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General Conditions of Contract

1. Definitions

1.1. Capitalized terms used in this Contract and not otherwise defined have the meanings given such terms in the Compact or related document. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Accountable Entity” or “Client” has the meaning given the term in the initial paragraph of the Contract Agreement.
- (b) “Applicable Law” has the meaning given the term **in the SCC**.
- (c) “Associate” means any entity that is a member of the Association that forms the Consultant. A ononsultant is not an Associate.
- (d) “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Consultant, with or without a legal status distinct from that of its members.
- (e) “Client's Country” has the meaning given the term **in the SCC**.
- (f) “Compact” has the meaning given the term in the recital clauses to the Contract Agreement.
- (g) “Consultant” has the meaning given the term in the initial paragraph of the Contract Agreement.
- (h) “Contract” means this agreement entered into between the Client and the Consultant, to provide the Services, and consists of the Contract Agreement, these GCC, the SCC, and the Annexes (each of which forms an integral part of this agreement), as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement.
- (i) “Contract Price” means the price to be paid for the performance of the Services, in accordance with GCC Sub-clause 17.1.
- (j) “Effective Date” has the meaning given the term in GCC Clause 16.2.
- (k) "Force Majeure" has the meaning given the term in GCC Clause 22.1.

- (l) “GCC” means these General Conditions of Contract.
- (m) “Government” has the meaning given the term in the recital clauses to the Contract Agreement.
- (n) “Key Professional Personnel” means the Personnel listed in Annex D to this Contract.
- (o) “Local Currency” has the meaning given the term **in the SCC**.
- (p) “MCC” has the meaning given the term in the recital clauses to this Contract.
- (q) “*MCC Procurement Policy and Guidelines*” or “MCC PPG” means the Millennium Challenge Corporation Accountable Entity Procurement Policy and Guidelines posted on the MCC Website, as may be amended from time to time.
- (r) “Member” means any of the entities that make up a joint venture or other association; and “Members” means all these entities.
- (s) “Party” means the Client or the Consultant, as the case may be, and “Parties” means both of them.
- (t) “Personnel” means persons hired by the Consultant or by any Sub-Consultants and assigned to perform the Services or any part thereof.
- (u) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- (v) “Services” means the activities to be performed by the Consultant pursuant to this Contract, as described in Annex A to this Contract.
- (w) “Sub-Consultant” means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- (x) “Tax” and “Taxes” have the meanings given the terms in the Compact or related agreement.
- (y) “Trafficking in Persons” has the meaning given at GCC Clause 25.
- (z) “Ultimate Beneficial Owner” means an individual who (i) directly or indirectly controls more than 10% of the shares of the company; or (ii) directly or indirectly controls more than 10% of the voting rights of the company; or (iii) has the right to appoint a majority of the board of directors.

(aa) “US Dollars” means the currency of the United States of America.

2. Interpretation and General Matters

2.1. In interpreting this Contract, unless otherwise indicated:

- (i) “confirmation” means confirmation in writing;
- (ii) “in writing” means communicated in written form (e.g., by mail, e-mail, or facsimile) delivered with proof of receipt;
- (iii) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;
- (iv) the feminine means the masculine and vice versa; and
- (v) the headings are for reference only and shall not limit, alter or affect the meaning of this Contract.

Waivers, Forbearance, Etc.

2.2. The following shall apply with respect to any waivers, forbearance or similar actions taken under this Contract

- (a) Any waiver of a Party’s or MCC’s rights, powers, or remedies under this Contract must be in writing, dated, and signed by an authorized representative of the Party (or MCC) granting such waiver, and must specify the terms under which the waiver is being granted.
- (b) No relaxation, forbearance, delay, or indulgence by either Party or MCC, as the case may be, in enforcing any of the terms and conditions of this Contract or the granting of time by either Party or MCC to the other shall prejudice, affect, or restrict the rights of that Party or MCC under this Contract, neither shall any waiver by either Party or MCC of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

Severability

2.3. If any provision or condition of this Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of this Contract

Documents Making Up This Contract

2.4. The following documents are deemed to form an integral part of this Contract and shall be interpreted in the following order of priority:

- (a) the Agreement consisting of the initial paragraphs,

recitals and other clauses set forth immediately prior to the GCC and including the signatures of the Client and the Consultant;

- (b) the SCC and Annex B to this Contract;
- (c) the GCC;
- (d) the Notification of Award;
- (e) Annex A: Description of Services;
- (f) any other Annex to this Contract;
- (g) the Consultant's Offer; and
- (h) any other document listed in the SCC as forming part of this Contract.

Assignment

- 2.5. Neither party shall assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, without the consent of the other party; provided that, the Client may assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, to another person or entity of the Government (or another entity designated by the Government) without the consent of the Consultant. The Client shall use commercially reasonable efforts to notify the Consultant as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Sub-clause 2.5 shall be null and void.

3. Language and Law

- 3.1. This Contract has been executed in language(s) **specified in the SCC**. If the Contract is executed in both English and a specified local language, the English language version shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 3.2. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

4. Communications

- 4.1. Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Subject to Applicable Law, any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when delivered to such Party at the address **specified in the SCC**, or sent by confirmed facsimile or confirmed email, in either case if sent during normal business hours of the recipient

- Party.
- 4.2. A Party may change its name or address for receiving notice under this Contract by giving the other Party notice in writing of such change to the address **specified in SCC 4.1.**
- 5. Subcontracting** 5.1. If the Consultant intends to subcontract for a major item of its contracted Services (deemed major if valued in excess of US\$100,000) it shall seek the Client's prior written approval of the subcontractor. Subcontracting shall not alter the Consultant's obligations under this Contract.
- 6. Relationship Between the Parties** 6.1. Nothing contained in this Contract shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf in connection with this Contract.
- 7. Location** 7.1. The Services shall be performed at such locations as are specified in Annex A to this Contract and, where the location of a particular task is not so specified, at such locations, whether in the Client's Country or elsewhere, as the Client may approve.
- 8. Authority of Member in Charge** 8.1. In case the Consultant consists of a joint venture or other association of more than one entity, the Members hereby authorize the entity **specified in the SCC** to act on their behalf in exercising all the Consultant's rights and obligations toward the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.
- 9. Authorized Representatives** 9.1. Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials **specified in the SCC.**
- 10. Description and Approval of Personnel; Adjustments; Approval of Additional Work** 10.1. The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Professional Personnel are described in Annex D. The Key Professional Personnel and Sub-Consultants listed by title as well as by name in Annex D are hereby approved by the Client.
- 10.2. GCC Sub-clause 38.1 shall apply in respect of other

Personnel and Sub-Consultants which the Consultant proposes to use in the carrying out of the Services, and the Consultant shall submit to the Client for review and approval a copy of their Curricula Vitae (CVs).

