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# Grant Agreement

The Parties to this Grant Agreement are

The Federal Republic of Germany, represented by the Federal Foreign Office (AA),  
(*Donor*),

and

Secretariat of the Pacific Regional Environment Programme (SPREP),  
(*Grantee*).

The Parties have agreed as follows:

## 1. Definitions

- a. **Project** means the project "Building Our Pacific Loss and Damage Response (BOLD Response)" as described in the Project Proposal, dated 1 November 2023, with amendments from 18 January 2024, considered an integral part of this Grant Agreement.
- b. **Project Budget** means the budget, dated 1 November 2023, with amendments from 18 January 2024, contained in the Project Proposal, considered an integral part of this Grant Agreement.
- c. **Subgrantee** means a legal entity to which the Grantee awards a Subgrant Agreement.
- d. **Subgrant Agreement** means a legally binding agreement between the Grantee and a Subgrantee, laying down the terms and conditions under which a Subgrant is transferred.
- e. **Financing mode**

The grant will be made available through one of the following financing modes:

### **Fixed-sum financing**

means that the Donor provides a fixed amount (the "Grant") as part of the total eligible expenditure, according to Project Budget and regardless of increase or decrease of total eligible expenditure at the end of the Project unless otherwise specified in this Agreement. In case the total expenditure exceeds the Grant amount, the difference must be borne by the Grantee or other funding sources.

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 **Full financing**

means that the Grant covers all eligible expenditures up to the maximum amount indicated in the Project Budget.

- f. **Financial Report** means an overview of any expenditure incurred in connection to the implementation of the whole Project, regardless of which part is financed by the Donor, and regardless of the funds allocated to cover this expenditure.
- g. **Narrative Report** means a written report on the operation and progress of the Project. The Narrative Report must cover the Project as a whole, regardless of which part is financed by the Donor.
- h. **Final Report** means a Financial Report as well as a Narrative Report covering the entire duration of the Project.
- i. **Significant deviation** means a material variance from the Project Proposal which might affect the objectives of the Project or the adequate use of the Grant, regardless of the cause, e.g. changes in outcome and/or output level, changes to the respective indicators or to crucial activities.
- j. **Text form** means a readable declaration made on a durable medium, in which the person making the declaration is named. A durable medium is any medium that
  - i. enables the recipient to retain or store a declaration included on the medium that is addressed to him personally such that it is accessible to him for a period of time adequate to its purpose, and
  - ii. allows the unchanged reproduction of such declaration.

**2. Grant provisions**

- a. Subject to the provisions of this Grant Agreement, the Donor will make available to the Grantee a non-refundable voluntary Grant of up to EUR 596,947.37 (five hundred ninety six thousand nine hundred forty seven euros 37 cent) for the purpose of implementing the Project.
- b. The duration of the Project will be from 1 March 2024 to 31 December 2024.
- c. The Grant will be made available in the fixed-sum financing mode. The Grant must only be used to cover expenditures necessarily incurred if the intended purpose of the Grant is to be achieved. Only expenditures paid and borne by the Grantee or the Subgrantees are eligible to be financed or co-financed by the Grant. These expenditures must be proven by delivery of works, services or supplies, original receipts/invoices, or proof of payment and must not include a profit-margin for the Grantee or the Subgrantees.

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- d. The Grant must be used economically while taking into account the principles of efficiency and effectiveness. The Grant must not be used to create reserves.
- e. The Grant is allocated to the budgetary years as follows:

2024            EUR    596,947.37

- f. The Grant or instalments thereof will be disbursed upon request. The Grantee may request the Grant in advance, but only to the extent to which it is needed for making due payments within six weeks after disbursement. Instalments may only be requested upon the use of own funds as envisaged in the Project Budget. The received amount must be used within six weeks after disbursement. The Donor provides the Grantee with a template "Request of funds", attached to this Grant Agreement as Attachment 1. This six-week period also applies to any amount which is supposed to be transferred to a Subgrantee according to lit. m.
- g. The Grantee may only agree to or effect payments prior to completion of the relevant service or purchase where this is customary or justified due to special circumstances.
- h. The Grantee bears the risk of exchange rate fluctuations. Revenue generated by positive development in exchange rates must be used for the Project and will be deducted from the total Grant.
- i. The Grantee must use a generally accepted accounting system.
- j. The Grantee must keep a Project-specific account so that all Project-related income and expense flows are identifiable and attributable.
- k. The Grant or instalments thereof will be transferred to the following bank account:

