

Fund for responding to Loss and Damage

FRLD/B.4/3

29 November 2024

Fourth meeting of the Board

2–5 December 2024

Manila, The Philippines

Provisional agenda item 5

Report of the Co-Chairs of the Board

Expected actions by the Board

The Board will be invited to take note of the report.

I. Background and mandate

1. Pursuant to paragraph 23 of the Governing Instrument of the Fund referred to in decisions 1/CP.28 and 5/CMA.5, as contained in annex I to decisions 1/CP.28 and 5/CMA.5, the Board is to be chaired by two Co-Chairs, elected by the Board from within its membership, with one from a developed country and one from a developing country, who will serve for a term of one year.
2. The Board at its first meeting elected Mr. Jean-Christophe Donnellier (France) and Mr. Richard Sherman (South Africa) as its Co-Chairs for a term of one year.¹
3. The Board requested the Co-Chairs of the Board, with the legal and other support of the interim secretariat, to undertake negotiations with the Government of the Philippines with a view to finalizing the Host Country Agreement between the Philippines and the Board, and to keep the Board informed on the status of negotiations prior to the signing of the Host Country Agreement.²
4. The Board requested the Co-Chairs, in consultation with the ad hoc subcommittee on the administrative budget and assisted by the interim secretariat and the World Bank, to develop a plan for the transition from the interim secretariat to the new, dedicated and independent secretariat, and to present it for consideration by the Board no later than at the fourth meeting of the Board.³
5. The Board requested the Co-Chairs and the Executive Director, with the support of the World Bank, to develop and submit for consideration and approval by the Board a proposal for a performance management, development and evaluation system, complete with annual objectives and results-based key performance indicators for the Executive Director no later than the fifth meeting of the Board.⁴
6. The Board requested the Co-Chairs, assisted by the interim secretariat, to convey to the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement the confirmation that the conditions set out in paragraph 20 of decisions 1/CP.28 and 5/CMA.5 can be met during the interim period.⁵
7. The Board adopted the “Report of the Board to the Conference of the Parties at its twenty-ninth session and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its sixth session” and requested the Co-Chairs, assisted by the interim secretariat, to submit the report to the secretariat of the Convention and the Paris Agreement. The Board also requested the Co-Chairs, assisted by the interim secretariat, to develop an addendum to the report capturing the progress and decisions made during the third meeting of the Board and submit the addendum to the secretariat of the Convention and the Paris Agreement.⁶
8. The Board authorized the Co-Chairs to sign on its behalf the “Agreement on the hosting arrangement for the secretariat of the Fund for responding to Loss and Damage” and the “Trustee Agreement on the terms and conditions for the administration of the Trust Fund for the Fund for responding to Loss and Damage” and requested the Co-Chairs to track and report to the Board so that the Board can report to the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on progress towards meeting the conditions set out in paragraph 20 of decisions 1/CP.28 and 5/CMA.5.⁷

¹ Decision B.1/D.1.

² Decision B.2/D.9, para. (d).

³ Decision B.3/D.2, para (d).

⁴ Decision B.3/D.4, para. (d)(i).

⁵ Decision B.3/D.6, para. (b).

⁶ Decision B.3/D.7, paras. (a)–(b).

⁷ Decision B.3/D.6, paras. (g)–(h).

II. Activities of the Co-Chairs during the period between the meetings of the Board

9. In accordance with the mandates outlined in paragraphs 3–8 above, the Co-Chairs undertook a number of activities between the meetings of the Board. The following paragraphs provide a high-level summary of these activities.

A. Update on the work of the Board at the opening plenary of the Conference of the Parties at its twenty-ninth session and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its sixth session

10. At the opening plenary of the twenty-ninth session of the Conference of the Parties (COP 29) and the sixth session of Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA 6) the Co-Chairs, at the invitation of the Presidency, provided an update of the work of the Board in operationalizing the Fund.

B. Participation in the launch event of the annual high-level dialogue on coordination and complementarity

11. The Co-Chairs and the Executive Director attended the high-level launch of the annual high-level dialogue on coordination and complementarity for funding arrangements responding to loss and damage, co-organized by the Board with the COP 29 Presidency. Document FRLD/B.4/13 contains further details of the event.

C. Participation in a COP 29 side event organized by the Executive Committee of the Warsaw International Mechanism and the COP 29 Presidency

12. Co-Chair Mr. Donnellier attended an event held on the margins of COP 29, entitled “Unpacking the loss and damage landscape” organized jointly by the Executive Committee of the Warsaw International Mechanism and COP 29 Presidency.⁸ At the event, Mr. Donnellier provided an update on the work of the Board.

III. Proposals from the Co-Chairs

13. The Co-Chairs present four proposals for consideration by the Board at its fourth meeting, on the following matters:

(a) Co-Chairs’ proposals on decision-making, in particular decisions without Board meetings, contained in document FRLD/B.4/3;

(b) Co-Chairs’ proposal on the outstanding matter related to the additional rules of procedure contained in document FRLD/B.4/8;

(c) Co-Chairs’ proposal on the travel policy of the Board contained in documents FRLD/B.4/3, FRLD/B.4/4 and FRLD/B.4/5;

(d) Co-Chairs’ proposal on options and choices for the Fund to further operationalize a bottom-up country-led approach that promotes and strengthens national responses to loss and damage contained in document FRLD/B.4/6;

⁸ See <https://unfccc.int/event/unpacking-the-loss-and-damage-landscape-wim-excom-and-cop-29-presidency-event>.

(e) Co-Chairs' proposal on options for early interventions by the Fund, including as early as 2025–2026 contained in document FRLD/B.4/6.

IV. Update on the implementation of mandates

A. Signing of the Host Country Agreement with the Government of the Philippines

14. Following the successful conclusion of negotiations between the Board and the Government of the Philippines, the Host Country Agreement between the Board and the Republic of the Philippines was signed at a ceremony held on 12 November 2024 on the margins of COP 29. A copy of the agreement is included in annex I to this document.

15. The agreement was signed by Ms. Maria Antonia Yulo Loyzaga, Secretary, Department of Environment and Natural Resources on behalf of the Government of the Philippines, and the Co-Chairs on behalf of the Board.

B. Transition planning from the interim secretariat to the new, dedicated and independent secretariat

16. The Co-Chairs, in consultation with the ad hoc subcommittee on the administrative budget and assisted by the interim secretariat and the World Bank, undertook work in between the meetings of the Board to develop a plan for the transition from the interim secretariat to the new, dedicated and independent secretariat. The Co-Chairs' proposal is contained in document FRLD/B.4/7.

C. Report of the Board to the Conference of the Parties at its twenty-ninth session and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its sixth session

17. The Co-Chairs finalized and submitted on the behalf of the Board, the "Report of the Board to the Conference of the Parties at its twenty-ninth session and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its sixth session". The report was finalized following revisions based on the input received from the Board on the draft presented with document FLD/B.3/8 during the third meeting of the Board.

18. The Co-Chairs also prepared and submitted an addendum to the report capturing the progress and decisions made at the third meeting of the Board, convened in Baku, Azerbaijan, from 18 to 20 September 2024, in accordance with decision B.3/D.7, paragraphs (a)–(b).

D. Signing of the financial intermediary fund agreements

19. In accordance with the mandate contained in decision B.3/D.6, paragraphs (g)–(h) the Co-Chairs signed the Trustee Agreement and the Hosting Agreement between the Board of the Fund for responding to Loss and Damage and the World Bank with the World Bank via Docusign on 25 October 2024. These agreements were signed again, in person, at the ceremony referred to in paragraph 14 above.

Annex I

Agreement between the Board of the Fund for responding to Loss and Damage and the Government of the Republic of the Philippines on the privileges and immunities of the Board of the Fund for responding to Loss and Damage

AGREEMENT

between

**THE BOARD OF THE FUND FOR RESPONDING
TO LOSS AND DAMAGE**

and

**THE GOVERNMENT OF
THE REPUBLIC OF THE PHILIPPINES**

**on the Privileges and Immunities of the
BOARD OF THE FUND FOR RESPONDING TO
LOSS AND DAMAGE**

AGREEMENT BETWEEN THE BOARD OF THE FUND FOR RESPONDING TO LOSS AND DAMAGE AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES ON THE PRIVILEGES AND IMMUNITIES OF THE BOARD OF THE FUND FOR RESPONDING TO LOSS AND DAMAGE

WHEREAS the Republic of the Philippines is a party to the United Nations Framework Convention on Climate Change and the Paris Agreement;

WHEREAS by virtue of Decision 1/CP28, 5/CMA.5 on the “Operationalization of the new funding arrangements, including a fund, for responding to loss and damage referred to in paragraphs 2-3 of decisions 2/CP.27 and 2/CMA.4”, the Governing Instrument of the Fund (“Governing Instrument”) for Responding to Loss and Damage (“Fund”) was approved, and the Board of the Fund (“Board”) will be conferred with legal personality and the legal capacity as necessary for discharging its roles and functions, in particular the legal capacity to negotiate, conclude and enter into a hosting arrangement with the World Bank as interim trustee and host of the Fund’s secretariat;

WHEREAS under Section III.C.2 of the Governing Instrument, the Board will serve the objectives and purpose of the Fund and steer its operations so that they evolve with its scale and maturity, and under Section I.2 of the Governing Instrument the purpose of the Fund is to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events;

WHEREAS with decision under B.1/D.6, the Board adopted the terms of reference, including evaluation criteria, for the selection of the host country and issued a call for proposals.

WHEREAS the Government of the Republic of the Philippines (“Government”) submitted a proposal to host the Board on 7 June 2024.

WHEREAS with decision B.2/D.9, the Board decided to select the Republic of the Philippines as the host country of the Board of the Fund, subject to the country meeting the commitments made in its proposal.

WHEREAS with decision B.2/D.9, the Board requested the Co-Chairs of the Board, to undertake negotiations with the Government with a view to finalizing the Host Country Agreement between the Republic of the Philippines and the Board;

WHEREAS with decision B.2/D.9, the Board authorised the Co-Chairs of the Board to sign, on behalf of the Board, the Host Country Agreement between the Republic of the Philippines and the Board;

WHEREAS the Board and the Government agree that the grant of privileges and immunities to the Board and the persons detailed in Annex III to B.1/D.6 is essential

for the effective performance of their roles and functions in line with the Governing Instrument; and

DESIRING to conclude an agreement on this matter;

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE BOARD, REPRESENTED BY ITS CO-CHAIRS, HAVE AGREED AS FOLLOWS:

Article 1

Use of Terms

For the purpose of the present Agreement, the following definitions shall apply:

- (a) "Advisers" means those individuals nominated by the Board members or alternative Board members to support them.
- (b) "Agreement" means this Host Country Agreement between Government of the Republic of the Philippines and the Board.
- (c) "Archives of the Board" means all records, correspondences, documents, manuscripts, still and moving pictures, films, sound recordings, computer or media data, and other digital and electronic records, or other compilations of data or other material, whether in machine-readable or other form, belonging to, or held by, the Board.
- (d) "Attendee" means those, other than Officials and Observers, who are invited by the Board to the official business and related activities of the Board.
- (e) "Board" means the body governing and supervising the Fund responding to Loss and Damage referred to in decisions 1/CP.28 and 5/CMA.5.
- (f) "Co-Chairs" means the two members referred to in paragraph 23 of the Governing Instrument.
- (g) "Convention" means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992 and which entered into force on 21 March 1994.
- (h) "Fund" means the fund referred to in paragraph 3 of decisions 2/CP.27 and 2/CMA.4.
- (i) "Governing Instrument" means the governing instrument of the Fund, as contained in annex I, adopted under Decision 1/CP.28.
- (j) "Government" means the Government of the Republic of the Philippines.
- (k) "Host Country means the Republic of the Philippines"
- (l) "Observers" means those referred to in paragraph 27 of the Governing Instrument and who have been accredited by the Board.
- (m) "Officials" means the Board members and their alternate members, including their advisors, who may be nominated by the Board members or the alternate members of the Board to support them, irrespective of their nationality.
- (n) "Paris Agreement" means the international treaty on climate change adopted in 2015 and ratified 2016.
- (o) "Property" means all property and assets of the Board, wherever located and by whomsoever held, and whether movable or immovable, including funds, income

and rights belong to, held, or administered by the Board or administered in accordance with the instructions of the Board.

- (p) "Secretariat" means the new, dedicated and independent secretariat of the Fund referred to in paragraph 3 of decision 1/CP.28 and paragraph 32 of the Governing Instrument.

