



REQUEST FOR PROPOSAL

Extension of the deadline for the submission of the proposals:

Please note that the deadline for the submission of the proposals has been extended to April 17th, 2022 – 8 pm, Noumea Time

RFP No.: RFP22-3288

DATE: March 4th, 2022

SUBJECT: RFP22-3288 – Digital Transformation Consultant

You are requested to submit a comprehensive proposal for the above RFP as per the Terms of Reference set out in Annex II.

To enable you to submit a Proposal please find enclosed:

- Annex I:** Instructions to bidders
- Annex II:** Terms of Reference, containing a description of SPC's requirements for which these services are being sought
- Annex III:** Proposal submission form
- Annex IV:** Conflict of interest declaration
- Annex V:** Due Diligence Questionnaire
- Annex VI:** Technical Proposal Submission form
- Annex VII:** Financial Proposal submission form
- Annex VIII:** SPC General Conditions of Contract

This letter is not to be construed in any way as an offer to contract with your firm/institution.

Yours Sincerely

Akhilesh Prasad

Manager, Procurement, Grants, Risk and Assets

INSTRUCTIONS TO BIDDERS
Request for Proposal (RFP) no: RFP22-3388

1. Submission of Proposals

1.1. Your Proposal shall comprise the following documents:

- a. Annex III: Proposal submission form
- b. Annex IV: Conflict of interest declaration
- c. Annex V: Due Diligence Questionnaire
- d. Annex VI: Technical Proposal submission form, including:
 - A letter of interest with brief description of the company as well as its expertise area(s),
 - and an explanatory note as to how you think your skills and experience will match the scope and requirements of the RFP, in particular each of the area(s) being bid for relative to the competency requirements listed in Section 8.5.
- e. Annex VII: Financial Proposal submission form

1.2. Proposals must be received by SPC at the email address mentioned below (1.5.) on or before **April 17th, 2022, at 8:00 pm, Noumea time**. Any proposal received after this date may be rejected. SPC may, at its discretion, extend the deadline for the submission of proposals, by notifying all prospective bidders in writing. The extension of the deadline may accompany a modification of the solicitation documents prepared by SPC at its own initiative or in response to a clarification requested by a prospective bidder.

1.3. All proposals submitted, correspondence, and related documents, shall be in English. If any of the supporting documentation or printed literature is in any other language, a written translation of the document in English should also be provided. In such case the translated document will be used for processing and evaluation purposes.

1.4. All prices in the proposals must be presented in **Euros** and inclusive of all taxes.

1.5. The proposal has to be **in two separate emails** as follows:

- i* Send by e-mail the **technical proposal** (annexes III, IV, V and VI) and related document(s), clearly indicating the RFP number in the email subject. No financial information whatsoever must appear in the technical proposal;
- ii* Send in a second separate e-mail the **financial proposal** (annex VII) and related document(s). The opening of this second email shall be protected by a password to be provided to SPC Procurement upon request at the time of the financial evaluation.

1.6. Proposals not compliant with the submission format detailed in 1.5 will not be considered.

1.7. Proposals **must be** emailed to procurement@spc.int with the heading “**RFP22-3288 – Digital Transformation Consultant**”.

1.8. For all proposals received before the deadline, SPC will send a formal acknowledgement of receipt to the Bidder.

2. Request for Proposals Timelines and Due Dates

The timeline and due dates for the RFP is provided in Table 1 below:

Table 1: RFP timelines and due dates		
	Date	Time
Deadline for seeking clarification from SPC	April 10th, 2022	8:00 PM, Noumea time
Deadline for the submission of tenders	April 17th, 2022	8:00 PM Noumea time

3. Bidders' responsibilities

- 3.1.** The bidder is expected to examine all instructions, forms, terms and specifications in this bidding document. Failure to furnish all information required by the bidding documents or to submit a bid substantially responsive to the bidding documents in every aspect will be at the bidder's risk and may result in the rejection of the proposal.
- 3.2.** The bidder shall bear all costs associated with preparing and submitting a proposal, including cost relating to contract award; SPC will, in no case, be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 3.3.** Bidders must familiarise themselves with local conditions and take these into account in preparing their proposal to obtain information on the assignment, technical requirements, and on local conditions.
- 3.4.** By submitting a proposal, the bidder accepts in full and without restriction the special and general conditions governing this proposal as the sole basis of this bidding procedure whatever his own conditions of sale may be, which he hereby waives.
- 3.5.** Participation in bidding is open and on equal terms to natural persons, companies, firms, public and/or semi-public agencies, cooperative societies, joint ventures, groupings of companies and/or firms and other legal persons governed by public and private law of any country. Bidders must provide evidence of their organisational status.
- 3.6.** The bidder might be requested to provide additional information relating to their submitted proposal, if the Procurement Committee requests further information.
- 3.7.** The submitted proposal must be for the entirety of the Terms of Reference and not divided into portions which a potential bidder can provide services for.
- 3.7.1.** Bidders may submit questions and or seek clarifications on any issue relating to this tender in writing to the following email address procurement@spc.int **ONLY**. **Any attempt of communication with SPC, other than through this email address, may result in the disqualification of the bidder concerned.** The deadline for submission of clarifications is **April 10th, 2022, at 08:00 pm, Noumea time**. Please indicate the RFP reference in the subject of your email.
- 3.7.2.** Any prospective bidder seeking to arrange individual meetings with SPC during the RFP period may be excluded from the RFP procedure.
- 3.7.3.** No clarification meeting / site visit will be undertaken.