Account holder:            Secretariat of the Pacific Regional Environment Programme (SPREP)

Bank:                        Bank South Pacific Samoa Ltd

IBAN/Account no.:        01-849599-07

BIC/Swift no.:             BOSPWSWS

Reference (optional):

- l. The Grant may be transferred up to EUR 428,425.84 (four hundred twenty eight thousand four hundred twenty five euros 84 cent) to the following Subgrantees:
  - Climate Analytics gGmbH
  - Climate Analytics Australia-Pacific Ltd

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or their *pro rata* share in project implementation as foreseen in the Project Proposal and Project Budget.

- m. The Grantee and the Subgrantees must conclude a Subgrant Agreement to document the legal relationship between them. The provisions of this Grant Agreement must be respected *mutatis mutandis* between the Grantee and the Subgrantees. The template for a Subgrant Agreement Attachment 2 stipulates the minimum requirements for the contractual relationship between Grantee and Subgrantees and is to be respected if the Grantee uses its own contract templates. The Grantee and any Subgrantee may conclude a separate agreement stipulating further details on the distribution of tasks between the Grantee and the Subgrantee regarding the Project. A signed copy of the Subgrant Agreements must be forwarded to the Donor for informational purposes.
- n. The Grantee guarantees that it is entitled to represent the Subgrantees participating in the Project. The Grantee is liable for infringements of obligations under this Grant Agreement by the Subgrantees in the same way it is liable for its own conduct. Consequently, if the Donor demands repayment of an amount already paid to the Grantee, the Grantee is liable towards the Donor for the total amount.
- o. The Grantee is responsible, prior to concluding a Subgrant Agreement, to verify and document the credit rating of the Subgrantees in an appropriate manner.

### 3. Obligations of the Grantee

The Grantee accepts this Grant and agrees

- a. to implement the Project in the way, to the extent and within the time-frame specified in the Project Proposal and Project Budget;
- b. to use the funds earmarked for the Project, i.e. the Grant, the Grantee's own resources and any contribution granted by third parties, according to the Project Proposal (incl. Project Budget) and exclusively for the purposes set out therein;
- c. to comply with the IKI Independent Complaint Mechanism Policy, the IKI Safeguards Policy and with the IKI Safeguards. The IKI Safeguards are equivalent to the GCF Safeguards (interim IFC Performance Standards for Environmental and Social Sustainability). These obligations also apply to project partners, subgrantees and subcontractors.
- d. to reimburse without delay upon request
  - i. the unused parts of the claimed Grant to which the Grantee is not entitled according to this Grant Agreement as soon as the overpayment becomes apparent;