10.3. Adjustments with respect to the estimated periods of engagement of Key Professional Personnel set forth in Annex D may be made by the Consultant without the prior approval of the Client only if (a) such adjustments shall not alter the originally estimated period of engagement of any individual by more than ten percent (10%) or one week, whichever is larger and (b) the aggregate of such adjustments shall not cause payments under this Contract to exceed the Contract Price. If so **indicated in the SCC**, the Consultant shall provide written notice to the Client of any such adjustments. Any other adjustments shall only be made with the Client's prior written approval.

10.4. If additional work is required beyond the scope of the Services specified in Annex A, the estimated periods of engagement of Key Professional Personnel set forth in Annex D may be increased by agreement in writing between the Client and the Consultant. In a case in which such additional work would result in payments under this Contract exceeding the Contract Price, such additional work and payments will be explicitly described in the agreement and shall be subject in all respects to the provisions of GCC Sub-clauses 16.4, 16.5 and 17.4.

**Resident Project
Manager**

10.5. **If required by the SCC**, the Consultant shall ensure that at all times during the Consultant's performance of the Services in the Client's Country a resident project manager, acceptable to the Client, shall take charge of the performance of such Services.

**11. Working Hours,
Overtime, Leave, etc.**

11.1. The Consultant shall provide all Personnel with documented information that is clear and understandable, regarding their rights under national labor and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, and benefits upon beginning the working relationship and when any material changes occur.

11.2. Working hours and holidays for Key Professional Personnel are set forth in Annex D. To account for travel time, foreign Personnel carrying out Services inside the Client's Country shall be deemed to have commenced, or

finished work in respect of the Services such number of days before their arrival in, or after their departure from the Client's Country as is specified in Annex D.

- 11.3. The Consultant and Personnel shall not be entitled to reimbursement for overtime nor to take paid sick leave or vacation leave except as specified in Annex D, and except as specified in Annex D, the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in Annex D. Any taking of leave by Personnel shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

**Engagement of Staff
and Labor**

- 11.4. The Consultant shall adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing the Personnel. At a minimum, the Consultant shall provide all Personnel with documented information that is clear and understandable to the Personnel regarding their rights under all the Applicable Laws regarding labor and any applicable collective agreements, including their rights related to their employment, health, safety, welfare, immigration, and emigration upon beginning the working relationship and when any material changes occur. The Consultant shall provide each of the Personnel with a contract in language comprehensible to the Personnel.
- 11.5. The Consultant shall adopt recruitment, hiring and retention practices that support the employment both women and men.
- 11.6. The Consultant shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status. The Consultant may bring into the Client's Country any foreign Personnel who are necessary for the provision of Services to the extent allowed by the applicable Laws. The Consultant shall ensure that these Personnel are provided with the required residence visas and work permits. The Client will, if requested by the Consultant, use its best endeavors in a timely and expeditious manner to assist the Consultant in obtaining any local, state, national, or government permission required for bringing in the Consultant's Personnel. The Consultant shall be responsible for the return of these Personnel to the place where they were recruited or to their domicile. In the event

of the death in the Client's Country of any of these Personnel or members of their families, the Consultant shall similarly be responsible for making the appropriate arrangements for their return or burial.

- 11.7. The Consultant shall be responsible for monitoring compliance of Sub-Consultants to the labor and working conditions outlined in the IFC Performance Standards in force from time to time.

Facilities for Staff and Labor

- 11.8. Where accommodation or welfare facilities are provided to Personnel, the Consultant shall put in place and implement policies on the quality and management of such accommodation and the provision of such welfare facilities. This includes the following: minimum space, supply of water, adequate sewage and garbage disposal systems, appropriate protection against heat, cold, damp, noise, fire and disease carrying animals, adequate sanitary and washing facilities, separate breastfeeding/pumping facilities, ventilation, cooking and storage facilities and natural and artificial lighting, and all reasonable precautions to maintain the health and safety of the Personnel. The accommodation and welfare facilities shall be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Accommodation arrangements shall not restrict freedom of movement or of association. Sanitary and washing facilities should be provided in a manner that allows individuals' privacy and safety. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-accommodation-welfare-staff-and-labor>

12. Removal and/or Replacement of Personnel

- 12.1. Except as the Client may otherwise agree, no changes shall be made in the Key Professional Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Professional Personnel, the Consultant shall, subject to GCC Sub-clause 38.1(a), provide as a replacement a person of equivalent or better qualifications acceptable to the Client. No full-time key professional Personnel of a consultant currently contracted by any Accountable Entity shall be proposed as a replacement. In the case where the Consultant seeks to engage such full-time key professional Personnel, it should seek the written approval from the Client for the inclusion of such a person.

- 12.2. If the Client (a) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (b) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds therefore and subject to GCC Sub-clause 38.1(a), provide as a replacement a person with qualifications and experience acceptable to the Client.
- 12.3. The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.
- 12.4. The Consultant shall provide a grievance mechanism for Personnel to raise workplace concerns. The Consultant shall inform the workers of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

13. Settlement of Disputes

Amicable Settlement

- 13.1. The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of this Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

Dispute Resolution

- 13.2. Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after the receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions **specified in the SCC**.

