



## ENVIRONMENTAL DEFENSE FUND, INC. GRANT AGREEMENT

This grant agreement (the “Grant Agreement”) is entered into as of January 1<sup>st</sup>, 2023 (the “Effective Date”), and executed on the date of the last signature provided herein (the “Execution Date”), by and between:

- a) Environmental Defense Fund, Inc. (“EDF”), a not-for-profit organization incorporated in the United States in the State of New York, whose principal address is 257 Park Avenue South, New York, NY 10010, and
- b) Instituto de Fomento Pesquero (IFOP) (“Grantee,” together with EDF, the “Parties” or each a “Party”), whose principal address is located at Blanco 839, Valparaíso, Chile.

### 1. Grant; Purpose

EDF hereby awards Grantee a grant in the amount of \$20,000 to undertake the project described below.

In support of Grantee’s and EDF’s shared interests in Chile Program. Grantee agrees to use the grant funds to Strengthening Phase 2 of the Alert, Prediction and Observation System (S.A.P.O) for the resilience of fisheries in a Climate Change scenario. Chilean component.

Grantee will collaborate with Sergio Palma, who will be the EDF point of contact, for the work under this Grant Agreement.

### 2. Reports

Grantee will deliver to EDF the following written reports on the work conducted under this Grant Agreement on the schedule provided below:

- a) Final narrative and financial reports are due on November 30<sup>th</sup>, 2023.

Final report will include a narrative description of the progress made toward achieving the goals of this grant and financial information evidencing that grant funds have been expended in accordance with the terms of this Grant Agreement. All reports must be provided in the formats specified by EDF.

### 3. Term

The term of this Grant Agreement shall begin on the Effective Date and will end on December 31<sup>st</sup>, 2023.

### 4. Disbursement of Grant Funds

The grant amount shall be disbursed in one installment.

EDF will not reimburse Grantee for expenses beyond the grant amount incurred in carrying out the purpose and expected outcomes.

## **5. Record Maintenance and Inspection**

Grantee shall make its books and records related to this Grant Agreement available for inspection for a period of three (3) years after completion of this Grant Agreement by EDF or its assignee. Grantee shall maintain and make available for inspection records, which shall include, but not be limited to, accounting records, expenditures, written policies and procedures; subcontract files, and all copies of any financial reports submitted to EDF. Grantee shall at any time requested by EDF or its assignee, whether during or after completion of this Agreement, and at Grantee's own expense, make such records available for inspection and audit (including copies and extracts of records as required) by EDF or its assignee at a time and location that is convenient for EDF during normal business hours.

## **6. Employees and Contractors**

All employees or permitted contractors hired or engaged by Grantee to perform work pursuant to this Grant Agreement shall be employees or contractors of Grantee, not of EDF. They shall not be eligible for any of the benefits paid to employees of EDF.

## **7. Work Product**

- A. All written or other work product generated pursuant to this Grant Agreement ("Work Product") shall be the property of Grantee. To ensure the widest possible distribution of such Work Product and ensure that they remain generally available to the public, Grantee grants to EDF and its wholly controlled affiliates a world-wide, irrevocable, royalty-free, non-exclusive right and license to use, reproduce, publish, make derivative works, display and perform publicly all Work Product delivered under this Grant Agreement. Grantee, at EDF's request, agrees to execute any additional documents required to effect such license.
- B. To the extent any material incorporated into the Work Product is created or owned by a third party, Grantee will obtain, at its expense, all licenses and permissions necessary to incorporate and use such third-party material in the Work Product, including the right to sublicense to EDF such material incorporated into the Work Product.

## **8. Use of Grant Funds**

- A. The funds provided under this Grant Agreement must be used for the project identified in Section 1 above, which includes any related proposals and correspondence attached as exhibits to this Grant Agreement, and may not be expended for any other purposes. Grantee may not sub-grant any of these grant funds or subcontract any of the work under this Grant Agreement without EDF's prior written approval, unless explicitly provided for in the project description.
- B. Any funds not used for the purpose of this grant and any funds remaining in the possession of Grantee after the completion of the project shall be returned to EDF.
- C. Grantee shall furnish all necessary material, facilities, equipment and qualified personnel to carry out the purposes of this Grant Agreement. Grantee must notify EDF of any proposed

material modifications with respect to the purpose as outlined under this Grant Agreement, and any material modifications must be approved in advance in writing by EDF.