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- ii. the Grant or parts thereof if they are not used in accordance with the objectives of the Project or if other provisions of the present Grant Agreement have been infringed;
  - iii. any interest accrued by the Grantee on the Grant;
- e. that reimbursable parts of the Grant are subject to an annual interest rate of five percentage points above the base rate of the European Central Bank p.a. This provision is not applicable to erroneous overpayments from the Donor;
- f. to pay interest at a rate of five percentage points above the base rate of the European Central Bank p. a. for any amount not spent for eligible Project-related expenditures within six weeks after disbursement according to para. 2 lit. f.
- g. to submit to the ZUG a Final Narrative Report, together with the project proposal, after completion of the preparation phase via Email and hard copy;
- h. to submit to the Donor with every reporting an inspection note for the proof of the interim and final reports of the Subgrantee to the Grantee. The Grantee must obtain and review interim and final reports submitted by the Subgrantees according to para. 3 lit. m. If requested by the donor, the interim and final reports of the Subgrantees must be provided.
- i. to submit to the Donor within six months after completion of the Project, at latest by 30 June 2025, the Final Report including a certified public auditor's report in accordance with the "Terms of Reference for engaging a certified public auditor", attached hereto as Attachment 3;
- j. to draft all reports using templates provided on the website of the International Climate Initiative (IKI; <https://www.international-climate-initiative.com/en/project-funding/information-for-recipients-of-project-funding>);
- k. to confirm in its Final Report that
  - i. all financial transactions have been made in accordance with the Project Proposal, the Project Budget and the intended purpose of the Grant;
  - ii. the Grant was examined in accordance with comprehensive internal control procedures on the basis of the financial regulations, rules and directives currently applicable to the Grantee;
- l. to use any item and asset purchased or produced using the Grant for the purpose of the Project during the Project duration. Items and assets with an original value of EUR 800 (net) and above must be listed on an inventory list;

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- m. to submit the inventory list together with proposals for the future use of these items, including inventory items purchased by Subgrantees, together with the Final Report. The Donor will decide on the future use of the inventoried items and indicate to the Grantee how compliance with this decision must be proven. After the project duration, the Grantee may dispose freely of any item or asset with an original value below EUR 800 (net);
- n. to seek prior agreement with the Donor if the Grantee intends to use any of the items or assets purchased or produced using the Grant within the Grant period for a purpose different from the Project purpose;
- o. to keep the original receipts (receipts for income and expenditure) for the individual payments and the agreements concerning the awarding of contracts as well as all other documents relating to the Grant for five years after submission of the Final Report, unless a longer compulsory period of record-keeping is stipulated by the tax laws or other legal provisions applicable to the Grantee;
- p. to provide the Donor with additional information on the Project at any time upon request within 30 days after receipt of the notification;
- q. to allow the Donor and third parties contracted by the Donor to examine whether the Grant has been used in accordance with the intended purpose, as set forth in the Project Proposal and Project Budget, and in accordance with the principles of efficiency and effectiveness. In addition, the Grantee must maintain financial records, supporting documents, statistical records and all other records relevant to the Project in accordance with generally accepted accounting principles to sufficiently substantiate all expenditures and administration fees of whatever nature involving transactions related to the funds provided by the Donor under this Grant Agreement. The Federal Audit Office (Bundesrechnungshof) is granted the same right of examination as the Donor and third parties contracted by the Donor;
- r. to inform the Donor without delay and in writing of:
  - i. any additional funding the Grantee applies for or receives for the implementation of the Project after this Grant Agreement has entered into force;
  - ii. any Significant Deviation from or changes to the Project Proposal;
  - iii. the inability to utilize the claimed or disbursed Grant for due payments within six weeks after disbursement pursuant to para. 2 lit. f.;
  - iv. bankruptcy or similar proceedings which have been applied for or initiated against the property of the Grantee;

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- v. any circumstances which prevent the Grant or parts thereof from being used for the intended purpose;

#### **4. Copyright, Liability and Compliance**

- a. The Grantee grants the Donor an unrestricted, transferable non-exclusive right of use with respect to all intellectual property and other proprietary rights including, but not limited to, copyrights, patents, trademarks and ownership of data resulting from the Project.
- b. The Grantee must indemnify and hold harmless the Donor for and against any and all claims, lawsuits, damages and expenditures which the Donor may sustain or which may be brought against the Donor in connection with the Grantee's actions or omissions in the performance of this Grant Agreement.
- c. The Grantee undertakes that, at the date of the entering into force of the Grant Agreement, itself, its directors, officers or employees have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind (or implied that they will or might do any such thing at any time in the future) in any way connected with the Grant Agreement and that the Grantee has taken reasonable measures to prevent subcontractors, agents or any other third parties subject to its control or determining influence from doing so.
- d. The Grantee will abide by the highest ethical standards in carrying out this Agreement. This includes not engaging in any discriminatory or exploitative practice or practice inconsistent with the rights set forth in the Convention on the Rights of the Child.