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| 14. Commissions and Fees | 14.1. The Consultant shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution and performance of this Contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee. |
| 15. Entire Agreement | 15.1. This Contract contains all of the covenants, stipulations and provisions agreed to by the Parties. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract. |
| 16. Commencement, Completion and Modification of Contract | |
| Contract Entry into Force | 16.1. This Contract shall come into full force and be legally binding on the Parties in all respects, on the date this Contract is signed by the Parties or such other date as may be stated in the SCC . |
| Effective Date and Commencement of Services | 16.2. The Consultant shall commence the Services on the date specified in the SCC , which shall be defined as the "Effective Date." |
| Expiration of Contract | 16.3. Unless terminated earlier pursuant to GCC Clause 20, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC . |
| Modifications or Variations | 16.4. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to GCC Sub-clause 50.1, however, each Party shall give due consideration to any Offers for modification or variation made by the other Party. |
| Substantial Modification to supervised contracts | 16.5. For all contracts supervised by the Consultant on behalf of the Accountable Entity, in cases of any of the below, the prior written consent of the Client is required:

(a) the value of a contract supervised by the Consultant |

on behalf of the Client that did not require approval under the MCC PPG is raised to a value that would require approval;

- (b) the original duration of a contract supervised by the Consultant on behalf of the Client is extended by 25% or more; or
- (c) the original value of a contract supervised by the Consultant on behalf of the Client is increased by ten percent (10%) or 1 million US Dollars or more (whichever may apply); once the 10% contract (or 1 million US Dollars) threshold for modifications or change orders has been reached for such a contract, any subsequent contract modification or change order that individually or collectively exceed 3% of the original value of such a contract will also require the approval of the Client.
- (d) In all cases mentioned above, the Client must comply with the approval requirements set forth in the MCC PPG regarding contract modifications.

17. Payments to the Consultant

Contract Price

- 17.1. Except as provided in GCC Sub-clause 17.5, the total payment due to the Consultant shall not exceed the Contract Price **set forth in the SCC** (as may be adjusted in accordance with the terms of the SCC). The Contract Price is an all-inclusive fixed-price covering all costs required to provide the Services in accordance with the terms of this Contract. The Contract Price may only be increased above the amounts **stated in the SCC** (including, without limitation, pursuant to the terms of GCC Sub-clauses 10.4, 46.2 and 48.2) if the Parties have agreed to additional payments in accordance with GCC Sub-clauses 16.4, 16.5 and 17.4.

Currency of Payment

- 17.2. Payments shall be made in US Dollars, or the Local Currency, or, if justified for sound business reasons and approved by the Client, a combination of the two currencies.

Terms, Conditions and Mode of Billing and Payment

- 17.3. Payments will be made to the account of the Consultant and according to the payment schedule **stated in SCC 17.1** and against an invoice. Any other payment shall be made after the conditions **listed in the SCC** for such payment have

been met, and the Consultant has submitted an invoice to the Client specifying the amount. In all cases, invoices shall be delivered to the Client no later than thirty (30) days prior to the requested payment date and will not be deemed delivered until they are in form and substance satisfactory to the Client. Payments will be made to the Consultant within thirty (30) days of the date of receipt by the Client of a valid and proper invoice or the date of the Client's acceptance of required deliverables (e.g., the delivery of reports), whichever is later. The Consultant shall comply with any other instructions related to payment as may be reasonably requested by the Client.

Payment for Additional Services

17.4. For the purposes of determining the remuneration due for additional Services as may be granted under GCC Sub-clause 16.4, a breakdown of the Contract Price is provided in Annexes E and F.

Interest on Delayed Payments

17.5. If the Client has delayed payments beyond thirty (30) days after the payment date determined in accordance with GCC Sub-clause 17.3, interest shall be paid to the Consultant for each day of delay at the rate **stated in the SCC**.

18. Taxes and Duties

(a) Unless otherwise **specified in the SCC** and as may be exempted pursuant to the Compact or another agreement related to the Compact, available in English at the web address **stated in the SCC**, the Consultant, the Sub-Consultants, and their respective Personnel may be subject to certain Taxes on amounts payable by the Client under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Consultant, each Sub-Consultant and their respective Personnel shall pay all Taxes levied under Applicable Law. In no event shall the Client be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Consultant, any Sub-Consultant or their respective Personnel, the Contract Price shall not be adjusted to account for such Taxes.

(b) The Consultant, the Sub-Consultants and their respective Personnel, and their eligible dependents, shall follow the usual customs procedures of the Client's Country in importing property into the Country.

(c) If the Consultant, the Sub-Consultants or any of their respective Personnel, or their eligible dependents, do not withdraw, but dispose of any property in the Client's Country upon which customs duties or other Taxes have

been exempted, the Consultant, the Sub-Consultants or such Personnel, as the case may be, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes to the Client if such customs duties and Taxes were paid by the Client at the time the property in question was brought into the Country.

- (d) Without prejudice to the rights of the Consultant under this clause, the Consultant, the Sub-Consultants and their respective Personnel will take reasonable steps as requested by the Client or the Government with respect to the determination of the Tax status described in this GCC Clause 18.
- (e) If the Consultant is required to pay Taxes that are exempt under the Compact or a related agreement, the Consultant shall promptly notify the Client (or such agent or representative designated by the Client) of any Taxes paid, and the Consultant shall cooperate with, and take such actions as may be requested by the Client, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.
- (f) The Client shall use reasonable efforts to ensure that the Government provides the Consultant, the Sub-Consultants, and their respective Personnel the exemptions from taxation applicable to such persons or entities, in accordance with the terms of the Compact or related agreements. If the Client fails to comply with its obligations under this paragraph, the Consultant shall have the right to terminate this Contract in accordance with GCC Sub-clause 20.2(d).

19. Suspension

- 19.1. The Client may, by giving thirty (30) days' written notice to the Consultant, suspend all payments to the Consultant under this Contract if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (a) shall specify the nature of the failure, and (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

20. Termination

By the Client

- 20.1. Without prejudice to any other remedies that may be available to it for breach of this Contract, the Client may, upon written notice to the Consultant, terminate this

Contract in case of the occurrence of any of the events specified in sub-paragraphs (a) through (j) of this GCC Sub-clause 20.1, and in the case of the occurrence of any of the events specified in paragraphs (h) or (i) of this GCC Sub-clause 20.1, the Client may suspend this Contract.