4. One Proposal per Bidder

Each bidder shall submit only one proposal for this, either individually or as a partner in a joint venture. A bidder who submits or participates in more than one bid shall cause all bids with the bidder's participation to be disqualified.

5. Withdrawals of Proposals

- 5.1. The bidder may withdraw its Proposal after the Proposal's submission, provided that written notice of the withdrawal is received by SPC prior to the deadline prescribed for submission of Proposals. The bidder's withdrawal notice shall be sent to the email address procurement@spc.int.
- 5.2. No Proposal may be modified subsequent to the deadline for submission of proposals.
- 5.3. No Proposal may be withdrawn after the deadline for submission of proposals.

6. Validity of Proposals

- 6.1. Bidders shall be bound by their bids for a period of **120 days** from the deadline for submission of proposals.
- 6.2. The successful bidder will be bound by their proposal for a further period of 60 days following receipt of the notification that they have been selected to enable SPC to complete the procurement process and obtain all the necessary approvals so that the contract can be awarded within that period.

7. Modifications to Proposals

- 7.1. Any additional information, clarification, correction of errors or modifications of bidding documents will be published on the SPC website prior to the deadline for receipt to enable bidders to take appropriate actions.
- 7.2. Bidders will also be informed of the right to modify and make corrections to proposals, provided that any such modifications or corrections are received by SPC in writing prior to the time specified for submission of proposals. The original proposal thus modified or corrected would then be considered as the official bid.

8. Opening and Evaluation of Proposals

- 8.1. The Proposals will be opened in the presence of the Bid Opening Committee after the closing of the Request for Proposal (RFP).
- 8.2. To assist in the examination, evaluation and comparison of Proposals, SPC may at its discretion, ask the bidder for clarification of its Proposal. The request for clarification and the response shall be in writing and no change in price or substance of the Proposal shall be sought, offered or permitted.
- 8.3. The Bids Opening Committee will carry out a preliminary examination of the Proposals to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the Proposals are generally in order.
- 8.4. A two-stage procedure will be utilised in evaluating the proposals, with evaluation of the technical proposal being completed prior to any financial proposal being opened and compared. The competencies which will be evaluated are detailed in the Terms of Reference (**Annex II**).
- 8.5. The technical component, which has a total possible value of **700 points**, will be evaluated using the following criteria:

Evaluation Criteria	Score weight (%)	Points obtainable
Company profile		
<ul style="list-style-type: none"> • Having sound financial statement (audited) over the last three years 	5 %	35
<ul style="list-style-type: none"> • Officially registered vendor 	5 %	35
<ul style="list-style-type: none"> • 2 references <ul style="list-style-type: none"> - Partnership level - Number of years - Volume of business done with each vendor - Nature of business done with each vendor 	15 %	105
<ul style="list-style-type: none"> • Years of experience in supply of Digital Transformation Consultancy services, or similar 	5 %	35
Adherence to Specifications required in TOR's		
<ul style="list-style-type: none"> • Quality of the offer and relevance of the proposed workplan • Methodological approach that is applicable to international, non-profit organisations • Understanding of nature of Pacific Community's business and risks • Proposed approach to the consultancy 	25 %	175
Ability to write comprehensive reports and communication skills		
<ul style="list-style-type: none"> • Sample previous comprehensive report • Previous experience drafting similar reports 	25 %	175
Cultural fit and good working knowledge of the Pacific Region		
<ul style="list-style-type: none"> • Experience working with similar international organisations 	20 %	140
TOTAL	100%	700
Qualification Score	70%	490

8.6. The financial proposal will be opened only for bidders that passed the minimum technical score of 490 points (70 %).

8.7. Financial proposals of technically responsive proposals will be reviewed. Arithmetical errors will be rectified on the following basis: If there is a discrepancy between the unit price and the total price, the lower price shall prevail, and the higher price shall be corrected. If the Bidder does not accept the correction of errors, its Proposal will be rejected. If there is a discrepancy between words and figures the amount in words will prevail.