#### **5. Procurement**

- a. The Grantee understands that any procurement required for the Project must be acquired through public tender pursuant to the general regulations, rules and directives of the Grantee.
- b. In case that no general regulations, rules and directives of the Grantee exist, the following stipulations apply:
  - i. for procurements with an estimated value not exceeding EUR 1,000 (net), no comparative offer is needed, provided the economic efficiency of the commercial goods or services can be assessed without any difficulties;
  - ii. for procurements with an estimated value not exceeding EUR 5,000 (net), the Grantee must collect at least three offers for comparison. As a general rule, the

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contract should be awarded to the most economical tender; the Grantee must document that the correct procedure has been followed;

- iii. for procurements with an estimated value exceeding EUR 5,000 (net), at least three comparative offers in writing must be collected. As a general rule, the contract should be awarded to the most economical tender; the Grantee must document that the correct procedure has been followed.

## **6. Breach of Agreement and Termination**

- a. The Donor reserves the right to withhold or reclaim payment of the funds or parts thereof, in particular if
  - i. the Grant is not or no longer being used for the intended purpose of the Project;
  - ii. it becomes apparent that the intended purpose of the Project cannot be achieved with the approved funds or at all;
  - iii. circumstances arise which alter or nullify the intended purpose of the Project;
  - iv. the Grant funds are not used for the intended purpose within six weeks after disbursement;
  - v. items or assets purchased or produced using the Grant are no longer used for the intended purpose without prior agreement with the Donor;
  - vi. stipulations made by the Donor cannot be met or cannot be met within the set period, in particular the timely submission of the required reports and the disclosure requirements set forth in para. 3 lit. r. of the present Grant Agreement;
- b. The Donor may terminate the Grant Agreement without prior notification and without compensation of any kind, if the Grantee
  - i. fails, without justification, to fulfil any of its obligations and, after given notice by letter to comply with these obligations, still fails to do so or to provide a satisfactory explanation within 30 (thirty) days of sending of the letter;
  - ii. is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is subject to proceedings concerning these matters or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

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- iii. has been convicted of an offence concerning professional conduct by a judgement which has the force of res judicata or is guilty of grave professional misconduct, including the stipulation under para. 4 lit. c., proven by any justified means;
  - iv. engages in any act of fraud or corruption or is involved in a criminal organisation or any other illegal activity detrimental to the Donor's financial interest; this also applies to the partners, subcontractors and agents of the Grantee;
  - v. changes legal personality, unless an addendum to this Grant Agreement recording this fact is drawn up;
  - vi. does not comply with para. 3 lit. o and/or para. 8 (financial bookkeeping, assignment);
  - vii. makes false or incomplete statements to obtain the Grant or provides reports that do not reflect reality.
- c. In the event of termination, the Grantee is entitled to receive Grant payments only for the part of the Project which has been carried out, excluding expenditures connected with current commitments which would be implemented after the termination date. In order to receive payment, the Grantee must submit a payment request and a Final Report in accordance with para. 3 lit. i. (reporting).
- d. Prior to, or instead of terminating the Grant Agreement as provided for in this paragraph, the Donor may suspend payments as a precautionary measure without prior notice. The suspension ends when the Donor has expressly decided that it will make no use of its right to terminate the Grant Agreement.

## **7. Reclaim procedure**

The following procedural stipulations apply if the Donor is entitled to reclaim the Grant or parts thereof, or interest of any kind.

- a. The Donor will issue a formal notification to the Grantee, informing it of the Donor's intention to reclaim, the due amount, and a justification and inviting the Grantee to submit explanations within 30 days of receiving notification. If no explanations are submitted or the Donor decides to reclaim the amount despite the explanations it has received, it will confirm the amount to be recovered and formally issue the Grantee a debit note. This note will also specify the terms and the date for payment.