- (a) If the Consultant, in the judgment of the Client or MCC, fails to perform its obligations relating to the use of funds set out in Annex B. Termination under this provision shall (i) become effective immediately upon delivery of the notice of termination and (ii) require that the Consultant repay any and all funds so misused within a maximum of thirty (30) days after termination.
- (b) If the Consultant does not remedy a failure in the performance of its obligations under this Contract (other than failure to perform obligations relating to use of funds as set forth in GCC Sub-clause 20.1(a) of this Contract, which such failure shall not be entitled to a cure period) within thirty (30) days after delivery of the notice of termination or within any further period of time approved in writing by the Client. Termination under this provision shall become effective immediately upon the expiration of the thirty (30) days (or such further period as may have been approved by the Client) or on such later date as may be specified by the Client.
- (c) If the Consultant (or any Member or Sub-Consultant) becomes insolvent or bankrupt, and/or fails to exist or is dissolved. Termination under this provision shall become effective immediately upon delivery of the notice of termination or on such other date as may be specified by the Client in such notice of termination.
- (d) If the Consultant (or any Member or Sub-Consultant), in the judgment of the Client has engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption or prohibited practices in competing for or in the performance of this Contract or another MCC funded contract. Termination under this provision shall become effective immediately upon delivery of the notice of termination.
- (e) If, as the result of an event of Force Majeure, the Consultant is unable to perform a material portion of

the Services for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the Client.

- (f) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the Client.
- (g) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 13. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the Client.
- (h) If the Compact expires, is suspended or terminates in whole or in part in accordance with the terms of the Compact. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-clause 20.1(h), the Consultant has an obligation to mitigate all expenses, damages and losses to the Client during the period of the suspension.
- (i) If an event has occurred that would be grounds for suspension or termination under Applicable Law. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-clause 20.1(i), the Consultant has an obligation to mitigate all expenses, damages and losses to the Client during the period of the suspension.
- (j) If the Consultant fails to provide evidence of continued eligibility or if the MCC makes an unfavorable eligibility determination of the Consultant, including in relation with any changes of Ultimate Beneficial Owners during Contract

performance. Termination under this provision shall become effective immediately upon delivery of the notice of termination.

By the Consultant

- 20.2. The Consultant may terminate this Contract, upon written notice to the Client in accordance with the time period specified below, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (e) of this GCC Sub-clause 20.2.
- (a) If the Client fails to pay any money due to the Consultant pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 13 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the payment that is the subject of such notice of termination is made by the Client to the Consultant within such thirty (30) days.
 - (b) If, as the result of an event of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
 - (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 13. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.
 - (d) If the Consultant does not receive a reimbursement of any Taxes that are exempt under the Compact within one hundred and twenty (120) days after the Consultant gives notice to the Client that such reimbursement is due and owing to the Consultant. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the reimbursement that is the subject of such notice of termination is made to the Consultant within such thirty (30) days.
 - (e) If this Contract is suspended in accordance with GCC Sub-clauses 20.1(h) or (i) for a period of time

exceeding three (3) consecutive months; provided that the Consultant has complied with its obligation to mitigate in accordance with GCC Sub-clauses 20.1(h) or (i) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.

21. Payment Upon Termination

21.1. Upon termination of this Contract pursuant to GCC Sub-clauses 20.1 or 20.2, the Client shall make, or cause to be made, the following payments to the Consultant:

- (a) payment pursuant to GCC Clause 17 for Services satisfactorily performed prior to the effective date of termination; and
- (b) except in the case of termination pursuant to paragraphs (a) through (d) and (g) of GCC Sub-clause 20.1, reimbursement of any reasonable cost (as determined by the Client or MCC) incidental to the prompt and orderly termination of this Contract; provided, that in the case of suspension of this Contract pursuant to GCC Sub-clauses 20.1 (h) or (i), the Consultant has complied with its obligation to mitigate in accordance with such clauses.

Disputes about Events of Termination

21.2. If either Party disputes whether an event specified in paragraphs (a), (b), (c), (e) or (g) of GCC Sub-clause 20.1 or paragraphs (a) through (d) of GCC Sub-clause 20.2 has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to dispute resolution in accordance with GCC Clause 13, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

Cessation of Rights and Obligations

21.3. Upon termination of this Contract pursuant to GCC Clause 20, or upon expiration of this Contract pursuant to GCC Sub-clause 16.3, all rights and obligations of the Parties under this Contract shall cease, except (a) such rights and obligations as may have accrued on the date of termination or expiration, (b) the obligation of confidentiality set forth in GCC Clause 33, (c) the Consultant's obligation to permit inspection, copying and auditing of its accounts and records set forth in GCC Clause 37 and Annex B and (d) any right or obligation which a Party may have under the Applicable Law.

- Cessation of Services** 21.4. Upon termination of this Contract by notice of either Party to the other pursuant to GCC Sub-clauses 20.1 or 20.2, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by GCC Clauses 34 or 41.

22. Force Majeure

- Definition** 22.1. For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a Party, and is not the result of any acts, omissions or delays of the Party relying on such event of Force Majeure, (or of any third person over whom such Party has control, including any Sub-Consultant), (b) is not an act, event or condition the risks or consequence of which such Party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such Party’s reasonable diligence, and (d) makes such Party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances.

- No Breach of Contract** 22.2. The failure of a Party to fulfil any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as practicable (and in no event later than five (5) days after the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure.

- Measures to be Taken** 22.3. Subject to GCC Sub-clause 22.6, a Party affected by an event of Force Majeure shall continue to perform its obligations under this Contract as far as is reasonably practical, and shall take all reasonable measures to minimize and otherwise mitigate the consequences of any event of Force Majeure.

- 22.4. A Party affected by an event of Force Majeure shall provide evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- 22.5. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 22.6. During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:
- (a) demobilize, in which case the Consultant shall be reimbursed for additional costs it reasonably and necessarily incurred and, if the Consultant is required by the Client to reactive its performance of the Services at the time of restoration of normal conditions, the additional costs the Consultant reasonably and necessarily incurred as part of such reactivation; or
 - (b) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.
- 22.7. In the case of disagreement between the Parties as to the existence or extent of and event of Force Majeure, the matter shall be settled in accordance with GCC Clause 13.