Article 2

Purpose

This Agreement shall regulate matters relating to the functioning of the Board in the Host Country in accordance with decisions of the Parties to the Convention, the Paris Agreement and the decisions of the Board; with the purpose of enabling the Board to effectively and independently perform its functions and conduct business of the Board, and to allow those invited to the business of the Board and related activities to independently exercise their official functions in the Host Country.

Article 3

Juridical Personality and Legal Capacity

The Board shall possess juridical personality with full legal capacity to:

- (a) Contract;
- (b) Acquire, and dispose of immovable and movable property; and
- (c) Institute legal proceedings.
- (d) Negotiate, conclude and enter into a hosting arrangement with the World Bank as interim trustee and host of the Fund's secretariat.
- (e) Undertake activities as necessary for discharging its roles and functions.

For the purpose of this Article, the Board shall be represented by its Co-Chairs or their authorized representatives.

Article 4

Board and its Property

1. The Board and its Property shall be immune from every form of legal process except insofar as in any particular case the immunity has been waived by the Board or its authorized representative. It is, however, understood that no waiver of immunity shall extend to any measure of execution.
2. The Property of the Board, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation, or any other form of taking or foreclosure by executive, administrative, judicial, or legislative action.
3. The Property of the Board, shall be exempt from restrictions, financial controls, regulations or moratoria of any kind. The Board:

- a) may hold funds, gold or currency or of any kind and maintain and operate accounts in any currency; and
- b) shall be free to transfer its funds, gold, or currency from one country to another or within the Host Country, to an intergovernmental organization, agency, entity, or anyone else it deems fit and convert any currency held by it into any other currency.

Article 5

Inviolability of Premises

1. Any premises provided to the Board by the Government in the Host Country, in agreement with the Board, shall be free of charge, inviolable and under the control and authority of the Board, for the purposes of the official business and related activities of the Board. The technical and logistical requirements for the premises to be agreed between the parties.
2. Any premises, other than the one referred to in paragraph 1 above, to be used by the Board for any official business and related activities in the Host Country, shall be provided by the Government free of charge, and will be inviolable and under the control and authority of the Board, for the duration necessary for the setup, dismantling and conduct of the official business and related activities of the Board. The technical and logistical requirements for the meetings of the Board and related activities to be agreed between the parties.

Article 6

Security

The Host Country shall be responsible for providing, at its expense, such police protection and security as may be required to ensure the efficient conduct of the official business of the Board and related activities in an atmosphere of security and tranquillity, including without interference of any kind.

Article 7

Inviolability of Archives and all documents of the Board

1. The Archives of the Board and in general, all documents and data, in whatever format, including electronic formats, which are made available to it, belonging to it or used or held by it, wherever located in the Host Country and by whomsoever held shall be inviolable.

2. The official communication and correspondence of the Board, in whatever format, including electronic formats, shall be inviolable, unimpeded, and unrestricted.

Article 8

Communications of the Board

The Board shall enjoy, in respect of its official communications and correspondence, treatment not less favourable than that accorded to official communications and correspondence of the United Nations in the Host Country.

Article 9

Privileges and Immunities for Officials, Observers and Attendees

1. All Officials, Observers and Attendees, regardless of their nationality, invited to attend the official business of the Board and related activities in the Host Country, shall enjoy immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue to be accorded after termination of their business. They shall also be accorded inviolability for all papers and documents.
2. In addition to the provisions set forth in paragraph 1 of this Article, Officials while exercising their functions and during the journey to and from the Host Country, shall enjoy immunity from personal arrest and/or detention and from seizure of personal baggage.
3. The privileges and immunities provided for in this Agreement are granted exclusively to ensure the proper conduct of the official business of the Board and its related activities.
4. Without prejudice to privileges and immunities provided by this Agreement, all Officials, Observers, and Attendees enjoying such privileges and immunities have the duty to respect the laws and regulations in force in the Host Country.

Article 10

Waiver of Immunities

1. The Board through its authorized representatives shall have the right to waive the immunity accorded to Officials under this Agreement.
2. The Party to the Convention and the Paris Agreement represented shall have the right to waive the immunity accorded to its Observer representatives under this Agreement.

3. The Board through its authorized representatives shall have the right to waive the immunity accorded to any Observer or Attendee under this Agreement.
4. The privileges, immunities, exemptions and facilities accorded in this Agreement are granted in the interest of the Board and not for the personal benefit of the individuals themselves. The immunities accorded to any person herein shall be waived if such immunity would impede the course of justice and the waiver would not prejudice the purposes for which the immunities are accorded.
5. If the Government considers there has been an abuse of a privilege or immunity conferred by this Agreement, there shall be consultations between the Government and those who have the authority to waive such immunity, and, if so, to ensure that no repetition of such abuse occurs.

Article 11

Entry into, Exit from, Movement and Sojourn in the Host Country

1. All persons invited to the official business of the Board and related activities shall have the right of unimpeded entry into and exit from, free movement and sojourn within the Host Country and no impediment shall be imposed on their transit to and from the venue where the official business and related activities of the Board are to take place. They shall be granted facilities for speedy travel. Visas and entry permits, where required shall be granted as promptly as possible and shall be on account of the Government. It being understood that pertinent regulations of the Host Country will apply. The Government shall appoint an official who shall act as a liaison officer between the Secretariat and the Government who shall be responsible for carrying out the arrangements for visas.
2. In the event of international crisis, all persons invited to the official business and related activities of the Board in the Host Country, shall be given repatriation facilities same as diplomatic envoys.

Article 12

Tax Exemptions

1. The Board, its Property, operations, and transactions shall be exempt from the payment of all taxes, duties, and other charges imposed by the Government and/or local authorities. The Board shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.
2. The Board shall be exempt from the payment of all taxes, duties, and other charges imposed by the Government and/or local authorities, which form part of the purchases intended for the official use of the Board. The exemptions shall be processed in the manner and under existing procedures applied by the Government in similarly situated cases.
3. The Officials Observers and Attendees not nationals of the host Country, shall be exempt from the payment of income tax or any other tax on monies received

from the Fund in connection with their participation in the official business of the Board and its related activities in the Host Country. The Government however retains the right to tax its own nationals under this Agreement.

4. The Government shall allow the temporary admission, tax free and duty free, and free of any applicable fee for temporary admission of all equipment necessary for the official business of the Board and its related activities, including written, audio, video, photographic and other material, and technical equipment accompanying, shipped or dispatched by Officials, Observers and Attendees, and shall, if necessary, promptly issue any import and export permits for this purpose. The Government shall ensure that a system for speedy clearance of such items for the official business of the Board and its related activities is in place.
5. Goods released tax-free and duty-free under this Agreement shall be subject to applicable taxes and duties, if sold, transferred, or exchanged in the Host Country to non-exempt persons or entities, computed based on the value of the goods at the time of the importation pursuant to existing Government rules and regulations, no less favourable than those applied to other diplomatic missions.

Article 13 Settlement of Disputes

1. The Board shall make provisions for the appropriate mode of settlement of:
 - (a) Disputes arising out of contracts or other disputes of a private law character to which the Board is a party; and
 - (b) Disputes involving any Officials of the Board, Observer or Attendee who enjoy immunity conferred by this Agreement, if immunity has not been waived by the Board or its authorised representatives.
2. All difference between the Board and the Government arising out of the interpretation or application of the present Agreement or of any supplementary arrangement or agreement which is not settled amicably by negotiation shall be submitted for decision to an arbitral tribunal of three arbitrators; the first to be appointed by the Government, the second by the Board through its authorized representatives, and the third, the presiding arbitrator, by the President of the International Court of Justice, unless in any specific case the parties hereto agree to resort to a different mode of settlement.

Article 14 Final Provisions

1. This Agreement may be amended in writing by mutual consent at any time at the request of either party.

2. The Government and the Board may enter into such supplementary agreements as may be necessary within the scope of this Agreement.
3. This Agreement shall enter into force on the date on which the Government notifies the Board that all internal procedures required for the Agreement to enter into force have been complied with.
4. It shall cease to be in force six months after either of the parties gives notice in writing to the other of its decision to terminate this Agreement. This Agreement shall, however, remain in force for such an additional period as might be necessary for the orderly cessation of the Board's activities in the Host Country, and the resolution of any disputes between the parties.

IN WITNESS WHEREOF, the respective representatives duly authorized thereto, have signed this Agreement.

DONE in Baku on the 12 day of November 2024, in two originals in the English language, both texts being equally authentic.

For and on behalf of the
**BOARD OF THE FUND FOR
RESPONDING TO LOSS AND DAMAGE**

For and on behalf of the
**GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES**

JEAN-CHRISTOPHE DONNELLIER

Co-chair

Date:

RICHARD SHERMAN

Co-chair

Date:

12th November, 2024

MARIA ANTONIA YULO LOYZAGA

Secretary

Department of Environment
and Natural Resources

Date:

Annex II

**Agreement on the Hosting Arrangements for the Secretariat
of the Fund for responding to Loss and Damage between the
Board of the Fund for responding to Loss and Damage and
the International Bank for Reconstruction and Development**

AGREEMENT

**on the Hosting Arrangements for the
Secretariat of the Fund for responding to Loss and Damage**

BETWEEN

**THE BOARD OF THE FUND FOR RESPONDING TO LOSS
AND DAMAGE**

AND

**INTERNATIONAL BANK FOR RECONSTRUCTION AND
DEVELOPMENT**

This AGREEMENT on the hosting arrangements for the Secretariat of the Fund for responding to Loss and Damage (the “Fund”) (this “Agreement”) is dated as of the Signature Date (as defined below) and made between the Board of the Fund for responding to Loss and Damage (the “Fund Board” or the “Board”) and the International Bank for Reconstruction and Development (the “World Bank”) (together with the Fund Board, the “Parties,” and each, a “Party”).

WHEREAS:

- (A) The Conference of the Parties (the “COP”) to the United Nations Framework Convention on Climate Change (the “Convention”) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (the “CMA”), at their twenty-seventh and fourth sessions respectively (through decisions 2/CP.27 and 2/CMA.4), decided to establish new funding arrangements for assisting developing countries that are particularly vulnerable to the adverse effects of climate change, in responding to loss and damage, including with a focus on addressing loss and damage, by providing and assisting in mobilizing new and additional resources, and which specify that these new arrangements complement and include sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement;
- (B) The COP and the CMA also decided, in the context of establishing the new funding arrangements, to establish a fund for responding to loss and damage whose mandate includes a focus on addressing loss and damage;
- (C) The COP and CMA, at their twenty-eighth and fifth sessions respectively (through decisions 1/CP.28 and 5/CMA.5 (the “COP/CMA Decisions”)), approved the Governing Instrument of the Fund (as contained in Annex I to the COP/CMA Decisions and as attached hereto as Annex 1, the “Governing Instrument”) in accordance with which the Fund is to be operationalized, and designated the Fund as an entity entrusted with the operation of the financial mechanism of the Convention, also serving the Paris Agreement, which will be accountable to and function under the guidance of the COP and the CMA;
- (D) The COP/CMA Decisions also decided that the Fund Board will be conferred with the legal personality and the legal capacity as necessary for discharging its roles and functions, in particular the legal capacity to negotiate, conclude and enter into a hosting arrangement with the World Bank as host of the Fund’s secretariat (the “Secretariat”); and invited the World Bank, subject to certain conditions set out in paragraph 20 thereof, to operationalize the Fund as a World Bank hosted financial intermediary fund for an interim period of four years, starting from the sessions of the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at which the Board of the Fund confirms that the conditions can be met, with the Fund to be serviced by a new, dedicated and independent secretariat hosted by the World Bank;

- (E) The World Bank has confirmed that it is willing and able to meet the conditions set out in paragraph 20 of the COP/CMA Decisions and has submitted to the Fund Board the documentation referred to in paragraph 19 of the COP/CMA Decisions;
- (F) In Decision FRLD/B.3/D.5, the Fund Board has confirmed, via its report to the COP and CMA, that the World Bank can meet the conditions set out in paragraph 20 of the COP/CMA Decisions during the interim period; and
- (G) The World Bank agrees to act as host to the new, dedicated and independent Secretariat for the Fund in accordance with the terms of this Agreement.

NOW THEREFORE the Parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. *Definitions*

Unless the context otherwise requires, the several terms defined in the preamble to this Agreement shall have the respective meanings set forth therein when used in this Agreement, and the following additional terms shall have the following meanings:

“Co-Chairs” means Co-Chairs of the Fund Board.

“COI Framework” has the meaning ascribed to it in Section 7.02(a) below.

“EIJ” means the Ethics and Internal Justice Vice Presidency of the World Bank.

“Executive Director” means the Executive Director of the Fund, as the head of the Secretariat.