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- b. If payment is not made by the date specified in the debit note, the Donor will recover the amount by offsetting it — without the Grantee's consent — against any amounts owed to the Grantee by the Donor.
- c. If payment is not made by the date in the debit note, the due amount will be increased by late payment interest of five percentage points above the base rate of the European Central Bank p.a. from the day following payment date stipulated in the debit note up to and including the date the Donor receives full payment of the amount.
- d. Partial payments will be first credited against expenses, charges and late payment interest and then against the principal.

## **8. Assignment**

The Grant Agreement and the payments attached to it may not be assigned to a third party in any manner whatsoever without prior written consent of the Donor.

## **9. Other provisions**

- a. The Grantee must contact the responsible German embassy in New Zealand (for project activities in Samoa, Tuvalu), in Australia (for project activities in Vanuatu), The Philippines (for project activities in the Republic of the Marshall Islands), and Fiji and offer to provide further information on the Project. If required, the IKI Office at ZUG will inform you about the specific contacts within the embassies. The IKI Office at ZUG must be informed immediately after contacting the embassies by e-mail.
- b. This Grant Agreement may only be amended in text form between the Donor and the Grantee.
- c. In the event of a provision of this Grant Agreement being invalid, this will neither affect the validity of the remaining provisions nor the Agreement in total. Any deficiency in consequence thereof will be remedied by a provision consistent with the purpose and intent of this Grant Agreement.

## **10. Dispute Resolution**

The Donor and the Grantee undertake to settle any dispute, controversy or claim arising from or relating to this Grant Agreement, as well as issues concerning the breach, termination or invalidity thereof, by direct negotiation.

Both Parties agree that German law shall be applicable in the case of disputes arising from this Agreement and that the place of jurisdiction is Bonn (Germany) if a court decision is required.

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## **11. Data protection**

Any personal data collected by the Donor or the Grantee in connection with the Project must be processed in accordance with applicable laws and regulations on data protection. The Grantee must inform all persons whose personal data are collected and processed by the Donor about how their data will be handled.

## **12. Confidentiality**

- a. During implementation of the Project, the Parties must keep confidential any data, documents or other material (in any form) which is identified as confidential at the time it is disclosed ('confidential information'). The period of confidentiality can be extended beyond the duration of the Project by agreement of the Parties.
- b. The confidentiality obligations no longer apply if:
  - i. the confidential information is necessary to perform under this Agreement (e.g. auditing);
  - ii. the disclosing party agrees to release the other party;
  - iii. the information was already known by the Grantee or is given to him/her without obligation of confidentiality by a third party that was not bound by any obligation of confidentiality;
  - iv. the Grantee proves that the information was developed without the use of confidential information;
  - v. the information becomes generally and publicly available, without breaching any confidentiality obligation; or
  - vi. the disclosure of the information is required by EU or national law.
- c. If disclosure of data, documents or other material (in any form) not classified as confidential is required by EU or national law, the party obliged to disclose will notify the other party of its obligation and allow the other party two (2) weeks to identify confidential contents.

## **13. Entry into force**

- a. This Grant Agreement will enter into force upon readable declaration in text form by both Parties.
- b. The Grant is made available once the Grant Agreement has entered into force.

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- c. In case that Project activities are carried out in the phase between signature and counter-signature of the unmodified Grant Agreement, any eligible expenditure after 1 March 2024 can be invoiced in accordance with the stipulations of the Grant Agreement once it has entered into force.

*Bein 28 Feb 2024*

Place and date

**for and on behalf of the**

Federal Foreign Office (AA)

*Miriam Ott*

Miriam OTT, head of division 407, AA

Name and position in block letters

Apia 20 March  
2024

20-Mar-2024 | 11:51 WST

Place and date

**for and on behalf of the Grantee**

Secretariat of the Pacific Regional Environment Programme (SPREP)

DocuSigned by:  
*Sefanaia Nawadra*

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Sefanaia Nawadra SEFANAIA NAWADRA  
DIRECTOR GENERAL

Name and position in block letters

Attachments

- 1 Template "Request of funds"
- 2 Template "Subgrant Agreement"
- 3 Terms of Reference for engaging a certified public auditor