address the legal title risks?</b></i></p>
Reversal Events	<ul style="list-style-type: none"><li>• Risk that a tCO<sub>2</sub>e sequestered in forest and transferred as ER to the Buyer is released (<b>Reversal</b>) through a reversal event (e.g., fire, logging, conversion to agriculture) (<b>Reversal Event</b>)</li><li>• <i>Non-intentional</i> Reversal Events during ERPA term to be addressed through Reversal Event Mitigation Plan which may include:</li></ul>

## Critical Remaining Issues (2)

Issues	Current Solution
Reversal Events <i>(continued)</i>	<ul style="list-style-type: none"><li>➤ Creation of buffer reserves (i.e., establishment of separate account(s), administered by an agreed entity, to which certain % of ERs generated and verified under ER Program will be transferred) to offset future Reversal Events</li><li>➤ Use of insurance</li><li>➤ Effective forest management practices</li></ul> <ul style="list-style-type: none"><li>• Reversal Event Mitigation Plan (Condition of Effectiveness)</li><li>• Program Entity covenants not to cause, tolerate or authorize Reversal Event and to implement the Reversal Event Mitigation Plan in accordance with its terms</li><li>• <i>Intentional</i> Reversal Event or non-compliance with Reversal Event Mitigation Plan would be Event of Default</li></ul> <p><b><i>Q: Does the Reversal Event Mitigation Plan process provide for sufficient protection to address Reversal Event risks? How can Reversal Events be addressed after termination of the ERPA/Facility?</i></b></p>

## Critical Remaining Issues (3)

Issues	Current Solution
Costs	<ul style="list-style-type: none"><li>• The ERPA GCs provide for two alternative Costs approaches:<ul style="list-style-type: none"><li>➤ Cost recovery (subject to certain caps) through deduction from Periodic Payments (subject to provision of documented evidence of incurred Costs); or</li><li>➤ Cost Recovery Discount to be applied to each Periodic Payment becoming due over the term of the ERPA</li></ul></li><li>• Term of 'Costs' not yet defined under the ERPA GCs</li><li>• Additional costs related to ER conversion borne by Buyer</li></ul> <p><b><i>Q: How shall Costs be recovered under the ERPA? What costs/expenses shall the term 'Costs' cover?</i></b></p>
Confidentiality	<ul style="list-style-type: none"><li>• As a general rule, terms of ERPA will be public (non-confidential), unless the Program Entity or Trustee requests the ERPA to be confidential prior to ERPA signature</li><li>• Rationale for requesting ERPA confidentiality must be disclosed under Letter of Intent</li><li>• The final language of the confidentiality provision is still subject to World Bank internal clearance procedures</li></ul>

# Critical Remaining Issues (4)

Issues	Current Solution
Confidentiality <i>(continued)</i>	<ul style="list-style-type: none"><li>• All reports (including ER Monitoring Reports, Verification Reports, Interim Progress Reports) and plans (including Benefit-Sharing Plans, Reversal Event Mitigation Plans and Safeguards Plans) will be non-confidential</li></ul> <p><b><i>Q: Is the current proposal acceptable to CF Participants? Should the rationale for any confidentiality request be covered under the Letter of Intent template?</i></b></p>
Benefit Sharing Plan	<ul style="list-style-type: none"><li>• The Program Entity shall share all or a significant part of monetary or other benefits achieved in connection with ER Program implementation with categories of relevant stakeholders (<b>Beneficiaries</b>)</li><li>• For this purpose, the Program Entity shall develop a Benefit-Sharing Plan, acceptable to Trustee, that is in full compliance with World Bank policies, the ER Program Document, Methodological Framework and applicable laws</li><li>• Benefit Sharing Plan will include, e.g., benefit-sharing process, distribution criteria/timelines, a grievance redress mechanism, and Beneficiaries</li></ul>

# Critical Remaining Issues (5)

Issues	Current Solution
Benefit Sharing Plan (continued)	<ul style="list-style-type: none"><li>• Benefit Sharing Plan (Condition of Effectiveness)</li><li>• Program Entity covenants to implement the Reversal Event Mitigation Plan in accordance with its terms</li><li>• Non-compliance with Benefit Sharing Plan would be Event of Default</li></ul> <p><b>Q: Is the Benefit Sharing Plan sufficient to ensure proper distribution of benefits to Beneficiaries? Is there a need for the establishment of a committee/board etc. to make benefit allocation decisions?</b></p>