“Executive Director Selection Committee” means a selection committee constituted to oversee the selection of the incoming Executive Director, as it may be constituted from time to time by the Fund Board.

“Host VP” means the Vice President of the Vice Presidential Unit of the World Bank hosting the Secretariat (the “Host VPU”), as set forth in Section 4.01(a) below.

“HR” means human resources.

“Recipients” means the implementing entities and other entities accessing the Fund’s resources via modalities developed by the Fund Board from time to time, pursuant to such processes, policies and/or standards as the Fund Board shall determine.

“Signature Date” means the later of the two dates on which the Parties signed this Agreement.

“Termination Date” has the meaning ascribed to it in Section 8.02(a) below.

“Trust Fund” means the Trust Fund for the Fund for responding to Loss and Damage administered by the World Bank as interim trustee for the Fund.

“Trustee” means the World Bank as interim trustee of the Trust Fund for the Fund for responding to Loss and Damage.

“World Bank Internal Justice Services” means the World Bank mediation services, the Ombuds Services Office, peer review services, and the World Bank Administrative Tribunal.

ARTICLE II

THE FUND BOARD

Section 2.01. The Fund is governed and supervised by the Fund Board, which is the decision-making body of the Fund and is conferred with the legal personality and the legal capacity as necessary for discharging its roles and functions. The Fund Board is responsible for setting the strategic direction of the Fund and for the Fund’s governance and operational modalities, policies, frameworks and work programme, including relevant funding decisions. The roles and functions of the Fund Board are set out in paragraphs 21-22 of the Governing Instrument.

ARTICLE III

HOSTING OF THE SECRETARIAT AT THE WORLD BANK

Section 3.01. The Parties agree that the World Bank shall provide its services, in accordance with this Agreement, to host the new, dedicated and independent Secretariat for the Fund based on the following underlying framework, and as further set out in this Agreement:

(a) *Roles and Responsibilities of the Secretariat of the Fund.* The Fund is serviced by the Secretariat, which is accountable to the Fund Board. The Secretariat is led by an Executive Director selected by the Fund Board in accordance with Section 4.03 below. The roles and responsibilities of the Secretariat are set out in paragraphs 32-35, 40, 65 and 67-69 of the Governing Instrument. The Secretariat will, under the guidance of the Fund Board, provide the services described in such provisions to support and facilitate the work of the Fund Board in accordance with the Governing Instrument and this Agreement. In rendering its services, the Secretariat will follow the following principles:

(i) With respect to the day-to-day functioning of the Fund, the Secretariat supports the work of the Fund Board as a liaison between the Fund Board, the Trustee, Recipients and any other relevant stakeholders.

(ii) The role of Secretariat is to provide administrative support to the Fund Board. Accordingly, the Secretariat will not make funding decisions, which are the responsibility of the Fund Board save as provided in paragraph 22(i) of the Governing Instrument. The Secretariat will identify priorities for the Fund Board's consideration in programming and allocation decisions, and will undertake initial review and screening of proposals to assess completeness and conformity with guidelines approved by the Board prior to the Fund Board's consideration. The Secretariat will also coordinate the process for technical review of proposals, as needed. Without prejudice to its roles and responsibilities as described in the Governing Instrument, the Secretariat will play no role in the identification, preparation, appraisal, implementation or monitoring of individual projects, programs or activities, which is the responsibility of Recipients. Recipients will be directly accountable to the Fund Board for carrying out those activities as applicable. Similarly, the Secretariat will not take part in investigations of allegations of fraud and/or corruption with respect to projects, programs or activities financed by the Fund, except that it may collaborate with the Recipient's independent integrity unit or functional equivalent, or other relevant parties to facilitate investigations by sharing relevant information as may be necessary.

(iii) With respect to paragraphs 35(l) and 67-68 of the Governing Instrument, the Fund Board will be responsible for setting fiduciary standards and environmental and social safeguards. Similarly, the Fund Board will be responsible for developing the modalities allowing Recipients to attain functional equivalency with World Bank standards and safeguards. The Secretariat's responsibility will be to facilitate the establishment of a process for the Fund Board's consideration and approval. The Fund Board is responsible for assessing Recipients with respect to such standards and safeguards, based on the minimum standards set out in the Governing Instrument. With respect to paragraph 35(g) of the Governing Instrument, the Secretariat's responsibility with respect to the preparation of financial agreements will be to liaise with the Trustee in connection with the development of such agreements and facilitate the submission of forms of such agreements for the Fund Board's consideration and approval.

(b) *The World Bank as Host of the Secretariat.* The World Bank shall host the Secretariat pursuant to this Agreement, by providing the Secretariat with access to the World Bank's administrative support services, including HR, information technology systems, legal, budget, travel, security, facilities, and internal justice services. Costs, expenses and fees incurred by the World Bank in connection with performing its role as host of the Secretariat shall be fully borne by the Fund (or through other acceptable funding arrangements) in accordance with the World Bank's cost recovery policy. If there are any proposed changes in World Bank policies and procedures that may impact the Secretariat, the World Bank will inform the Executive Director about such proposals. If the proposed changes have a material impact on the ability of the Fund to meet its objectives, as determined by the Executive Director, the World Bank will discuss such changes with the Fund Board.

(c) *Secretariat Staff as World Bank Employees.* Secretariat staff are employees of the World Bank. As such, subject to other provisions of this Agreement, applicable World Bank policies and procedures shall apply to all activities undertaken or managed by the Secretariat staff, including HR policies and procedures which apply to employment conditions for Secretariat staff, and administrative policies and procedures which apply to travel, facilities, corporate security, information security, corporate procurement, administrative expenses and ancillary expenses, among others.

(d) *Legal and Administrative Status of the Secretariat.* The Secretariat is legally and administratively part of the World Bank. It is not a separate legal entity and does not possess the legal personality and legal capacity to take any legal action, including but not limited to, entering into contracts, in its own right.

(e) *Privileges and Immunities of the World Bank.* The World Bank is an international organization established under international treaty and governed pursuant to its Articles of Agreement, which were ratified and signed by the governments of its 189 member countries. It is not resident or domiciled in the United States or any other country and is therefore not subject to regulation in any jurisdiction. The World Bank's Articles of Agreement provide privileges and immunities which limit the ability of member countries to impose regulations or restrictions on the World Bank. These privileges and immunities apply to the Secretariat while it is hosted by the World Bank.

(f) *Other Roles of the World Bank.* The World Bank is expected to act as interim trustee of the Trust Fund. The World Bank may also play the role of an implementing entity of the Fund. The Parties agree that the World Bank shall not be precluded from becoming an implementing entity of the Fund because of the multiple roles played by the World Bank in connection with the Fund, provided that the World Bank meets all other eligibility requirements and conditions of the Fund for implementing entities.

Section 3.02. *Senior Level Meetings*

On an annual basis (or such other frequency as may be agreed by the Parties), the senior management of the World Bank and the Co-Chairs shall meet to exchange views on the overall implementation of this Agreement.

ARTICLE IV

HUMAN RESOURCES

Section 4.01. *Secretariat and Host VPU*

(a) Within the World Bank, which serves as host of the Secretariat, the Secretariat sits within the Planet Vice Presidential Unit as the Host VPU, led by the Host VP.

(b) The Executive Director shall report administratively to the Host VP, as a World Bank employee, and shall be accountable to the Fund Board, as the head of the Secretariat.

(c) The role of the Host VP is to ensure that the World Bank provides its services in accordance with this Agreement, and facilitate the smooth operation of the Secretariat within the World Bank.

(d) In instances where the Executive Director or the Fund Board has concerns with respect to the level of service being provided by the World Bank as host, these shall be promptly raised, and jointly resolved, with the Host VP, subject to the available capacities of the World Bank.

Section 4.02. *Secretariat Staff*

(a) The Secretariat shall be run by professional and administrative staff with relevant experience, including experience in a range of issues related to responding to loss and damage and experience in financial institutions. All Secretariat staff shall report to the Executive Director.

(b) The Executive Director is responsible for recruitment of Secretariat staff, in accordance with applicable World Bank policies and procedures. The selection of Secretariat staff will be a merit-based, open and transparent process, taking into account geographical and gender balance and cultural and linguistic diversity. The duties and accountabilities of Secretariat staff shall be reflected in the applicable job descriptions or terms of reference in their recruitment, which shall be consistent with the World Bank's Principles of Staff Employment and Staff Rules and any other applicable HR policies and procedures. The Secretariat staff shall not be required to take part in the World Bank rotation practice. Other HR-related practices shall apply to Secretariat staff as provided for in this Agreement.

(c) If the World Bank introduces measures for World Bank staff that may adversely impact the employment conditions of the Secretariat staff, the Executive Director shall notify the World Bank of such adverse impact as soon as possible. Thereafter, the Host VPU and the Executive Director shall consult on and agree whether and how such measures will apply to the Secretariat before implementation, with the agreement reached reflected as part of the Executive Director's regular reporting to the Fund Board as well as in the annual Secretariat workforce plan, as necessary.

Section 4.03. *Executive Director of the Secretariat*

(a) The Executive Director shall be selected by the Fund Board, in accordance with the procedures set out in this Agreement. The Fund Board shall approve the job description and required qualifications for the Executive Director, which shall be aligned with the roles and responsibilities of the Secretariat as set out in Annex 1, and consistent with the World Bank's Principles of Staff Employment and Staff Rules and any other applicable HR policies and procedures. A draft of such job description and required qualifications shall be shared with the Host VP for any inputs for consideration prior to approval by the Fund Board.

(b) The Executive Director shall be selected through a merit-based, open and transparent process, aligned with World Bank hiring practices, and shall have the necessary experience and skills for the position, including at a level of seniority set by the Fund

Board, in line with relevant World Bank HR policies. The Executive Director shall be recruited using a search firm selected in accordance with World Bank procurement policies and procedures, and the Executive Director Selection Committee may provide inputs to the World Bank on the selection of such search firm.

(c) As the Executive Director holds a World Bank employment contract, the Host VP shall be invited to provide views at critical steps of the selection of the Executive Director. A representative of the World Bank shall serve as an *ex officio* member of the Executive Director Selection Committee and participate in interviews of the top six (6) candidates with a view to providing advice to the Executive Director Selection Committee Co-chairs but without decision-making power.

(d) The Executive Director shall be exempt from the World Bank rotation practice.

Section 4.04. *Secretariat Budget and Staffing Plans*

(a) The Executive Director is responsible for workforce planning for the Secretariat, in consultation with the World Bank, and subject to approval of budgets, work plans and staffing plans by the Fund Board. Staffing levels for the Secretariat should be sufficient to enable it to deliver on the Secretariat's work program, as approved by the Fund Board, and the overall staffing structure of the Secretariat shall be aligned with the funding sources for the Secretariat's work program (with respect to factors such as the closing dates of funding sources and the duration of appointments). All staffing decisions shall be made in accordance with the World Bank's HR policies and procedures.

(b) The Host VP shall receive the Secretariat's proposed annual budget and staffing plans once annually, prior to their submission to the Fund Board for approval and with sufficient time for the Host VP to review and provide feedback to the Executive Director.

(c) Following approval by the Fund Board of the Secretariat's proposed annual budget and work plan, the approved amount of the Secretariat's budget shall be transferred to the Secretariat's account from the Trust Fund resources or such other assets held for the Fund, provided that the amounts transferred may be subject to an end of budget period adjustment on the basis of full cost recovery for the services provided during the budget period, as such arrangement may be agreed between the Fund Board and the Secretariat in connection with the aforementioned proposal.

Section 4.05. *Human Resources; Performance Management and Promotions*

(a) The Executive Director shall be responsible for staff performance evaluation, talent management, promotions, and management of all other Secretariat staff, in compliance with World Bank HR policies and procedures.

(b) The Executive Director shall be assessed annually on their performance. The Executive Director shall be accountable for the performance of the Secretariat and the Secretariat's delivery of its work program to the Fund Board, and the Fund Board shall assess the performance of the Executive Director, building on inputs from the Host VP (on administrative issues), Secretariat staff and others as appropriate. The Host VP shall record the outcome of the assessment of the Executive Director's performance undertaken by the

Fund Board in the World Bank systems. The Executive Director shall be also responsible for ensuring that the Secretariat acts in compliance with applicable World Bank policies and procedures in the performance of its roles and responsibilities.

(c) The Executive Director's employment may be terminated in line with relevant Bank HR policies and procedures: (i) at the initiative of the Fund Board in connection with the Executive Director's performance; (ii) at the initiative of the World Bank, in relation to violation of the World Bank's Principles of Staff Employment and Staff Rules; or (iii) at the initiative of the World Bank, as may be necessary in connection with a termination of the World Bank's role as host of the Secretariat.