## 9. Representations

- A. Grantee has the full legal right, power and authority to enter into this Grant Agreement and perform the obligations set forth herein and when executed and delivered by Grantee, this Grant Agreement will constitute the legal, valid and binding obligation of Grantee, enforceable against Grantee in accordance with its terms.
- B. Grantee is a not-for-profit organization operated exclusively for charitable purposes; as of the Effective Date its tax-exemption determination letter from the Internal Revenue Service has not been modified, limited, revoked, or superseded (and Grantee shall provide such letter to EDF as of the Execution Date); and it shall use these grant funds exclusively for charitable purposes.
- C. Grantee will not use any funds received pursuant to this Grant Agreement to: (i) carry on propaganda, or otherwise attempt to influence legislation, as defined in Section 4911(d) of the Internal Revenue Code (the "Code"), through (a) an attempt to affect the opinion of the general public or any segment thereof or (b) communication with any member or employee of a legislative body, or with any other governmental official or employee who may participate in the formulation of the legislation (except technical advice or assistance provided to a governmental body or to a committee or other subdivision thereof in response to a written request by such body, committee or subdivision), other than through making available the results of non-partisan analysis, study or research; or (ii) engage in any exempt function activities, as defined under Section 527 of the Code, including by (directly or indirectly) influencing the outcome of any specific public election, supporting the election or defeat of a candidate for public office, or financing electioneering communications.
- D. Grantee shall not, directly or indirectly, at any time during the term of the Agreement engage in: (i) any act or practice that would, directly or indirectly, contravene the United States Foreign Corrupt Practices Act of 1977, as amended, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or similar laws prohibiting public or private bribery, kickbacks, and other corrupt business practices in a jurisdiction in which Grantee or any of its affiliated entities conduct their business; (ii) any act or practice that would, directly or indirectly, contravene applicable financial recordkeeping and reporting requirements of the U.S. Currency and Foreign Transactions Reporting Act of 1970, as amended, or similar law governing anti-money laundering violations, financial recordkeeping and reporting requirements in a jurisdiction in which Grantee or any of its affiliated entities conduct their business; or (iii) any other violation of applicable laws or regulations, including, without limitation, laws and regulations relating to anti-terrorism.
- E. Grantee has (i) been bound by all terms of this Grant Agreement from the Effective Date through the Execution Date and (ii) has adhered to all obligations under this Grant Agreement from the Effective Date to the Execution Date.
- F. The Work Product shall not contain any matter that is in violation of any copyright, trademark, proprietary right or personal right of any third party, or otherwise violates any law.

- G. In furtherance of EDF's corporate values, Grantee shall abide by the Environmental Defense Fund, Inc. Third Party Code of Conduct found at: [https://www.edf.org/code\\_of\\_conduct](https://www.edf.org/code_of_conduct).

## 10. Termination

- A. Either Party may terminate this Grant Agreement in whole or in part without cause upon thirty (30) days' written notice of the intent to do so, provided, however, that the Parties may terminate immediately upon mutual written consent, and such action shall in no event be deemed a breach of contract.
- B. EDF has the right to immediately terminate this Grant Agreement if Grantee (i) breaches any of the representations made under this Grant Agreement, or (ii) misappropriates or misallocates use of any funds provided under this Grant Agreement.
- C. In the event that this Grant Agreement is terminated by either Party, Grantee shall refund to EDF, effective as of the termination date, any unexpended funds and any funds expended that is not consistent with this Grant Agreement's objectives as stated herein or was used in a manner that is in violation of any applicable laws, rules or regulations. Upon termination, Grantee shall be responsible for delivering all reports contemplated to be delivered to EDF hereunder (or draft reports in the event termination occurs prior to final delivery of any report) and to effectuate all licenses provided under Section 7 produced up to the effective date of termination to EDF.
- D. Sections 5, 7, 11, 12, 13, 15, 17, and any provision of this Grant Agreement which contemplates performance or observance subsequent to any termination or expiration (in whole or in part), will survive any such termination or expiration (in whole or in part, as applicable) and continue in full force and effect.