23. Required Provisions; Flow Through Provisions

- 23.1. For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex B reflect certain obligations of the Government and the Client under the terms of the Compact and related documents that are also required to be transferred onto any Consultant, Sub-Consultant or Associate who partakes in procurements or contracts in which MCC Funding is involved and that, as with other clauses of this Contract, the provisions of Annex B are binding obligations under this Contract.
- 23.2. In any subcontract or sub-award entered into by the Consultant, as permitted by the terms of this Contract, the Consultant shall ensure the inclusion of all the provisions contained in Annex B in any agreement related to such subcontract or sub-award.

24. Fraud and

- 24.1. MCC requires that the Client and any other beneficiaries of

**Corruption
Requirements**

MCC Funding, including any offerors, suppliers, contractors, Sub-Consultants and Consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts.

MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations ("MCC's AFC Policy") is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC's AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC's AFC Policy and certify to the Client that they have acceptable commitments and procedures in place to address the potential for fraud and corruption.

Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over \$500,000 will be required to certify to the Accountable Entity that they will adopt and implement a code of business ethics and conduct within ninety (90) days of Contract award. Such entity will also include the substance of this clause in subcontracts that have a value in excess of \$500,000. Information regarding the establishment of business ethics and conduct programs can be obtained from numerous sources, including but not limited to:

https://www.oecd.org/en/publications/anti-corruption-ethics-and-compliance-handbook-for-business_elcf4226-en.html

<https://www.cipe.org/resources/anti-corruption-compliance-guide-mid-sized-companies-emerging-markets/>

- (a) For purposes of the Contract, the terms set forth below are defined as follows, and sometimes referred to collectively in this document as "Fraud and Corruption":
 - (i) "**coercion**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including such actions taken in connection with a procurement process or the execution of a contract;
 - (ii) "**collusion**" means a tacit or explicit agreement

between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the Client of the benefits of free and open competition;

- (iii) “**corruption**” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Client staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract;
- (iv) “**fraud**” means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including any act or omission designed to influence (or attempt to influence) a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;
- (v) “**obstruction of investigation into allegations of fraud or corruption**” means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC funding:
 - (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, collusion, corruption, fraud, or a prohibited practice; or
 - (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or
 - (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under

the Compact, Threshold Program agreement, or related agreements.

- (vi) “***prohibited practice***” means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) set forth in Annex B (Additional Provisions) to this Contract.
- (b) MCC may cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that representatives of the Client, the Consultant or any other beneficiary of the MCC Funding were engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the performance of the Contract, or another MCC-funded contract, without the Client, the Consultant or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation.
- (c) MCC and the Client may pursue sanction of the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the Client determines that the contractor has, directly or through an agent, engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in performance of, the Contract or another MCC-funded contract.
- (d) If the Client or MCC determines that the Consultant, any subcontractor, any of the Consultant’s Personnel, or any agent or affiliate of any of them has, directly or indirectly, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices, in competing for or in the performance of the Contract, then the Client or MCC may, by notice, immediately terminate the Contract, and the provisions of GCC Sub-clause 20.1 shall apply.
- (e) Should any of the Consultant’s Personnel be determined to have engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the

competition for or execution of the Contract, but the Client or MCC determines not to terminate the Contract in accordance with the immediately preceding subparagraph, then the relevant Consultant's Personnel shall be removed in accordance with GCC Clause 12.

25. Combatting Trafficking in Persons

25.1. MCC, along with other United States Government entities, has adopted a zero-tolerance policy with regard to Trafficking in Persons ("TIP") through its Counter-Trafficking in Persons Policy. In pursuance of this policy:

(a) **Defined Terms.** For purposes of the application and interpretation of this Sub-clause:

- (i) The terms "coercion," "commercial sex act," "debt bondage," "employee," "forced labor," "fraud," "involuntary servitude," and "sex trafficking" have the meanings given such terms in the MCC Counter-Trafficking in Persons Policy ("MCC C-TIP Policy") and such definitions are incorporated by reference into this Sub-clause; and
- (ii) "Trafficking in Persons" means (a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; (b) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (iii) "Survivor-centered" means aiming to put the rights of each survivor of a TIP violation at the forefront of all actions. People reporting TIP should have their safety protected, their reports addressed confidentially, and their concerns addressed in a manner that maintains their dignity while also respecting their rights to withdraw from or decline procedures related to their reports.

(b) Prohibition. Contractors, subcontractors, Consultants, Sub-Consultants and any of their respective Personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC funding and must also comply with those prohibitions described in U.S. laws and Executive Orders regarding TIP, including using misleading recruitment practices; charging

employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity documents,

(c) Consultant Requirements.

- (i) Each contractor, subcontractor, Consultant or Sub-Consultant shall:
 - (a) notify its Personnel of the MCC C-TIP Policy in writing and of the actions that will be taken against Personnel for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment;
 - (b) orient Consultant's Personnel with respect to both the MCC definition of TIP and any country-specific legal definition of TIP, to examples of what might constitute TIP, and to the C-TIP obligations of the relevant contract with the Client, in languages comprehensible to the Personnel;
 - (c) provide information and means to Personnel and to affected community members so that they can report suspected instances of TIP to the Consultant, to the Client's reporting mechanism, to the Client's staff, and, where applicable, to an independent/third party mechanism;
 - (d) record and report the Consultant's C-TIP compliance efforts, including its notification to Personnel of the MCC C-TIP Policy and its orientation of Personnel;
 - (e) develop and implement written, survivor-centered fact-finding and response protocols for allegations that maintain the confidentiality of witnesses and potential survivors; specify their right to be protected from reprisal; and outline resources and processes to support TIP survivors, should an incident occur;
 - (f) have in place a dedicated person or a contract with a person or consulting organization with appropriate skills, experience, and training to receive and review allegations or concerns of TIP; and
 - (g) take appropriate action, up to and including termination, against Personnel or subcontractors or

Sub-Consultants that violate the prohibitions set out in this clause and MCC C-TIP Policy.