ARTICLE V

ADMINISTRATIVE MATTERS

Section 5.01. *Communications*

The Secretariat is responsible for leading and designing communications for the Fund. The Secretariat shall maintain close ongoing contact with the World Bank's External and Corporate Relations Department regarding communications and outreach plans for the Fund to ensure coordination, in accordance with World Bank policies and procedures. The World Bank's External and Corporate Relations Department shall nominate a focal point to engage with the Secretariat. The Secretariat and the World Bank shall agree on standard operating procedures for collaboration between the Secretariat and the World Bank on communications efforts.

Section 5.02. *External Representation*

(a) The Parties acknowledge that while the World Bank serves as host of the the Secretariat, the Fund, governed by the Fund Board, has an independent and distinct identity.

(b) The Secretariat shall be represented at key climate and high-level events, including the COP and CMA, in sufficient numbers to ensure it can carry out its activities.

Section 5.03. *Prior Consultations*

If any decision by the Fund Board after the effective date of this Agreement is expected to affect the scope of services provided or to be provided by the World Bank under this Agreement, such a decision shall be developed in close consultation with the World Bank. In the absence of such consultation with and the agreement of the World Bank, the World Bank shall not be obligated to implement any decision of the Fund Board, to the extent that such a decision would modify the scope or manner of activities being undertaken by the Secretariat or otherwise adversely affects the World Bank in its provision of services under this Agreement.

ARTICLE VI

FUNDRAISING/FINANCIAL INNOVATIONS AND INPUTS

Section 6.01. *General*

(a) The Fund Board, with support from the Secretariat, will prepare a long-term fundraising and resource mobilization strategy and plan for the Fund to guide its mobilization of new, additional, predictable and adequate financial resources from all sources of funding, as set out paragraph 56 of the Governing Instrument.

(b) The World Bank shall not impose any fundraising moratoriums on the Fund.

Section 6.02. *Financial Innovations and Inputs*

(a) The Fund is able to receive contributions from a wide variety of sources of funding, including grants and concessional loans from public, private and innovative sources, as appropriate, as set out paragraph 54 of the Governing Instrument. The Parties shall explore the implications, modalities and options for financial innovations and financial inputs from private and innovative sources for the Fund through early consultation between stakeholders and with adequate due diligence.

(b) It is understood that any financial innovations or financial inputs from private and innovative sources will be subject to due diligence and review procedures carried out by the Trustee in accordance with the Trustee's policies and procedures. The Secretariat will work with the Trustee, as necessary, to support such due diligence and review procedures.

ARTICLE VII

CONFLICTS OF INTEREST AND DISPUTE RESOLUTION

Section 7.01. *Duties and Responsibilities of Secretariat Staff and Conflicts of Interest*

(a) The World Bank's Articles of Agreement provide that officers and staff of the World Bank, in the discharge of their offices, owe their duty entirely to the World Bank and to no other authority. Secretariat staff also have a duty to serve the best interests of the Fund and the Fund Board. Secretariat staff satisfy their duty to the World Bank by fulfilling their responsibilities under their work programs to the Fund and the Fund Board consistent with this Agreement, and acting within the World Bank's HR policies and procedures. Secretariat staff, including the Executive Director, are accountable to the Fund Board for the delivery of their work programs in line with the objectives and purpose of the Fund, and are accountable to the World Bank to meet their duties and responsibilities as World Bank staff.

(b) EIJ can provide advice to Secretariat staff on personal conflicts of interest in the World Bank, including on conflicting duties of loyalty, and on operational conflicts of interest in the World Bank. EIJ can also address any potential cases of staff misconduct.

Section 7.02. *Conflicts of Interest Management Framework*

- (a) The Parties may develop a framework (the “COI Framework”) to set out guidance on recognizing and handling conflicts of interest, mitigation measures, and guidance for Secretariat staff on how to address situations with dual accountabilities.
- (b) The Parties shall strive to ensure strong strategic alignment on the overarching vision, mandate, objectives, and modalities of the Secretariat.

Section 7.03. *World Bank Internal Justice Services; Dispute Escalation*

- (a) Nothing in this Agreement shall interfere with the right of Secretariat staff and the World Bank to use the World Bank Internal Justice Services, for assistance with and/or resolution of disputes arising within the mandate of the World Bank Internal Justice Services as set out in the World Bank’s Staff Manual.
- (b) In the event of a dispute between the Secretariat and the Host VPU that has an impact on the ability of the Secretariat to fulfill its functions, the Secretariat and the Host VPU shall endeavor to resolve the dispute at the level at which the dispute has occurred. Failing resolution at that level, the Executive Director may escalate the dispute to the Co-Chairs for discussion and resolution with the World Bank.

Section 7.04. *Dispute Resolution of the Parties*

- (a) The Parties shall make every effort for disputes that arise in connection with any matters governed by this Agreement to be resolved amicably.
- (b) Any dispute, controversy or claim arising out of or relating to this Agreement, which has not been settled by agreement of the Parties, shall be finally settled by arbitration in accordance with the United Nations Commission on International Trade Law Arbitration Rules (the UNCITRAL Arbitration Rules) in force on the effective date of this Agreement, and the following provisions: (i) the appointing authority shall be the Secretary-General of the Permanent Court of Arbitration; and (ii) the language of the arbitral proceedings shall be English. The arbitral award will be final and binding on the Parties.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.01. *Effectiveness, Amendment*

- (a) This Agreement shall become effective as of the Signature Date.
- (b) This Agreement may be amended only by written agreement of the Fund Board and the World Bank.

Section 8.02. Termination

(a) Unless otherwise agreed in writing between the Fund Board and the World Bank, the World Bank's role as host of the Secretariat under this Agreement shall terminate on December 31, 2028 (the "Termination Date").

(b) Either Party may at any time terminate the World Bank's role as host of the Secretariat prior to the Termination Date, by giving the other Party a notice in writing no less than six (6) months prior to any sessions of the COP and the CMA. The World Bank's role as host of the Secretariat shall be terminated after the second session of the COP and the CMA that follows the notice by the terminating Party. In the event that such session of the COP and the CMA has not been held within twenty four (24) months of the terminating Party giving notice, however, the World Bank's role shall be terminated twenty four (24) months after that Party has given notice.

(c) Following termination pursuant to paragraphs (a) or (b) above, the World Bank shall carry on no business as host of the Secretariat except for the purpose of winding up its affairs under this Agreement or to the extent needed to avoid discontinuity in secretariat services. The World Bank shall take all necessary action for winding up its affairs in an expeditious manner. The Fund Board shall take all necessary actions and provide such direction to the World Bank as necessary to complete the winding up without undue delay. All of the powers and rights of the World Bank under this Agreement, including the right to be reimbursed for the fees, costs and expenses incurred by the World Bank, shall continue until the affairs of the World Bank under this Agreement have been fully wound up.

Section 8.03. Indemnification

The World Bank shall be fully indemnified, out of the assets held for the Fund, including the Trust Fund resources, and held harmless by the Fund Board, against any liabilities, claims, losses, costs and expenses, including attorneys' fees and expenses, incurred by the World Bank in connection with or arising out of the performance of its roles and responsibilities under Agreement. Such indemnity shall not include any liabilities, claims, losses, costs or expenses incurred by the World Bank as a direct result of its gross negligence or willful misconduct.

Section 8.04. No waiver of privileges and immunities

Nothing in this Agreement shall be considered a waiver of any privileges and immunities of: (a) the World Bank under its Articles of Agreement or any applicable law, all of which are expressly reserved; or (b) the Fund Board under any applicable law and agreements, all of which are expressly reserved.

Section 8.05. Representations

(a) The Fund Board hereby represents that:

- (i) it is duly established in the Republic of the Philippines and endowed with the legal personality and the legal capacity as necessary for discharging its roles and functions; and
 - (ii) it has the power and authority to execute and deliver this Agreement and act in accordance with the provisions of this Agreement.
- (b) The World Bank hereby represents that:
 - (i) it is an international organization duly established and validly existing pursuant to its Articles of Agreement; and
 - (ii) it has the power and authority to execute and deliver this Agreement and act in accordance with the provisions of this Agreement.

Section 8.06. *Interpretation*

- (a) All annexes hereto constitute an integral part of this Agreement, whose terms taken together shall constitute the entire agreement and understanding between the Parties.
- (b) References in this Agreement to Articles, Sections and Annexes are to the Articles and Sections of, and the Annexes to, this Agreement. The headings of the Articles, Sections and Annexes are inserted in this Agreement for reference only and shall not be taken into consideration in interpreting this Agreement.

Section 8.07. *Notices*

Unless otherwise specified in this Agreement, any notice, request or other communication to be given or made under this Agreement shall be in writing and delivered by mail or e-mail to the respective Party's address specified below or at such other address as such Party notifies in writing to the other Party from time to time.

- (a) For the Fund Board:

Secretariat of the Fund for responding to Loss and Damage
1818 H Street, N.W.
Washington, DC 20433 U.S.A.
Attention: Co-Chairs of the Board of the Fund for responding to Loss and Damage

Telephone: +1 202-473-1000
E-mail: frldsecretariat@frld.org

- (b) For the World Bank:

Director
Strategy & Operations
Planet Vice Presidency Unit

The World Bank
1818 H Street, N.W.
Washington, DC 20433
U.S.A.

Telephone: +1 202-458-5478
E-mail: frldhost@worldbank.org

Section 8.08. *Disclosure*

(a) The Fund Board and the World Bank agree that this Agreement will be made publicly available and that any related information on this Agreement in a Party's possession may be publicly disclosed in accordance with the respective Party's policies and procedures with respect to any such information in that Party's possession.

(b) Notwithstanding paragraph (a) above, neither Party shall publicly disclose information in their respective possession related to this Agreement that has been indicated or marked in writing by either Party as confidential, unless prior written consent has been obtained from the Party providing the information.

AGREED as of the Signature Date.

**THE BOARD OF THE FUND FOR RESPONDING
TO LOSS AND DAMAGE**

By



Authorized Representative

Name: _____ Jean-Christophe Donnellier

Title: _____ Co chair of the Board

Date: _____ 25-Oct-2024

By



Authorized Representative

Name: _____ richard sherman

Title: _____ Co-Chair of the Board

Date: _____ 25-Oct-2024

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT**

By



Authorized Representative

Name: _____ Juergen Voegele

Title: _____ Vice President

Date: _____ 25-Oct-2024

Annex 1

Governing Instrument of the Fund

Annex I

Governing Instrument of the Fund

1. The Fund is hereby operationalized in accordance with the following provisions.

I. Objectives and purpose

2. The purpose of the Fund is to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events.

3. Given the urgent and immediate need for new, additional, predictable and adequate financial resources to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, especially in the context of ongoing and ex post (including rehabilitation, recovery and reconstruction) action, the Fund aims to be a new channel for multilateral finance to assist those countries in responding to loss and damage associated with the adverse effects of climate change. The Fund will also endeavour to assist those countries in mobilizing external finance to strengthen their efforts to respond to loss and damage while supporting both the achievement of international goals on sustainable development and the eradication of poverty.

4. The Fund should operate in a manner that promotes coherence and complementarity with new and existing funding arrangements for responding to loss and damage associated with the adverse effects of climate change across the international financial, climate, humanitarian, disaster risk reduction and development architectures. In accordance with the provisions set out in chapter VI below, the Fund will develop new coordination and cooperation mechanisms to help enhance complementarity and coherence and will facilitate linkages between itself and various funding sources, including relevant vertical funds, as appropriate, to, inter alia, promote access to available funding, avoid duplication and reduce fragmentation.

5. The Fund will operate in a transparent and accountable manner guided by efficiency and effectiveness and sound financial management. The Fund will pursue a country ownership approach to programmes and projects and seek to promote and strengthen national response systems through, among other means, the effective involvement of relevant institutions and stakeholders, including non-State actors. The Fund should be scalable and flexible; practise continuous learning, guided by monitoring and evaluation processes; strive to maximize the impact of its funding for responding to loss and damage associated with the adverse effects of climate change while promoting environmental, social, economic and development co-benefits; and take a culturally sensitive and gender-responsive approach.

II. Scope

6. The Fund will provide finance for addressing a variety of challenges associated with the adverse effects of climate change, such as climate-related emergencies, sea level rise, displacement, relocation, migration, insufficient climate information and data, and the need for climate-resilient reconstruction and recovery.

7. The Fund will focus on priority gaps within the current landscape of institutions, including global, regional and national institutions, that are funding activities related to responding to loss and damage. To this end, the Fund will provide complementary and additional support and improve the speed and adequacy of access to finance for responding to loss and damage by particularly vulnerable developing countries.