## 11. Confidentiality

- A. Each Party acknowledges that it may have access to information that is treated or identified as confidential and proprietary by the other Party or its affiliates ("Confidential Information"). Each Party agrees to treat all Confidential Information as strictly confidential, not to disclose Confidential Information or permit it to be disclosed, in whole or part, to any third party without the prior written consent of the other Party in each instance, and not to use any Confidential Information for any purpose except as required in carrying out the work under this Grant Agreement. Each Party shall notify the other Party immediately if it becomes aware of any loss or disclosure of any Confidential Information.
- B. Confidential Information shall not include information that (i) is or becomes generally available to the public other than through a breach of this Agreement; (ii) was independently developed by recipient without using any other Confidential Information; or (iii) is communicated to recipient by a third party that had no confidentiality obligations with respect to such information.
- C. Nothing herein shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure

does not exceed the extent of disclosure required by such law, regulation or order. Each Party agrees to promptly provide written notice of any such order to the other Party.

## **12. Indemnification**

Grantee shall defend, indemnify and hold EDF, its affiliated organizations, and their respective directors, officers, employees and agents harmless from and against any loss, damage, liability, claim, demand, action, cost and expense (including reasonable attorneys' fees and costs) (collectively "Loss") resulting from Grantee's breach of the representations made under this Grant Agreement, a breach of the confidentiality obligations contained herein, or as a result of Grantee's gross negligence or willful misconduct in performing under this Grant Agreement.

## **13. Limitation of Liability**

Grantee agrees to assume the sole responsibility for the Work Product, including taking any necessary precautions for the protection of persons and property. EDF and its officers, trustees, employees and agents shall not be responsible for any claims, damages, or liability arising out of Grantee's research or work performed using funds under this Grant Agreement.

In no event whatsoever shall either Party be liable to the other hereunder for any incidental, indirect, special, consequential or punitive damages or lost profits under any tort, contract, strict liability or other legal or equitable theory arising out of or pertaining to the subject matter of this Grant Agreement, even if said Party has been advised of the possibility of or could have foreseen such damages.

## **14. Modification**

This Grant Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except by an instrument in writing signed by both parties.

## **15. Governing Law**

This Grant Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to any conflict of laws principles under New York law. Each Party submits to the exclusive jurisdiction and venue of the federal and state courts located in the State of New York, County of New York, N.Y. in any action or suit in connection with the Agreement.

## **16. Notices**

Any notices, requests, demands, and determinations under this Grant Agreement (other than routine operational communications) will be in writing, which must be by electronic communication, and, except for requests, must also be duly given by verifiable means either upon receipt via express, overnight or certified courier or mail with a reliable system for tracking delivery, delivery costs paid, sent to the address listed on the first page of this Grant Agreement, or if by email verification of "read receipt" opened by recipient. A Party may change its address or designee for notice purposes by giving the other Party prior written notice of the new address or designee and the date upon which it will become effective. EDF's notice party shall be Sergio Palma, whose email address is [spalma@edf.org](mailto:spalma@edf.org), and Grantee's notice party shall be Jaime Letelier, whose email address is [jaime.letelier@ifop.cl](mailto:jaime.letelier@ifop.cl).

## **17. Miscellaneous**

This Grant Agreement, along with any attachments, schedules and exhibits hereto, contains the sole and entire agreement and understanding of the parties with respect to the subject matter hereof, superseding all prior communications whether written or oral. This Grant Agreement shall be binding upon, inure to the benefit of, and may be enforced by, the parties to this Grant Agreement and their respective successors and permitted assigns. If any term or provision of this Grant Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining terms and provisions shall not in any way be affected or impaired thereby and shall be valid and enforced to the fullest extent permitted by law. Grantee shall not assign this Grant Agreement without the prior written consent of EDF. This Grant Agreement may be executed in one or more counterparts, but all of which together shall constitute one and the same instrument. This Agreement may be executed by manual or facsimile signature, each of which shall be deemed an original.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the date of signature below, and the Parties agree and acknowledge that the Agreement shall be deemed effective on the Effective Date.

**ENVIRONMENTAL DEFENSE FUND, INC.:**

**INSTITUTO DE FOMENTO PESQUERO**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: Erica Cunningham

Printed Name: Gonzalo Pereira Puchy

Title: AVP, Latin American Fisheries and Oceans

Title: Executive Director

Date: January 1<sup>st</sup>, 2023

Date: January 1<sup>st</sup>, 2023