(ii) Each Consultant shall:

- a. certify that it is not engaged in, facilitating, or allowing any activities constituting Trafficking in Persons, or related activities also prohibited under this policy, for the duration of the Contract;
- b. provide assurances that activities constituting Trafficking in Persons, or related activities also prohibited under this policy, will not be tolerated on the part of its Personnel, subcontractors, or Sub-Consultants (as the case may be), or their respective Personnel; and
- c. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.

(iii) The Consultant or Sub-Consultant shall inform the Client within 24 hours of:

- a. any information it receives from any source (including law enforcement) that alleges its Personnel, subcontractor, Sub-Consultant, or the Personnel of a subcontractor or Sub-Consultant, has engaged in conduct that violates this policy;
- b. and any actions taken against any Personnel, subcontractor, subcontractor/consultant, or the Personnel of a subcontractor or Sub-Consultant, pursuant to these requirements.

(d) Remedies. Once a TIP incident has been confirmed and depending on the severity of each case, the Client will apply remedies, which could include any, all, or any combination of the following:

- (i) the Client requiring the Consultant to remove the involved Personnel, Sub-Consultant or any of its involved Personnel, or any involved agent or affiliate;
- (ii) the Client requiring the termination of a subcontract or sub-award;
- (iii) suspension of Contract payments until the breach is remedied to the satisfaction of the Client;
- (iv) loss of incentive payment, consistent with the incentive

plan set out in the Contract, if any, for the performance period in which the Client determined non-compliance;

- (v) the Client pursuing sanctions against the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract;
- (vi) termination of the Contract by the Client for default or cause in accordance with the termination clause of the Contract; and
- (vii) the Client directing the Consultant to provide reasonable financial support or restitution to the survivor(s) of any such incident, in each case in accordance with the Consultant's applicable TIP risk management plan, and/or based on a final judicial or administrative determination issued pursuant to Applicable Law or the findings of an investigation conducted (directly or through a third party) by the Client through its written fact-finding protocols;
- (viii) a finding that the Consultant's Personnel, subcontractor, Sub-Consultant or the Personnel of a subcontractor or Sub-Consultant has engaged in conduct that violates the MCC C-TIP Policy or the requirements of this clause constitutes a breach of the Consultant's obligations under the Contract and could be grounds for the Client to demand payment.

26. Social Analysis and Implementation Plan

26.1. The Consultant shall ensure that its activities under the Contract comply with the Accountable Entity's Social Analysis and Implementation Plan (SAIP) (if such Plan is in place), as relevant to the activities performed under this Contract. The SAIP is a public document that summarizes the social analysis findings that have led to program activities and designs and sets out a program-wide action plan to ensure effective implementation, oversight, coordination of the social analysis and impact elements of the program. It may include program and project-specific guidance and metrics beyond those minimum requirements stated in clauses related to C-TIP, prohibition of sexual harassment and sexual exploitation and abuse, and a grievance mechanism for Consultant and subcontractor Personnel.

27. Prohibition of Harmful Child Labor

27.1. The Consultant shall not employ any child to perform any work that is economically exploitative; is likely to be hazardous to or to interfere with the child's education; or is

likely to be harmful to the child's health or physical, mental, spiritual, moral, or social development. The Consultant will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the Consultant shall ensure that children aged below 15 are not employed to perform work under the Contract. Where Applicable Laws specify a minimum age of fifteen (15) or above, such minimum age requirement shall apply. Notwithstanding any allowances provided under applicable law to the contrary, under no circumstance shall children under the age of eighteen (18) be employed in hazardous work. All work of persons under the age of eighteen (18) will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work.

28. Prohibition of Sexual Harassment and Sexual Exploitation and Abuse

28.1. MCC has adopted a series of mutually reinforcing policy and guidance to prevent and prohibit sexual misconduct, including harassment, exploitation, and abuse of any kind among Consultant's Personnel and the Client. These include some forms of trafficking in persons (TIP), sexual harassment (SH), and sexual exploitation and abuse (SEA).

(a) Defined Terms: For purposes of the application and interpretation of this clause:

(i) "Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Examples of sexual harassment include, but are not limited to, the following behaviors: unwelcome sexual advances; requests for sexual favors; verbal or physical harassment of a sexual nature; or offensive remarks about a person's sex or sexual orientation.

(ii) "Sexual Exploitation" means actual or attempted abuse of a position of vulnerability, power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another.

(iii) "Sexual Abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

(iv) Sexual exploitation and abuse (SEA) are referred to under the umbrella term "SEA." SEA also includes sexual relations with any person under the age of eighteen (18) in any context. SEA may involve

behavior of Consultant's Personnel toward other Consultant Personnel, as well the behavior of Consultant Personnel toward third parties, such as Compact beneficiaries and community members. Several forms of SEA are also covered by MCC's TIP Policy.

(v) "Survivor-centered" means aiming to put the rights of each survivor of a violation including SH and SEA at the forefront of all actions. People reporting SH and SEA should have their safety protected, their reports addressed confidentially, and their concerns addressed in a manner that maintains their dignity while also respecting their rights to withdraw from or decline procedures related to their reports.

(b) Prohibitions:

The Consultant shall prohibit all Personnel from engaging in Sexual Harassment, Sexual Exploitation, and Sexual Abuse behaviors directed toward other Personnel; Compact beneficiaries, community members, partners, and stakeholders; Client employees and Consultants; and MCC personnel and consultants.

(c) Consultant Requirements

(i) Sexual harassment

The Consultant shall:

(a) implement a policy prohibiting all Personnel from engaging in sexual harassment and put in place an incident referral and reporting plan with respect to the provision of services to support a safe and respectful work environment, in form and substance satisfactory to the Client and MCC;

(b) ensure that all Consultant and Sub-Consultant Personnel understand and operate in accordance the requirements of this Clause in order to assure a safe, respectful, and harassment free work environment and harassment-free behavior in communities surrounding their place of work.