8. The Fund will provide support for responding to economic and non-economic loss and damage associated with the adverse effects of climate change. This support may include funding that is complementary to humanitarian actions taken immediately after an extreme weather event; funding for intermediate or long-term recovery, reconstruction or rehabilitation; and funding for actions that address slow onset events.

9. The support provided by the Fund may include developing national response plans; addressing insufficient climate information and data; and promoting equitable, safe and dignified human mobility in the form of displacement, relocation and migration in cases of temporary and permanent loss and damage.

III. Governance and institutional arrangements

A. Legal status

10. The Fund will possess international legal personality and appropriate legal capacity as is necessary for the exercise of its functions, the fulfilment of its objectives and the protection of its interests, in particular the capacity to enter into contracts, to acquire and dispose of movable and immovable property, and to institute legal proceedings in defence of its interests. The Fund will enjoy such privileges and immunities as are necessary for the independent fulfilment of its purpose. The officials of the Fund's secretariat will similarly enjoy such privileges and immunities as are necessary for the independent exercise of their official duties.

B. Relationship to the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement

11. The Fund will be designated as an entity entrusted with the operation of the Financial Mechanism of the Convention, which also serves the Paris Agreement, and will be accountable to and function under the guidance of the Conference of the Parties (COP) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA).

12. Arrangements for ensuring that the Fund is accountable to and functions under the guidance of the COP and the CMA, consistently with this Governing Instrument, will be concluded between the COP, the CMA and the Board of the Fund for consideration and approval at COP 29 (November 2024) and CMA 6 (November 2024).

13. The Board will:

- (a) Receive guidance from the COP and the CMA on its policies, programme priorities and eligibility criteria;
- (b) Take appropriate action in response to the guidance received from the COP and the CMA;
- (c) Submit annual reports to the COP and the CMA for their consideration.

14. The Board may review the periodicity of the guidance from the COP and the CMA and make a recommendation thereon for consideration by the COP and the CMA.

C. Board

1. Composition

15. The Fund will be governed and supervised by a Board that is its decision-making body. The Board will have responsibility for setting the strategic direction of the Fund and for the Fund's governance and operational modalities, policies, frameworks and work programme, including relevant funding decisions.

16. The Board will have an equitable and balanced representation of all Parties within a transparent system of governance.

17. The Board will comprise 26 members, as follows:

- (a) 12 members from developed countries;
- (b) 3 members from Asia-Pacific States;
- (c) 3 members from African States;
- (d) 3 members from Latin American and Caribbean States;
- (e) 2 members from small island developing States;
- (f) 2 members from the least developed countries;
- (g) 1 member from a developing country not included in the regional groups and constituencies referred to in paragraph 17(b–f) above.

18. Each Board member will have an alternate member, with alternate members entitled to participate in the meetings of the Board only through the principal member, without the right to vote, unless they are serving as the member. During the absence of a member from all or part of a meeting of the Board, its alternate will serve as the member.

19. The relevant regional groups and constituencies will nominate representatives with the appropriate technical, finance, loss and damage, and policy expertise, with due consideration given to gender balance, to serve as Board members, including alternate members.

20. The Board will enhance the engagement of stakeholders by inviting active observers, including youth, women, Indigenous Peoples and environmental non-governmental organizations, to participate in its meetings and related proceedings.

2. Roles and functions

21. The Board will serve the objectives and purpose of the Fund and steer the Fund's operations so that they evolve with the Fund's scale and maturity. The Board will exercise strategic leadership and flexibility to allow the Fund to evolve over time.

22. The Board will:

- (a) Oversee the operation of all relevant components of the Fund;
- (b) Develop and approve operational modalities, access modalities, financial instruments and funding structures;
- (c) Approve funding in line with the Fund's criteria, modalities, policies and programmes;
- (d) Approve a policy for the provision of grants, concessional resources and other financial instruments, modalities and facilities, taking into account access to other financial resources and debt sustainability;
- (e) Approve specific operational policies and frameworks, including for the programme and project cycle;
- (f) Develop a mechanism that will help ensure the activities financed by the Fund are implemented based on high-integrity environmental and social safeguards and fiduciary principles and standards;
- (g) Develop, approve and periodically review the Fund's results measurement framework;
- (h) Establish subcommittees, panels and expert bodies, as appropriate, and define their terms of reference;
- (i) Develop an accountability framework for funding approvals, which may be delegated by the Board to the Executive Director of the Fund, subject to the relevant policies of the host institution;

- (j) Develop a system for allocating resources, as outlined in paragraph 60 below;
- (k) Establish additional thematic substructures to address specific activities, as appropriate;
- (l) Develop relevant indicators and triggers to clarify access to different sources of support provided through the Fund;
- (m) Establish, as appropriate, procedures for the monitoring and evaluation of performance and the financial accountability of activities financed by the Fund, and for any necessary external audits;
- (n) Review and approve the administrative budget and work programme of the Fund and arrange for performance reviews and audits;
- (o) Oversee the operation of all relevant organs of the Fund with respect to the Fund's activities, including the trustee, secretariat, subcommittees, and expert, advisory and evaluation panels;
- (p) Prepare a long-term fundraising and resource mobilization strategy and plan for the Fund to mobilize financial resources from the sources outlined in paragraph 54 below;
- (q) Select the Executive Director of the Fund;
- (r) Ensure the expeditious disbursement of funds by the host institution in line with the policies and procedures of the Fund;
- (s) Provide recommendations to the COP and the CMA, including information on means to enhance consistency, coordination and coherence with other sources, funds, initiatives and processes under and outside the Convention and the Paris Agreement;
- (t) Exercise other functions, as appropriate, to fulfil the objectives of the Fund.

D. Rules of procedure of the Board

1. Co-chairs

23. The Board will elect two Co-Chairs from within its membership, with one from a developed country and one from a developing country, who will serve a term of one year. The Co-Chairs may be re-elected. If a Board member is elected as Co-Chair, that member may request their alternate member to express the respective regional group's or constituency's viewpoint in Board deliberations. However, the Board member retains the right to vote.

2. Term of membership

24. Members and alternate members of the Board are to serve for a term of three years and are eligible to serve additional terms, as determined by their regional group or constituency, for a maximum of two consecutive terms.

3. Quorum

25. A three-fourths majority of Board members must be present at a meeting to constitute a quorum.

4. Decision-making

26. Decisions of the Board will be taken by consensus. If all efforts at reaching consensus have been exhausted, and no consensus is reached, decisions will be taken by a four-fifths majority of the members present and voting. The Board will develop procedures for determining when all efforts at reaching consensus have been exhausted. The Board will adopt procedures for taking decisions between meetings.

5. Observers

27. The Fund will make arrangements to allow for the effective participation of observers in its meetings, including developing and carrying out an observer accreditation process.

6. Stakeholder input and participation

28. The Fund will establish consultative forums to engage and communicate with stakeholders. The forums will be open to a wide range of stakeholders, including representatives of civil society organizations, environmental and development non-governmental organizations, trade unions, Indigenous Peoples, youth, women, climate-induced migrants, industries and sectors impacted by climate change, community-based organizations, bilateral and multilateral development cooperation agencies, technical and research agencies, the private sector and governments. Participation in such forums should reflect a balance among United Nations geographical regions.

29. The Fund will develop mechanisms to promote the input and participation of stakeholders, including private sector actors, civil society organizations and the groups most vulnerable to the adverse effects of climate change, including women, youth and Indigenous Peoples, in the design, development and implementation of the activities financed by the Fund.

7. Expert and technical advice

30. The Board may establish expert and technical panels to support its work and to provide inputs to the Fund's activities. These panels may include representatives of relevant constituted bodies established under the Convention and the Paris Agreement.

8. Additional rules of procedure

31. The Board will develop additional rules of procedure.

E. Secretariat**1. Establishment**

32. The Fund will be serviced by a new, dedicated and independent secretariat, which will be accountable to the Board. The secretariat will have effective management capabilities to execute the day-to-day operations of the Fund. The secretariat will be run by professional staff with relevant experience, including experience in a range of issues related to responding to loss and damage and experience in financial institutions. The selection of staff will be managed by the Executive Director of the Fund and will be a merit-based, open and transparent process, taking into account geographical and gender balance and cultural and linguistic diversity.

33. The secretariat will be headed by the Executive Director of the Fund, who will be selected by the Board. The Board will approve the job description and required qualifications for the Executive Director. The Executive Director will be selected through a merit-based, open and transparent process and will have the necessary experience and skills for the position.

34. The secretariat will include regional desks for all relevant United Nations geographical regions, the staff of which will build and maintain relationships with relevant actors in their respective regions to facilitate regionally informed decision-making, assessments and planning, as the secretariat undertakes its functions. Regional desks may support and facilitate access to the Fund, as appropriate. The secretariat should also seek to enable multilingual engagement, as appropriate.

2. Functions

35. The secretariat will be responsible for the day-to-day operations of the Fund and will:

- (a) Plan and execute all relevant operational and administrative duties;

- (b) Report information on the activities of the Fund to the Board;
- (c) Develop and implement procedures for coordinating the activities of the Fund with those of other relevant funding arrangements;
- (d) Prepare performance reports on the implementation of activities financed by the Fund;
- (e) Develop the work programme and administrative budget of the secretariat, as well as the administrative budget of the trustee, and submit these documents for consideration and approval by the Board;
- (f) Operationalize the programme and project cycle;
- (g) Prepare financial agreements related to the specific financing instrument to be concluded with an implementing entity;
- (h) Monitor the financial risks of the Fund's portfolio;
- (i) Work with the trustee to support the Board to enable it to fulfil its responsibilities;
- (j) Coordinate monitoring and evaluation of programmes, projects and activities financed by the Fund;
- (k) Establish and apply effective knowledge management practices;
- (l) Establish modalities that allow recipients to use implementing entities, including international, regional, national and local entities, as appropriate, on the basis of functional equivalency with World Bank safeguards and standards;
- (m) Assist countries in engaging with the Fund through its processes and procedures;
- (n) Coordinate with the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change to support countries seeking to access the Fund through technical assistance through the network;
- (o) Take a regionally informed approach in responding to context-specific operational needs, capabilities and priorities of recipient countries;
- (p) Perform any other functions assigned by the Board.

F. Trustee

36. The trustee will administer the assets of the Fund only for the purpose of, and in accordance with, the relevant decisions of the Board. The trustee will hold the assets of the Fund separate and apart from the assets of the trustee, but may commingle them for administrative and investment purposes with other assets maintained by the trustee. The trustee will establish and maintain separate records and accounts in order to identify the assets of the Fund.

37. The roles and responsibilities of the trustee include the receipt of contributions, implementation of the terms of contribution arrangements, the holding and investing of funds, the transfer of funds to implementing entities and/or other relevant recipients, accounting, reporting, and financial and fiduciary management, as well as ensuring compliance with established procedures and internal controls. The trustee will maintain appropriate financial records and prepare financial statements and other reports required by the Board, in accordance with internationally accepted fiduciary standards.

38. The trustee will be accountable to the Board for the performance of its responsibilities as trustee for the Fund.

39. The trustee should ensure that the Fund can receive financial inputs from philanthropic foundations and other non-public and alternative sources, including new and innovative sources of finance.

40. The trustee will arrange for the secretariat or another appropriate mechanism to undertake due diligence to allow for the receipt of non-sovereign contributions.

IV. Operational modalities

41. The Fund will have a streamlined and rapid approval process with simplified criteria and procedures, while also maintaining high fiduciary standards, environmental and social safeguards, financial transparency standards and accountability mechanisms. The Fund will avoid disproportionate bureaucratic obstacles to the access of resources.

V. Eligibility, country ownership and access

A. Eligibility

42. Developing countries that are particularly vulnerable to the adverse effects of climate change are eligible to receive resources from the Fund.

B. Country ownership and access modalities

43. The Fund will seek to promote and strengthen national responses for addressing loss and damage through pursuing country-led approaches, including through effective involvement of relevant institutions and stakeholders, in particular women, vulnerable communities and Indigenous Peoples.

44. The Fund will be responsive to country priorities and circumstances. The Fund will seek to utilize, where appropriate and available, existing national and regional systems and financial mechanisms.

45. The Fund will promote, in all its operations, direct engagement at the national and, where appropriate, the subnational and local level to facilitate efficiency and the achievement of concrete results.

46. The Fund will involve developing country Parties that are particularly vulnerable to the adverse effects of climate change during all stages of the Fund's programme and project cycle, insofar as their respective projects are concerned.

47. The Fund may provide support for activities relevant to preparing and strengthening national processes and support systems. This may include support for developing proposed activities, projects and programmes, such as planning activities for addressing loss and damage; estimating financial requirements for implementing loss and damage activities; and establishing national loss and damage finance systems.

