ANNEX I: TERMS OF REFERENCE NATIONAL LEGAL EXPERT TERMS

Background:

Fundación Chile will implement the project " Building a Climate" Resilient Water Investment Pipeline Program to "Maximize Water Preservation and Mobilize Private Finance in Chile" (CHL-RS-014), funded by the Green Climate Fund (GCF). The project aims to develop climate-resilient investment strategies for the water sector, mobilize private financing, strengthen national capacities, and prepare a Funding Proposal for the GCF. This consultancy will contribute to achieving the project's objectives, results, and deliverables.

Scope of work:

Provide national legal counsel to assess the regulatory feasibility of prioritized water investment areas and projects, and support the design of a climate-resilient investment strategy in Chile. The consultancy will analyze the applicable legal and institutional framework, including water rights and uses, permits, environment, land use, infrastructure, sanitation services, irrigation, reuse, public procurement and public, private, or combined investment; identify barriers, gaps, incentives, and market failures; and conduct screening and due diligence. preliminary legal due diligence of the portfolio; and propose governance, execution, and risk allocation structures that are legally implementable. The consultancy will also analyze enabling legal structures for blended Finance , public-private co-investment, and private capital mobilization mechanisms. The consultant will work in coordination with water, finance, technology, and environmental and social specialists; participate in consultations with authorities, regulators, funders, and developers; and prepare traceable inputs for deliverables D6 and D10 and the Funding Proposal to the GCF.

The consultancy shall express legal and regulatory findings in quantitative terms wherever feasible, including permitting durations in months, statutory and observed processing timelines, applicable fees and compliance costs in CLP or UF, probability of appeal or delay, and expected duration of such delays. These parameters shall be provided in the project's shared assumptions and data framework so that permitting and regulatory risks can be explicitly incorporated into the economic and financial model and tested through sensitivity analysis.

This is an individual, primarily remote, consultancy position, with availability for in-person meetings and activities in Chile when required.

Deliverables under your direct responsibility:

- Legal-regulatory and institutional diagnosis of the prioritized water investment typologies, with a matrix of regulations, competencies, permits, incentives, barriers and compliance routes. For each relevant permit or authorization, the matrix shall include, where applicable, the statutory maximum processing time, empirically observed processing time, official fees, typical advisory or compliance costs, and whether the permit constitutes a precondition for financial close or for disbursement. These parameters shall be structured to support the implementation schedule, disbursement profile and delay sensitivity analysis.

- Screening of legal feasibility of one or two investment areas, including restrictions, deadlines, risks and mitigation measures. The analysis shall also cover the tax and fiscal treatment of the investment vehicle and relevant subprojects, including, where applicable, corporate income tax regime and rates, VAT treatment and recoverability on CAPEX and OPEX, tax depreciation and amortization rules, import duties on equipment, municipal levies, water-related fees and charges, including charges for non-use of water rights, and the tax treatment of GCF grant or concessional resources. Tax and fiscal parameters shall be clearly identified so that they can be incorporated into post-tax financial cash flows and appropriately treated as transfers or subsidies in the economic analysis.

- due diligence of the portfolio: ownership, enabling rights, permits, land/assets, contracts, responsibilities, contingencies and required evidence.

- Legal and governance design of the investment line: vehicle or institutional arrangement, roles, decisions, eligibility, contracting, risk allocation, default, guarantees and supervision. The analysis shall include, where relevant: (i) the applicable regulated tariff-setting framework and cost-recovery rules, including any recognized rate of return or cost of capital that may constrain revenue projections and financial return assumptions; (ii) the legal enforceability of proposed revenue and security structures, including assignability of water rights and receivables, escrow or trust arrangements, guarantees and step-in rights; and (iii) legal constraints affecting the blending of concessional and private capital, including applicable public-sector support restrictions and public procurement requirements.
  The risk allocation matrix shall use categories agreed with the Economic and Financial Analysis Expert so that relevant risks can be consistently quantified, allocated and reflected in the financial and economic analysis.

- Final legal package for the implementation strategy and the Funding Proposal , with consolidated matrices, residual risks and a roadmap of enabling measures. The package shall include the legal and regulatory inputs required for the economic and financial analysis annex of the Funding Proposal and for the GCF risk register. The expert shall also remain available to respond to legal and regulatory queries arising during the GCF appraisal and review of the proposed financial and investment structure.

Deliverables for which it will provide support:

- D6.1. Prioritization and selection of one or two areas with potential to become lines of investment.
- D6.2. Technical specification and preliminary structuring of realistic and bankable project portfolios.
- D10.1–D10.3. Design of the investment line and its implementation strategy, including institutional, financial, operational and risk management arrangements.
- D10.4. Preparation of the Funding Proposal to the GCF and its annexes.

Minimum requirements

- Professional title of lawyer granted or recognized in Chile and authorization to practice professionally.
- At least 8 years of relevant professional experience.
- At least 5 years of specific experience in water regulation, environmental, administrative, infrastructure, natural resources, regulated services or public/private investment, including experience with the tax and tariff-regulatory dimensions of investment structuring, such as VAT and income tax treatment of infrastructure projects and regulated tariff-setting processes.
- Demonstrable experience in interpreting and applying the Chilean legal framework for investment decisions.
- Experience in due due diligence , permits, contracts, risk allocation or legal structuring of investment projects or programs.
- Analytical skills, clear legal writing, interdisciplinary work, confidential information management, and meeting deadlines.

Language:

Professional Spanish and English, spoken and written.

Desirable requirements

- Postgraduate degree or specialization in water law, administrative law, regulatory law, environmental law, infrastructure law, finance, public procurement, corporate law or related areas.
- Experience in climate finance, blended finance, public-private partnerships, investment funds or vehicles, GCF or multilateral banks.

- Experience in adaptation projects, drinking water and sanitation, irrigation, water-reuse or nature-based solutions.
- Experience in formulating regulatory recommendations and facilitating processes with multiple stakeholders.
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Background information for applying

- Updated curriculum vitae, indicating months/years, functions and relevant experiences.
- Brief letter of motivation and suitability to the profile (maximum 2 pages).
- Availability and price proposal (indicate currency, taxes and format).
- Verifiable references and declaration of conflicts of interest.

Duration, level of effort and financial proposal

- The consultancy is expected to be carried out over approximately 18 months. The level of effort will be intermittent and will vary according to the project workplan, technical activities, deliverable schedule and review milestones.
- The consultant must ensure adequate availability during critical periods of analysis, preparation and integration of deliverables, coordination with the project team, preparation of the GCF Funding Proposal and related review iterations. The consultant shall remain available throughout the contractual period to respond to comments, clarification requests and reasonable revisions arising from the integration of deliverables and the preparation and review of the Funding Proposal.
- The consultancy will be contracted under a professional services arrangement. Payments will be linked to the delivery and acceptance of agreed outputs and milestones.
- Applicants must submit a financial proposal indicating the estimated total cost of the consultancy, considering the scope of work, deliverables and expected level of effort described in these Terms of Reference. The proposal must indicate the currency and applicable taxes.
- The proposed amount must include all costs necessary to perform the consultancy. No additional travel, accommodation or per diem expenses will be reimbursed for consultants residing outside Santiago in connection with meetings or in-person activities required under the assignment. These costs must be covered by the consultant and considered in the financial proposal.