(ii) Sexual exploitation and abuse

The Consultant (or Sub-Consultant) shall:

(a) implement a policy prohibiting all Personnel from engaging in sexual exploitation and abuse in all its forms and put in place survivor-centered incident reporting and

service referral protocols, in form and substance satisfactory to the Client and MCC;

(b) ensure that all Personnel understand and operate in accordance the requirements of this Clause, including by providing training on the Clause and any related codes of conduct;

(iii) The Consultant (or Sub-Consultant) shall:

(a) notify Personnel that actions that will be taken for violations. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment;

(b) provide information and means to Personnel and to affected community members so that they can report suspected instances of SH and SEA to the Consultant, to the Client's reporting mechanism, to the Client's staff, and, where applicable, to an independent/third party mechanism;

(c) have in place a dedicated person or a contract with a dedicated person or consulting organization with appropriate skills, experience, and training to receive and review allegations or concerns of SH and SEA;

(d) develop and implement fact-finding protocols for SH and SEA allegations that maintain the confidentiality of witnesses and potential survivors and specify their right to be protected from reprisal; and

(e) take appropriate action, up to and including termination, against Personnel or subcontractors that violate the prohibitions set out in this clause.

(iv) The Consultant (or Sub-Consultant) shall inform the Client:

(a) within 24 hours of information it receives from any source (including law enforcement) that alleges its Personnel, Sub-Consultant, or the Personnel of a Sub-Consultant, has engaged in conduct that violates this clause;

(b) Of any active investigations; and

(c) Of any actions taken against any Personnel, Sub-Consultant, or the Personnel of a Sub-Consultant, pursuant to these requirements.

(d) Remedies

The Client may investigate (either directly or through a third party) allegations of sexual harassment, exploitation, and abuse as it determines appropriate, in accordance with its written fact-finding protocols. The Consultant shall fully cooperate with any investigation conducted by the Client regarding breach of this provision. The Consultant will ensure that any incident of sexual harassment, exploitation, or abuse is investigated by the Client has been resolved to the Client's and MCC's satisfaction.

Once an incident has been confirmed and depending on the severity of each case, the Client may apply remedies that could include any, all, or a combination of the following:

- (i) the Client requiring the Consultant to remove the involved Personnel, Sub-Consultant or any of its involved personnel, or any involved agent or affiliate;
- (ii) the Client requiring the termination of a subcontract or sub-award;
- iii) suspension of Contract payments until the breach is remedied to the satisfaction of the Client;
- (iv) loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Client determined non-compliance;
- (v) the Client pursuing sanctions against the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract;
- vi) termination of the Contract by the Client for default or cause in accordance with the termination clause of the Contract; and
- (v) the Client directing the Consultant to provide reasonable financial support or restitution to the survivor(s) of any such incident, based on a final judicial or administrative determination issued pursuant to Applicable Law or the findings of an investigation conducted (directly or through a third party) by the Client.

29. Non-Discrimination and Equal Opportunity

- 29.1. The Client adheres to the principle of equal opportunity and fair treatment in its employment practices. The Client expects that the Consultant and its Sub-Consultants shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Personal characteristics include sex, race, nationality,

ethnic, social and indigenous origin, religion or belief, disability, age, and sexual orientation. The Client expects that the Consultant and its Sub-Consultants shall base their employment decisions on the principle of equal opportunity and fair treatment and that they shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination.

**30. Grievance
Mechanism for
Consultant and
Subcontractor
Personnel**

- 30.1. The Consultant shall provide a grievance mechanism for Personnel, including Sub-Consultant staff if a separate Sub-Consultant grievance mechanism does not exist, to raise workplace concerns. The Consultant shall inform its Personnel of the grievance mechanism at the time of recruitment and make it easily accessible to each member of its Personnel in a language or languages comprehensible to the Personnel. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.
- 30.2. In the event of a grievance filed by Consultant's Personnel or Sub-Consultant Personnel related to Trafficking in Persons, Sexual Harassment, Sexual Exploitation, or Sexual Abuse, the Consultant shall additionally follow the procedures set forth in Clause 25 on Combatting Trafficking in Persons, Clause 28 Prohibition of Sexual Harassment and Sexual Exploitation and Abuse, and related MCC policies.

**31. Standard of
Performance**

- 31.1. The Consultant shall perform the Services and carry out its obligations under this Contract with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ

appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-Consultants or third parties.

Law Governing Services

- 31.2. The Consultant shall perform the Services in accordance with Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law.

32. Conflict of Interests

- 32.1. The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests. The Consultant shall disclose any situation of actual or potential conflict of interest. Failure to disclose said situations may lead to the termination of the Contract. The Consultant and each of its Personnel, Sub-Consultants, and affiliates shall not engage in consulting or other activities that conflict with the interest of the Client under the Contract, or that result from or are directly related to the Services.
- 32.2. The Consultant shall submit updated Beneficial Ownership Disclosure Forms upon the addition of any Ultimate Beneficial Owner or at the Client's request at any time during Contract performance. Failure to provide information as required may lead to the termination of the Contract in accordance with GCC Sub-Clause 20.1 (j).

Consultant Not to Benefit from Commissions, Discounts, etc.

- 32.3. The payment of the Consultant pursuant to GCC Clause 17 shall constitute the Consultant's only payment in connection with this Contract and the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations under this Contract, and the Consultant shall use its best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.
- 32.4. Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall comply

with the MCC PPG from time to time in effect as posted on the MCC website at www.mcc.gov/ppg and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.

**Consultant and
Affiliates Not to Engage
in Certain Activities**

- 32.5. The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Services.

**Prohibition of
Conflicting Activities**

- 32.6. The Consultant shall not engage, and shall cause its Personnel as well as its Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

**33. Confidential
Information; Rights of
Use**

- 33.1. Except with the prior written consent of the Client, or as may be required to comply with Applicable Law, the Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to) at any time (a) communicate to any person or entity any confidential information acquired in the course of the Services, or (b) make public the recommendations formulated in the course of, or as a result of, the Services.
- 33.2. The Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to), without the previous written consent of the Client, disclose this Contract, or any provision of this Contract, or any specification, plan, drawing, pattern, sample or information provided by or on behalf of the Client in connection therewith, to any person other than a person employed by the Consultant in the performance of this Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 33.3. The Consultant and its Personnel shall not (and shall cause any Sub-Consultants and their Personnel not to), without the previous written consent of the Client, make use of any document or information related to or delivered in connection with this Contract, except for the purpose of

performing this Contract.