48. Developing countries may designate a national authority or national focal point to be responsible for overall management and implementation of activities, projects and programmes supported by the Fund. The authority or focal point will be consulted on any requests for funding through any access modalities, including those referred to in paragraph 49 below.

49. The Board will develop various modalities to facilitate access to the Fund's resources. These modalities may include:

(a) Direct access via direct budget support through national governments, or in partnership with entities whose safeguards and standards have been judged functionally equivalent to those of multilateral development banks;

(b) Direct access via subnational, national and regional entities or in partnership with entities accredited to other funds, such as the Adaptation Fund, the Global Environment Facility and the Green Climate Fund;

(c) International access via multilateral or bilateral entities;

(d) Access to small grants that support communities, Indigenous Peoples and vulnerable groups and their livelihoods, including with respect to recovery after climate-related events;

(e) Rapid disbursement modalities, as appropriate.

50. The Fund will develop simplified procedures and criteria for fast-tracked screening to determine functional equivalency with internationally recognized standards of national and/or regional funding entities' safeguards and standards to manage funded programmes and projects in country, as appropriate.

VI. Complementarity and coherence

51. The Fund will play a key role in coordinating a coherent global response to loss and damage between the Fund and the funding arrangements. The Fund will promote efforts that enhance complementarity and coherence, such as the exchange of information and good practices and consultation with existing and new mechanisms.

52. The Fund will develop methods to enhance complementarity between its activities and the activities of other relevant bilateral, regional and global funding mechanisms and institutions in order to better utilize the full range of financial and technical capacities.

53. The Fund will also promote coherence in programming at the national level. The Fund will form partnerships with other funding arrangements to address priority gaps in their activities with the aim of reinforcing those activities and leveraging the resources of the funding arrangements and, as appropriate, to provide additional and complementary sources of finance.

VII. Financial inputs

54. The Fund is able to receive contributions from a wide variety of sources of funding, including grants and concessional loans from public, private and innovative sources, as appropriate.¹

55. The Fund will have a periodic replenishment every four years and will maintain the flexibility to receive financial inputs on an ongoing basis.

56. The Board will prepare a long-term fundraising and resource mobilization strategy and plan for the Fund to guide its mobilization of new, additional, predictable and adequate financial resources from all sources of funding.

VIII. Financial instruments

57. The Fund will provide financing in the form of grants and highly concessional loans on the basis of the Board's policy for the provision of grants, concessional resources and other financial instruments, modalities and facilities. In its provision of finance, the Fund will make use of, inter alia, triggers, climate impact relevant indicators, debt sustainability considerations and criteria developed by the Board, and take into account guidance from the COP and the CMA.

58. The Fund may deploy a range of additional financial instruments that take into consideration debt sustainability (grants, highly concessional loans, guarantees, direct budget support and policy-based finance, equity, insurance mechanisms, risk-sharing mechanisms, pre-arranged finance, performance-based programmes and other financial products, as appropriate) to augment and complement national resources for addressing loss and damage.

¹ This paragraph is without prejudice to any future funding arrangements, any positions of Parties in current or future negotiations, or understandings and interpretations of the Convention and the Paris Agreement.

59. The Fund should be able to facilitate the blending of finance from different financial tools to optimize the use of public funding, especially in order to ensure effective results for vulnerable populations and the ecosystems on which they depend.

IX. Allocation of funding

60. The Board will develop and operate a resource allocation system. This system will take into account, inter alia:

(a) The priorities and needs of developing countries that are particularly vulnerable to the adverse effects of climate change, while taking into consideration the needs of climate-vulnerable communities;

(b) Considerations of the scale of impacts of particular climate events relative to the national circumstances, including but not limited to, response capacities of the impacted countries;

(c) The need to safeguard against the overconcentration of support provided by the Fund in any given country, group of countries or region;

(d) The best available data and information from entities such as the Intergovernmental Panel on Climate Change and/or pertinent knowledge from Indigenous Peoples and vulnerable communities on exposure and sensitivity to the adverse effects of climate change and on loss and damage, recognizing that such data, information and knowledge may be limited for specific countries and regions;

(e) Estimates of recovery and reconstruction costs based on data and information from relevant entities, in particular national and/or regional entities, recognizing that such data or information may be limited for specific countries and regions;

(f) A minimum percentage allocation floor for the least developed countries and small island developing States.

61. The allocation system will be dynamic and will be reviewed by the Board.

X. Monitoring

62. Programmes, projects and other activities financed by the Fund will be regularly monitored for impact, efficiency and effectiveness. The use of participatory monitoring involving stakeholders is encouraged.

63. A results measurement framework, with guidelines and appropriate performance indicators, will be developed, considered and approved by the Board. The performance of programmes, projects and other activities against these indicators will be reviewed periodically in order to support the continuous improvement of the Fund's impact, effectiveness and operational performance.

XI. Evaluation

64. Periodic independent evaluations of the performance of the Fund will be conducted in order to provide an objective assessment of the results of the Fund, including of the activities financed by the Fund, and its effectiveness and efficiency. The purpose of these independent evaluations is to inform decision-making by the Board, identify and disseminate lessons learned, and support the accountability of the Fund.

65. The results of the periodic evaluations will be published by the secretariat. They will also be provided as part of the annual report of the Board to the COP and the CMA.

66. The Fund will be subject to periodic reviews conducted by the COP and the CMA. These periodic reviews will be informed by, inter alia, the results of the independent evaluation and the annual reports of the Board to the COP and the CMA.

XII. Fiduciary standards

67. The Fund will ensure that high-integrity fiduciary principles and standards are applied to its activities, and, to this end, the secretariat will work towards ensuring that each implementing entity applies such fiduciary principles and standards when implementing activities financed by the Fund. The secretariat will support the strengthening of the capacities of direct access implementing entities, where needed, to enable them to attain functional equivalency with the World Bank’s fiduciary principles and standards, on the basis of modalities that will be developed by the Board.

XIII. Environmental and social safeguards

68. The Fund will ensure that best practice environmental and social safeguard policies are applied to its activities, and, to this end, the secretariat will work towards ensuring that each implementing entity applies such best practice environmental and social safeguard policies when implementing activities financed by the Fund. The secretariat will support the strengthening of the capacities of direct access implementing entities, where needed, to enable them to attain functional equivalency with the World Bank’s environmental and social safeguards, on the basis of modalities that will be developed by the Board.

XIV. Accountability and independent mechanisms

69. Activities financed by the Fund will be subject to the implementing entity’s independent integrity unit or functional equivalent, which will work with the secretariat to investigate allegations of fraud and corruption in coordination with relevant counterpart authorities and report to the Board on any such investigations.

70. The Fund’s operations, including with respect to activities financed by it, will be subject to the host institution’s policy on access to information. The activities financed by the Fund will also be subject to each implementing entity’s policy on access to information.

71. Activities financed by the Fund will use the implementing entity’s independent grievance redress mechanism to address complaints related to activities financed by the Fund, which will take appropriate action based on any agreements, findings and/or recommendations and report to the Board on any such action.

XV. Amendments to the Governing Instrument

72. The Board may recommend amendments to this Governing Instrument for consideration by the COP and the CMA.

XVI. Termination of the Fund

73. The Board may recommend the termination of the Fund for consideration by the COP and the CMA.

Annex III

Trustee Agreement on the terms and conditions for the administration of the Trust Fund for the Fund for responding to Loss and Damage between the Board of the Fund for responding to Loss and Damage and the International Bank for Reconstruction and Development, not in its capacity as principal, except as provided herein, but as interim Trustee of the Trust Fund for the Fund for responding to Loss and Damage

TRUSTEE AGREEMENT

on

**the Terms and Conditions for the Administration of the Trust
Fund for the Fund for responding to Loss and Damage**

between

**THE BOARD OF THE FUND FOR RESPONDING TO LOSS
AND DAMAGE**

and

**INTERNATIONAL BANK FOR RECONSTRUCTION AND
DEVELOPMENT,
not in its capacity as principal, except as provided herein, but as
interim Trustee of the Trust Fund for the Fund for responding to
Loss and Damage**

This TRUSTEE AGREEMENT (this “Agreement”) is dated as of the Signature Date (as defined below) and made between the BOARD OF THE FUND FOR RESPONDING TO LOSS AND DAMAGE (the “Fund Board” or the “Board”) and the INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, not in its capacity as principal, except as provided herein, but solely in its capacity as interim trustee (in such capacity, the “Trustee”) of the Trust Fund for the Fund for responding to Loss and Damage (MTO No. 069040) (the “Trust Fund”) (the Trustee, together with the Fund Board, the “Parties”, and each, a “Party”).

WHEREAS:

- (A) The Conference of the Parties (the “COP”) to the United Nations Framework Convention on Climate Change (the “Convention”) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (the “CMA”), at their twenty-seventh and fourth sessions respectively (through decisions 2/CP.27 and 2/CMA.4), decided to establish new funding arrangements for assisting developing countries that are particularly vulnerable to the adverse effects of climate change, in responding to loss and damage;
- (B) In this context, the COP and the CMA also decided to establish a fund for responding to loss and damage (the “Fund”) whose mandate includes a focus on addressing loss and damage;
- (C) The COP and the CMA, at their twenty-eighth and fifth sessions respectively (through decisions 1/CP.28 and 5/CMA.5 (the “COP/CMA Decisions”)), approved the Governing Instrument of the Fund (as contained in Annex I to the COP/CMA Decisions, the “Governing Instrument”), in accordance with which the Fund is to be operationalized, and designated the Fund as an entity entrusted with the operation of the financial mechanism of the Convention, also serving the Paris Agreement, which will be accountable to and function under the guidance of the COP and the CMA;
- (D) The roles and functions of the trustee are set forth in paragraphs 36 through 40 of the Governing Instrument;
- (E) The COP/CMA Decisions also decided that the Fund Board will be conferred with the legal personality and the legal capacity as necessary for discharging its roles and functions, in particular the legal capacity to negotiate, conclude and enter into a hosting arrangement with the World Bank as interim trustee and host of the Fund’s secretariat (the “Secretariat”); and invited the World Bank, subject to certain conditions set out in paragraph 20 thereof, to operationalize the Fund as a World Bank hosted financial intermediary fund for an interim period of four years,

with the Fund to be serviced by a new, dedicated and independent secretariat hosted by the World Bank; and

- (F) The World Bank agrees to establish and administer the Trust Fund as interim trustee in accordance with the terms of this Agreement and Contribution Agreements (as defined below).

NOW THEREFORE, the Parties hereto agree as follows:

ARTICLE I

INTERPRETATION; DEFINITIONS

1.01. All Annex(es) hereto constitute an integral part of this Agreement, whose terms taken together shall constitute the entire agreement and understanding between the Parties.

1.02. References in this Agreement to Articles, paragraphs and Annexes are to the Articles and paragraphs of, and the Annexes to, this Agreement. The headings of the Articles, paragraphs and Annexes are inserted in this Agreement for reference only and shall not be taken into consideration in interpreting this Agreement.

1.03. Unless the context otherwise requires, the several terms defined in the preamble to this Agreement shall have the respective meanings therein set forth when used in this Agreement, and the following additional terms shall have the following meanings:

“Authorized Designee” means any person duly designated and authorized in writing by the Fund Board to act on behalf of the Fund Board.

“Contribution” means any financial contribution provided by a Contributor to the Trust Fund under a Contribution Agreement.

“Contribution Agreement” means a contribution agreement/arrangement entered into between the Trustee and a Contributor in respect of the respective Contributor’s Contributions to the Trust Fund; and a “Contribution Agreement” means any one of them.

“Contributor” means a contributor that provides a Contribution.

“Contributor’s Share” means the share of Trust Fund resources that a Contributor is entitled to receive as calculated pursuant to paragraph 9.09 below.

“Earlier Termination Date” means the date on which the World Bank’s role as interim trustee of the Trust Fund shall be terminated prior to the Termination Date in accordance with paragraph 9.04 below.

“Holding Currency” means any currency in which the Trustee maintains the Trust Fund in accordance with this Agreement.

“Recipients” means the implementing entities and other entities accessing the Fund’s resources via modalities developed by the Fund Board from time to time, pursuant to such processes, policies and/or standards as the Fund Board shall determine.

“Signature Date” means the later of the two dates on which the Parties signed this Agreement.

“Termination Date” has the meaning ascribed to it in paragraph 9.03 below.

“Transaction Document” means each of this Agreement, any Contribution Agreement and any other agreements executed by relevant parties in connection with the establishment, administration or operation of the Trust Fund.

“Written Instruction” means an instruction in writing, duly issued, executed and delivered to the Trustee by the Fund Board, or an Authorized Designee on behalf of the Fund Board, in a form and manner agreed with the Trustee.

“World Bank” means the International Bank for Reconstruction and Development, acting in its legal capacity as a multilateral development bank pursuant to its Articles of Agreement.

ARTICLE II

ESTABLISHMENT AND ADMINISTRATION OF THE TRUST FUND

2.01. The Trustee shall establish the Trust Fund to receive Contributions from the Contributors, and shall hold in trust, as a holder of the legal title, and administer the funds, assets and receipts that constitute the Trust Fund to support the activities of the Fund, in accordance with the terms of this Agreement, including all Annexes attached hereto, which constitute an integral part hereof.

2.02. The Trustee shall have no duty to take or refrain from taking any action with respect to the Trust Fund, any Recipient or any Transaction Document, except as expressly set forth in the terms hereof or thereof or as duly provided in writing to the Trustee by the Fund Board or an Authorized Designee. Without prejudice to the generality of the foregoing, and except as otherwise provided herein, the Trustee shall administer the funds, assets and receipts that constitute the Trust Fund only for the purpose of, and in accordance with, the terms of this Agreement and any relevant decisions of the Fund Board or Authorized Designee, duly and validly issued and received by the Trustee in writing. The Fund Board shall consult closely with the Trustee in the development and consideration of decisions taken by the Fund Board or the Authorized Designee that relate in any way to the functions of the Trustee performed or to be performed under this Agreement. In the absence of such consultation and agreement of the Trustee, the Trustee shall not be required to implement any decision of the Fund Board or the Authorized Designee that the Trustee determines would modify or vary from the terms of this Agreement or change the scope or manner of activities being undertaken by the Trustee or otherwise adversely affects the Trustee in its provision of services under this Agreement.

2.03. The Trustee shall incur no liability to anyone in acting in reliance upon any decision, resolution, instrument, request, report, opinion or other document reasonably believed by it to be genuine and reasonably believed by it to be signed by the proper party or parties. Unless other evidence in respect thereof is specifically prescribed herein, any decision provided by the Fund Board or any Authorized Designee shall be sufficiently evidenced by written instruments signed by the Co-Chairs of the Fund Board, or as may otherwise be agreed by the Fund Board and the Trustee. The Trustee may accept a copy of a decision of the Fund Board, certified by the Co-Chairs as necessary, as having been duly adopted and in full force and effect, as conclusive evidence that such decision has been duly adopted by the Fund Board and that the same is in full force and effect. As to any fact or matter the manner of ascertainment of which is not specifically described herein, the Trustee may for all purposes hereof rely on a certificate signed by any persons pursuant to procedures adopted by the Fund Board as to such fact or matter, and such certificate shall constitute full protection to the Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon.

2.04. The Fund Board, and not the Trustee, shall be responsible for (a) (i) the development of modalities to facilitate access to the Fund's resources through Recipients whose safeguards and standards have been judged functionally equivalent to those of multilateral development banks in accordance with a process adopted by the Fund Board and satisfactory to the Trustee; (ii) the approval, adequacy and application of all relevant environmental and social safeguards, accountability systems, procurement, financial management, integrity, and other policies or programs, either directly or through the Recipients; (b) assessing the capacity of Recipients to comply with those policies; and (c) monitoring the Recipients' compliance with any terms and conditions of funding and for providing grievance redress and accountability mechanisms. The Trustee shall play no role in the identification, preparation, appraisal, implementation or monitoring of projects, programs or activities, which is the responsibility of Recipients.

2.05. The Trustee shall have no responsibility for any decision or determination made by the Fund Board or Authorized Designee in connection with the Trust Fund or this Agreement. The Trustee shall not be responsible for: (a) inquiring or investigating whether any decisions of the Fund Board or Authorized Designee or Written Instruction provided to the Trustee contravene any existing decisions of the Fund Board or Authorized Designee; or (b) making any inquiry or investigation into the facts or matters stated in any such decisions or Written Instructions, and shall have no liability for relying in good faith on any such decisions or Written Instructions, without further inquiry or investigation on its part or otherwise for any actions taken, or omitted to be taken, in good faith.

2.06. Unless otherwise specified in this Agreement, any Written Instructions, other instruction, confirmation, information, or agreement permitted or required to be provided by, or to, the Fund Board under this Agreement shall be transmitted through the Secretariat in writing to ensure smooth delivery of any such instruction, confirmation, information or agreement. The Trustee shall not be required to take any action if the Trustee reasonably determines or has been advised by counsel (including its General Counsel) that such action is contrary to the terms of any of the Transaction Documents to which the Trustee or the

World Bank is a party, or is otherwise contrary to applicable World Bank policies and procedures.

2.07. The Parties acknowledge that the privileges and immunities accorded to the World Bank under its Articles of Agreement or relevant national laws apply to the funds, assets and receipts that constitute the Trust Fund and held by the World Bank in trust as legal owner.

2.08. The Trustee shall be responsible only for performing those functions specifically set forth in this Agreement and Contribution Agreements and shall not be subject to any other duties or responsibilities to the Fund Board, the Fund, Contributors or any other Fund participant, including, without limitation, any duties or obligations that might otherwise apply to a fiduciary or trustee under general principles of trust or fiduciary law. Nothing in this Agreement shall be considered a waiver of any privileges or immunities of: (a) the World Bank under its Articles of Agreement or any applicable law, all of which are expressly reserved, or (b) the Fund Board under any applicable law and agreements, all of which are expressly reserved.

2.09. The Trustee shall perform its functions under this Agreement in accordance with the World Bank's applicable policies and procedures, as the same may be amended from time to time.

2.10. The Trustee shall be fully indemnified, out of the assets of the Fund, including the Trust Fund resources, and held harmless by the Fund Board, against any liabilities, claims, losses, costs and expenses, including attorneys' fees and expenses, incurred by the Trustee in connection with or arising out of the performance of its role and responsibilities under this Agreement and other Transaction Documents, provided, however, that such indemnity shall not include any liabilities, claims, losses, costs or expenses incurred by the Trustee as a direct result of its own gross negligence or willful misconduct.

2.11. In acting hereunder, the Trustee acts solely as trustee and not in its capacity as principal, except as otherwise expressly provided herein; and, except as otherwise expressly referred to herein, all persons, other than the Fund Board, as provided herein, having any claim against the Trustee by reason of the transactions contemplated hereby, shall look only to the Trust Fund for payment or satisfaction thereof. The Parties acknowledge that the World Bank (and each of its affiliated institutions) may undertake different roles in relation to the Trust Fund or any Recipient, including (a) the role of Trustee (as provided herein), (b) the host of the Secretariat, and (c) the role of implementing entity in cases and on terms (if any) agreed by the Fund Board and the World Bank. In addition, the World Bank and its affiliated institutions shall continue to engage in such activities and undertake such operations and undertake such transactions and arrangements as it, in its sole discretion, determines, consistent with its role as a multilateral development finance institution (including lender, investor, advisor, service provider, and knowledge-provider to clients and partners). The Parties acknowledge and waive any claim or assertion that any such transaction constitutes a conflict of interest or the appearance of a conflict of interest.

ARTICLE III

CONTRIBUTIONS AND CONTRIBUTION AGREEMENTS

3.01. The Trustee may accept Contributions from Contributors, on terms agreed with the Trustee and approved by the Fund Board or the Authorized Designee, in accordance with the provisions of this Agreement and pursuant to the relevant Contribution Agreements. Any such acceptance of Contributions shall be made consistent with the provisions of this Agreement and the Trustee's policies and procedures including due diligence procedures.

3.02. As set out in paragraph 54 of the Governing Instrument, the Fund is able to receive contributions from a wide variety of sources of funding, including grants and concessional loans from public, private and innovative sources, as appropriate. Contributions to the Trust Fund may be made in the form of grants in accordance with this Agreement and the respective Contribution Agreements. The Trustee may also receive Contributions in the form of concessional loans following agreement between the Fund Board and the Trustee (with such amendments to this Agreement as may be required) on the terms and conditions under which such Contributions shall: (a) be received and administered in the Trust Fund, and (b) be serviced, including with respect to principal, interest and other payments to be made on the loan.

3.03. The Trustee shall enter into a Contribution Agreement with each Contributor. Each Contribution Agreement shall provide, among other things, that the Contribution from the Contributor shall be administered by the Trustee in accordance with the terms of this Agreement. Each Contribution Agreement shall be substantially in a form agreed between the Fund Board and the Trustee.

3.04. Unless otherwise agreed with the Fund Board and the Trustee, Contributions shall be made by means of payment in cash, or if so agreed with the Fund Board and the Trustee, by the delivery to the Trustee of promissory notes, in a form and substance acceptable to the Trustee.

3.05. Contributors may make payments of Contributions in any freely convertible currency acceptable to the Trustee.

3.06. The relevant Contribution Agreement shall specify the terms of payments agreed with the respective Contributor and the Trustee.

ARTICLE IV

COMMINGLING, EXCHANGE AND INVESTMENT OF THE CONTRIBUTIONS

4.01. The funds deposited in the Trust Fund shall be accounted for as a single trust fund and shall be kept separate and apart from the funds of the World Bank. For administrative

and investment purposes, the funds deposited in the Trust Fund may be commingled with other trust fund assets maintained by the World Bank.

4.02. The Trust Fund shall be maintained by the Trustee in the currency(-ies) set forth in Annex 1 (Holding Currency) attached hereto (a “Holding Currency”), as the same may be amended from time to time in accordance with paragraph 9.02 below.

4.03. In the case of deposits of Contributions received in a currency other than any Holding Currency, promptly upon the receipt of such amounts in cash (including cash received from encashment of promissory notes) and the accompanying deposit instructions, as required under the relevant Contribution Agreement, the Trustee shall convert such amount into the Holding Currency at the exchange rate obtained by the Trustee on the date of the conversion. If there is more than one Holding Currency added to the Trust Fund, the Fund Board or Authorized Designee shall deliver a Written Instruction to the Trustee, in the manner and procedures agreed between the Fund Board and the Trustee, to instruct in which Holding Currency the Contribution shall be converted under this paragraph 4.03. Where deposits prove to be insufficient to complete activities as a result of exchange rate fluctuations, neither the Trustee nor the Contributor shall be responsible for providing any additional financing.

4.04. The funds deposited in the Trust Fund may be freely exchanged by the Trustee into other currencies as may facilitate their administration as provided herein, at the exchange rate obtained by the Trustee on the date of the conversion.

4.05. The Trustee shall invest and reinvest the funds deposited in the Trust Fund pending their transfer in accordance with the World Bank’s applicable policies and procedures for the investment of trust funds administered by the World Bank. The Trustee shall credit all income from such investment to the Trust Fund to be used for any purposes provided for under this Agreement.

ARTICLE V

TRANSFER OF TRUST FUND RESOURCES

5.01. Except as provided in Article VI (Compensation) below, and subject to the availability of resources held in the Trust Fund, the Trustee shall commit and transfer Trust Fund resources in the manner and pursuant to procedures agreed between the Fund Board and the Trustee; and only at, and in accordance with, a Written Instruction provided by the Fund Board or Authorized Designee to the Trustee, in a form and manner agreed between the Fund Board and the Trustee.

5.02. The Fund Board may cause to be entered into any financial agreement with Recipients for commitments and transfers of relevant Trust Fund resources and the Trustee is authorized to execute any such financial agreements with the relevant Recipients on behalf of and at the direction of the Fund Board; provided that the Trustee shall have agreed in writing with the Fund Board on terms and procedures according to which such agreements shall be entered into; and provided further that the Trustee has carried out a

limited screening of individual Recipients, including for Anti Money Laundering – Countering of Financing for Terrorism, insofar as to ensure that the Trustee can freely sign financial agreements with such Recipient and transfer funds to them as instructed by the Fund Board. The Trustee shall enter into financial agreements only at, and in accordance with, a Written Instruction provided by the Fund Board or Authorized Designee to the Trustee in a form and manner agreed between the Fund Board and the Trustee.

5.03. Each financial agreement to be entered into under paragraph 5.02 shall be substantially in a form agreed between the Fund Board and the Trustee from time to time, and its provisions shall be made consistent with the terms and conditions of this Agreement, including but not limited to the conditions set out in paragraphs 5.05 and 5.06 below.

5.04. The Fund Board or the Authorized Designee, through the Secretariat, shall provide the Trustee with the necessary information for the Trustee to effect any commitment and transfer of Trust Fund resources under paragraphs 5.01, 5.02 and 5.03 above.