- 33.4. Any document related to or delivered in connection with this Contract, other than this Contract itself, shall remain the property of the Client and shall be returned (including, except as provided in GCC Clause 34, all the copies) to the Client on completion of the Consultant's performance under this Contract.

34. Documents Prepared by the Consultant to be the Property of the Client

- 34.1. All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant under this Contract shall become and remain the property of the Client, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof in accordance with this GCC Sub-clause 34.1 and Sub-clause 33.4, and in format and substance specifically required in the Terms of Reference. The Consultant may retain a copy of such documents and software, and use such software for its own use with prior written approval of the Client. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of the development or use of any such computer programs, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be **specified in the SCC**.

35. Liability of the Consultant

- 35.1. Subject to additional provisions, if any, **set forth in the SCC**, the Consultants' liability under this Contract shall be provided by the Applicable Law.

36. Insurance to be taken out by the Consultant

- 36.1. The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at its (or the Sub-Consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage **specified in the SCC** and in Annex B, and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid. The Consultant shall ensure that insurance is in place prior to commencing the Services as stated in GCC Sub-clause 16.2.

37. Accounting,

- 37.1. The Consultant shall keep accurate and systematic accounts

Inspection and Auditing

and records in respect of the provision of the Services under this Contract, in accordance with the provisions of Annex B and internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs, receipt and use of goods and services and the base thereof, together with a detailed inventory thereof.

Reporting Obligations

37.2. The Consultant shall maintain such books and records and submit to the Client the reports, documents and other information specified in Annexes B and C, in the form, in the numbers and within the time periods set forth in such Annexes. The Consultant shall submit to the Client such other reports, documents and information as may be requested by the Client from time to time. Final reports shall be delivered in an electronic form specified by the Client in addition to the hard copies specified in Annexes B and C. The Consultant consents to the Client's sharing of the reports, documents and information delivered by the Consultant pursuant to this Contract with MCC and the Government.

38. Consultant's Actions Requiring the Client's Prior Approval

38.1. In addition to any modification or variation of the terms and conditions of this Contract pursuant to GCC Sub-clause 16.4, the Consultant shall obtain the Client's prior approval in writing before taking any of the following actions:

- (a) any change or addition to the Personnel listed in Annex D;
- (b) in accordance with Section 5.1 above, entering into a subcontract with a Sub-Consultant for the performance of a major item of the Services; and
- (c) any other action that may be **specified in the SCC**.

39. Obligations with Respect to Subcontracts

39.1. Notwithstanding the Client's approval for the Consultant to enter into a subcontract pursuant to GCC Clause 38, the Consultant shall retain sole and full responsibility for the Services and all payments due to subcontractors thereof. In the event that any Sub-Consultants are found by the Client to be incompetent or incapable in discharging assigned duties, the Client may require that the Consultant provide a replacement, with qualifications and experience acceptable to the Client, or to resume the performance of the Services itself.

40. Use of Funds

40.1. The Consultant shall ensure that its activities do not violate provisions relating to use of funds and the prohibition of

activities likely to cause a significant environmental, health or safety hazard, as set out in Annex B. Environmental, health, and safety hazards are defined in Appendix A of the MCC Environmental Guidelines available at www.mcc.gov.

41. Equipment, Vehicles and Materials Furnished by the Client

41.1. If **so specified in the SCC**, equipment, vehicles or materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment, vehicles or materials and shall dispose of such equipment, vehicles and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles or materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them in an amount equal to their full replacement value.

42. Equipment and Materials Provided by the Consultant

42.1. Equipment, vehicles or materials brought into the Client's Country by the Consultant, Sub-Consultants and Personnel, or purchased by them without funds provided by the Client, and used either for provision of the Services or personal use shall remain the property of the Consultant, its Sub-Consultants or the Personnel concerned, as applicable.

43. Assistance and Exemptions

43.1. Unless otherwise **specified in the SCC**, the Client shall use its best efforts to ensure that the Government shall:

- (a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.
- (b) Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Government's country.
- (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents.
- (d) To the extent permitted by Applicable Law, exempt the Consultant, Sub-Consultants and their Personnel employed for the Services from any requirement to register or obtain any permit to practice their profession or

to establish themselves either individually or as a corporate entity.

- (e) Grant to the Consultant, Sub-Consultants and their Personnel the privilege, pursuant to the Applicable Law, of bringing into the Client's Country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.

44. Access to Land

- 44.1. The Client warrants that the Consultant, Sub-Consultants and their Personnel shall have, free of charge, unimpeded access to all land in the Client's Country in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant, Sub-Consultants and their Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or Sub-Consultants or their Personnel.

45. Change in the Applicable Law Related to Taxes and Duties

- 45.1. If, after the date of this Contract, there is any change in the Applicable Law with respect to Taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, payments to the Consultant shall not be adjusted. However, the provisions of GCC Sub-clause 18(e) shall be applicable in such a situation.

46. Services, Facilities and Property of the Client

- 46.1. The Client shall make available to the Consultant and the Personnel, for the purposes of performing the Services and free of any charge, the services, facilities and property described in Annex G at the times and in the manner specified in Annex G.
- 46.2. In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Annex G, the Parties shall agree on (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to GCC Sub-clause 17.1.

47. Payment

- 47.1. In consideration of the Services performed by the

Consultant under this Contract, the Client shall make to the Consultant payments in the manner provided in GCC Clause 17.

48. Counterpart Personnel

- 48.1. The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant's advice, if specified in Annex G.
- 48.2. If counterpart personnel are not provided by the Client to the Consultant as and when specified in Annex G, the Client and the Consultant shall agree on (a) how the affected part of the Services shall be carried out, and (b) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to GCC Sub-clause 17.1.
- 48.3. Professional and support counterpart personnel, excluding the Client's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.

49. Good Faith

- 49.1. The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

50. Operation of the Contract

- 50.1. The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of this Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness.

51. Contractor Past Performance System

- 51.1. The Consultant acknowledges that during the performance of the Contract the Employer shall maintain a performance record of the Consultant in accordance with MCC's Contractor Past Performance Reporting System, as

described on MCC's website. The Consultant shall provide timely information or input to, and otherwise respond to requests for input or information.