5.05. Following the transfer of Trust Fund resources by the Trustee under paragraph 5.01 above, the Trustee shall have no responsibility for the use of the Trust Fund resources so transferred and any of the activities carried out therewith. Each entity to whom the Trust Fund resources are transferred by the Trustee shall be responsible to the Fund Board for the use of the Trust Fund resources so transferred and the activities carried out therewith. It is acknowledged that neither the Trustee nor the Contributors accept any responsibility or liability towards any third parties (including any person or third party engaged by the Fund Board or the Fund), including any claims, debts, demands, damage or loss, as a result of implementation of any activities funded with the Trust Fund funds transferred by the Trustee.

5.06. Without prejudice to the manner and the procedures that may be agreed for transfer of funds under paragraph 5.01 above, the Trustee may not transfer Trust Fund funds under this Agreement if a resolution duly adopted by the United Nations Security Council taken under Chapter VII of the Charter of the United Nations prohibits or restricts, in the Trustee's determination, a member State of the United Nations to make or receive such a transfer. For the avoidance of doubt, this provision does not create any obligation of the Trustee under the anti-terrorist financing and asset control laws, regulations, rules and executive orders of an individual member country that may apply to a Contributor.

5.07. Subject to paragraph 5.08 below, the Fund Board and the Trustee shall agree to the manner and procedures by which the Trustee may receive any return or reflow of funds from any of the entities in receipt of the Trust Fund resources transferred by the Trustee pursuant to this Agreement. To the extent that the Trustee has received any such return or reflow of funds from any such entities, the Trustee shall credit to the Trust Fund such amount received, which shall become available for further transfer of funds under and pursuant to this Agreement.

5.08. The Trustee shall not be required to undertake any action seeking to enforce the return of any Trust Fund resources, including any misused funds or reflow of funds, from any of the entities in receipt of the Trust Fund resources transferred under this Agreement.

ARTICLE VI

COMPENSATION

6.01. The Fund Board shall pay the Trustee for costs, expenses and fees incurred by it in connection with performing its functions as Trustee under this Agreement on a full cost recovery basis. For that purpose, the Trustee shall submit annually (or such other frequency as may be agreed between the Fund Board and the Trustee) to the Fund Board for approval its proposed work program and estimated budget to cover the full costs of services to be provided by the Trustee in the upcoming budget period (and/or the services provided prior to the execution of this Agreement) in connection with the performance of its functions under this Agreement.

6.02. Following approval by the Fund Board of the proposal, the Trustee shall transfer the approved amount of the Trustee's budget to its own account from the Trust Fund resources; provided that the amount of the funds transferred may be subject to an end of budget period adjustment on the basis of full cost recovery for the services provided during the budget period, as such arrangement may be agreed between the Fund Board and the Trustee in connection with the aforementioned proposal.

6.03. With respect to the administrative budget of the Secretariat, following approval by the Fund Board of the proposed annual budget and work plan, the Trustee shall transfer to the Secretariat from the Trust Fund resources the approved amount of the Secretariat's budget; provided that the amounts transferred may be subject to an end of budget period adjustment on the basis of full cost recovery for the services provided during the budget period, as such arrangement may be agreed between the Fund Board and the Secretariat in connection with the aforementioned proposal.

ARTICLE VII

ACCOUNTING AND FINANCIAL REPORTING

7.01. The Trustee shall maintain separate records and ledger accounts in respect of the funds deposited in the Trust Fund account and transfers made therefrom.

7.02. The Trustee shall furnish to the Fund Board, through the Secretariat, annual (or at any other frequency agreed between the Fund Board and the Trustee) financial reports of the Trust Fund on the receipts in, transfers from and fund balance of the Trust Fund in the relevant Holding Currency.

7.03. Unless otherwise agreed by the Fund Board and the Trustee, the Trustee shall provide to the Fund Board, within six (6) months following the end of each World Bank fiscal year, an annual single audit report, comprising: (a) a management report together with an audit opinion from the World Bank's external auditors concerning the adequacy of internal control over cash-based financial reporting for all cash-based trust funds as a

whole; and (ii) a combined financial statement for all cash-based trust funds together with the World Bank's external auditor's opinion thereon. The cost of the single audit shall be borne by the World Bank.

7.04. If the Fund Board or a Contributor wishes to request, on an exceptional basis, a financial statement audit by the World Bank's external auditors of the Trust Fund, the Trustee shall first consult with the Fund Board or, as the case may be, the Contributor as to whether such an external audit is necessary, and may agree on the appropriate scope and terms of reference of such audit. Following agreement on the scope and terms of reference, the Trustee shall arrange for such external audit. The costs of any such audit, including the internal costs of the Trustee with respect to such audit, shall be borne by the Trust Fund (if requested by the Fund Board) or the requesting Contributor if the audit was requested by the Contributor.

ARTICLE VIII

REPRESENTATIONS

8.01. The Fund Board hereby represents that:

- (a) it is duly established under the law of the Republic of the Philippines and endowed with the legal personality and the legal capacity as necessary for discharging its roles and functions;
- (b) it has the power and authority to execute and deliver this Agreement and act in accordance with the provisions of this Agreement; and
- (c) the Fund Board shall ensure that any document provided by or on behalf of the Fund Board will be duly and properly authorized, executed and delivered in accordance with all relevant processes thereof.

8.02. The World Bank hereby represents that:

- (a) it is an international organization duly established and validly existing pursuant to its Articles of Agreement; and
- (b) it has the power and authority to execute and deliver this Agreement and act in accordance with the provisions of this Agreement.

ARTICLE IX
EFFECTIVENESS, AMENDMENT, AND TERMINATION

- 9.01. This Agreement shall become effective as of the Signature Date.
- 9.02. This Agreement may be amended only with the written agreement of the Fund Board and the Trustee, following consultations with Contributors. The Trustee shall notify all Contributors of any amendment made to this Agreement.
- 9.03. Unless otherwise agreed in writing between the Fund Board and the World Bank, the World Bank's role as trustee of the Trust Fund shall terminate on December 31, 2028 (the "Termination Date").
- 9.04. Either Party may at any time prior to the Termination Date terminate the World Bank's role as trustee of the Trust Fund by giving the other Party a notice in writing no less than six (6) months prior to any sessions of the COP and the CMA. The World Bank's role as trustee of the Trust Fund shall be terminated immediately after the session of the COP and the CMA that immediately follows the notice by the terminating Party. In the event that no session of the COP and the CMA is held within twelve (12) months of the terminating Party giving notice, however, the World Bank's role shall be terminated twelve (12) months after that Party has given notice.
- 9.05. Following the Termination Date, or as the case may be, the Earlier Termination Date, the World Bank as Trustee shall carry on no business for the Trust Fund except for the purpose of winding up its affairs or to the extent needed to avoid discontinuity in trustee services. The Trustee, in consultation with the Fund Board, shall take all necessary actions, including as set out in paragraph 9.06 below, for winding up the Trustee's affairs in an expeditious manner, including for the transferring of Trust Fund assets to the successor trustee as directed by the Fund Board in writing without undue delay, and for meeting outstanding commitments. All of the powers and rights of the Trustee under this Agreement, including the right to be paid for fees, costs and expenses incurred by the Trustee under this Agreement, shall continue until the affairs of the Trustee have been wound up. The Fund Board agrees to make all reasonable efforts to assist the Trustee with the winding up under this paragraph.
- 9.06. In the event that the World Bank's role as the trustee of the Trust Fund shall be terminated pursuant to the terms of this Agreement, the Trustee may: (a) without requiring any consent or approval by the Contributors, transfer its rights and obligations under any relevant Contribution Agreement to the successor trustee of the Trust Fund upon the Fund's appointment of such trustee and as directed by the Fund Board; or (b) if: (i) the Fund fails to appoint a successor trustee; or (ii) the successor trustee fails to agree to the transfer of the rights and obligations under a Contribution Agreement, in either case, within six (6) months of termination of the World Bank's role, then terminate the Contribution Agreement, by giving the relevant Contributor one (1) month's prior written notice. In the case of (b) above, the Trustee shall return to the Contributor (unless otherwise informed in

writing by the Contributor and agreed with the Trustee) the Contributor's Share; provided that such return shall be made as and when the relevant resources are made available to the Trustee.

9.07. By signing the Contribution Agreements, the Contributors shall be understood to have agreed that the Trustee has the right to transfer all Trust Fund assets and liabilities, including any of its rights or obligations under this Agreement and the Contribution Agreements, to a successor trustee of the Trust Fund upon the Fund's appointment of such trustee and as directed by the Fund Board without requiring any consent or approval by the Contributors, and that the Contributors shall carry out at the request of the Fund Board or the Trustee necessary actions, if any, to effect such transfer.

9.08. In the event of termination of the World Bank's role as the trustee of the Trust Fund, and if a Contributor does not wish its Contributor's Share to be transferred to the successor trustee under paragraph 9.06 above, the Contributor may request, prior to the Termination Date or the Earlier Termination Date, as applicable, a return of its Contributor's Share to it by delivering a written notice to the Trustee and the Fund Board. In such a case, unless otherwise agreed between the Trustee and the Contributor, the Trustee will return to that Contributor, as soon as reasonably practicable, the amount of all of its Contributor's Share calculated as of the Termination Date or, as the case may be, the Earlier Termination Date.

9.09. For the purpose of this Agreement, a "Contributor's Share" shall mean the aggregate of the respective Contributor's share, calculated as relevant Holding Currency amounts, of: (a) the applicable outstanding fund balance in the Trust Fund that is not allocated by the Fund, as of the calculation date of the share, and (b) the amount of the funds received in the Trust Fund or released from previous commitments or allocations of Trust Fund resources after the date of calculation, to the extent that such funds are received or released from any such commitment or allocation made prior to the date of calculation. The foregoing is subject to the proviso that (i) the Contributor's Share in the Trust Fund shall be calculated on pro rata basis, based on the total Contributions deposited in the Trust Fund by the Contributor for whom the calculation is made, relative to the total Contributions deposited in the Trust Fund by all Contributors.

ARTICLE X

NOTICES

10.01. Unless otherwise specified in this Agreement, any notice, request or other communication to be given or made under this Agreement shall be in writing and delivered by mail or e-mail to the respective Party's address specified below or at such other address as such Party notifies in writing to the other Party from time to time.

For the Fund Board:

Secretariat of the Fund for responding to Loss and Damage
1818 H Street, N.W.
Washington, DC 20433 U.S.A.

Attention: Co-Chairs of the Board of the Fund for responding to Loss and Damage

Telephone: +1 202-473-1000
E-mail: frldsecretariat@frld.org

For the Trustee:

Director
Trust Funds and Partner Relations
Development Finance
The World Bank
1818 H Street, N.W.
MSN G 6-602
Washington, DC 20433
U.S.A.

Telephone: +1 202-473-0197
E-mail: frldtrustee@worldbank.org

ARTICLE XI

DISPUTE RESOLUTION

11.01. The Parties shall use their best efforts to amicably settle any dispute, controversy or claim arising out of or relating to this Agreement.

11.02. Any dispute, controversy or claim arising out of or relating to this Agreement, which has not been settled by agreement of the Parties, shall be settled by arbitration in accordance with the United Nations Commission on International Trade Law Arbitration Rules (the UNCITRAL Arbitration Rules) in force on the effective date of this Agreement, and the following provisions: (a) the appointing authority shall be the Secretary-General of the Permanent Court of Arbitration; and (b) the language of the arbitral proceedings shall be English. The arbitral award will be final and binding on the Parties.

ARTICLE XII

DISCLOSURE

12.01. The Fund Board and the World Bank agree that this Agreement will be made publicly available and that any related information on this Agreement in a Party's possession may be publicly disclosed in accordance with the respective Party's policies and procedures with respect to any such information in that Party's possession.

12.02. Notwithstanding paragraph 12.01 above, neither Party shall publicly disclose information in their respective possession related to this Agreement that has been indicated or marked in writing by either Party as confidential, unless prior written consent has been obtained from the Party providing the information.

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AGREED as of the Signature Date.

**THE BOARD OF THE FUND FOR RESPONDING
TO LOSS AND DAMAGE**

By

Jean-Christophe Donnellier

Authorized Representative

Name: Jean-Christophe Donnellier

Title: Co chair of the Board

Date: 25-Oct-2024

By

Richard Sherman

Authorized Representative

Name: richard sherman

Title: Co-Chair of the Board

Date: 25-Oct-2024

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT, in its
capacity as Trustee of the Trust Fund for the Fund
for responding to Loss and Damage**

By

Maitreyi Das

Authorized Representative

Name: Maitreyi Das

Title: Director, Trust Funds & Partner Relations

Date: 25-Oct-2024

ANNEX 1

Holding Currency

1. United States Dollars