8.8. The financial component of the proposal will be scored based on the daily fee or cost per analysis.

8.9. The lowest financial proposal will be awarded maximum 300 points and other financial offers and incentives will be awarded points as per the formula below. The formula used for scoring points for financial values proposed will be:

<i>Financial Proposal score = (Lowest Price / Price under consideration) x 300</i>

8.10 Bidders will be deemed to have satisfied themselves, before submitting their proposal and to its correctness and completeness, taking into account of all that is required for the full and proper performance of the contract and to have included all costs in their rates and prices.

8.11 The total cost of the proposal is inclusive of all taxes and is fixed and not subject to revision.

9. Award of Contract

9.1. The award of the contract will be made to the proposal which is considered to be most responsive to SPC's technical specifications as detailed in the Terms of reference with due consideration to SPC Procurement Policy which includes the general principal of best value for money, economy and efficiency. SPC is not in any way obliged to select the firm/institution offering the lowest price.

9.2. SPC reserves the right to accept or reject any Proposal, and to annul the solicitation process and reject all Proposals at any time prior to the award of contract, without thereby incurring any liability to the affected Bidder or any obligation to inform the affected Bidder of the reason for SPC's action.

9.3. SPC reserves the right to enter into negotiation with respect to one or more proposals prior to the award of a contract, split an award/awards and to consider localized award/awards between any proposers in any combination, as it may deem appropriate without prior written acceptance of the proposers.

9.4. Within 15 days of receipt of the contract the successful bidder shall sign and date the contract and return it SPC.

10. Bidder Protest

10.1. If a bidder involved in an SPC procurement process considers they were not treated fairly, or that SPC failed to properly follow the requirements of the Procurement Policy, then that bidder may lodge a protest.

10.2. To lodge a protest, you can email complaints@spc.int with your allegations. Your protest will need to include:

- your full contact details;
- the details of the relevant procurement;
- the reasons for your protest, including how the alleged behavior negatively impacted on your bid;
- copies of any documents supporting your grounds for protest;
- the relief that is sought.

10.3. Your protest will be recorded and will be acknowledged promptly. You may be contacted to provide more information. An officer uninvolved in the original procurement process and with no conflict of interest will be nominated to investigate your protest.

10.4. Your protest will be received in good faith and will not impact your involvement in future bids.

11. Privacy notice

11.1. The bidder understands that their proposal and their personal information will be stored and used by SPC in accordance with SPC's Privacy Policy and Guidelines for handling personal information of bidders and grant applicants. Please inform SPC if you would like copies of the policy or guidelines.

11.2. If successful, the bidder understands that SPC will publish the name of the bidder.

TERMS OF REFERENCE*Request for Proposal (RFP) no: RFP22-3388***Project Title: Digital Transformation Consultant****1. Background**

The Pacific Community (SPC) is the principal scientific and technical organisation in the Pacific region, supporting development since 1947. We are an international development organisation owned and governed by our 27 country and territory members. In pursuit of sustainable development to benefit Pacific people, our organisation works across more than 20 sectors. We are known for our knowledge and innovation in such areas as fisheries science, public health surveillance, geoscience, and conservation of plant genetic resources for food and agriculture.

SPC seeks to enter into a contract with an experienced consultant in **Digital Transformation**.

The digital Transformation of societies offers many benefits as being experienced in both developed and developing countries, including better security, economic growth, new jobs and services, improved efficiencies, new technology eco-systems to innovate at extraordinary pace as well offering a new platform for empowerment and inclusion for youth, gender, disadvantaged and geographically bound people.

Digital Transformation is changing how countries engage with their citizens and with each other, it redefines national interests and strategic priorities, and it helps to project power onto the world stage.

Achieving Digital Transformation Maturity is not an easy path, it is one that is strewn with difficult balances. Countries must build their capacity to produce, refine, and protect digital assets, information, and systems; but avoid the temptations of protectionism and monopolism - the Pacific Region would benefit adopting a coordinated regional digital strategy to maximise the effectiveness of constrained resources.

Over the years the CROP agencies as well as other institutions including the ADB, the Commonwealth, the UN and the World Bank have presented strategies, implemented programmes and projects to advance Digital Transformation in the Pacific.

The objective of the consultancy is to provide an overview of the regional or sub-regional ICT and Digital Transformation activities in the Pacific over the past 10 years. The objective is to seek lessons learnt, overlapping work, measure the sustainability of the activities and to seek advice from stakeholders on what changes are needed.

2. Key Outputs

Overarching overview of regional or sub-regional ICT and Digital Transformation activities in the Pacific over the past 10 years, including initiatives from CROP agencies as well as other institutions including the ADB, the Commonwealth and the World Bank.

Based on the findings the consultant is asked to provide recommendations for a high-level strategic approach to regional Digital Transformation.

If relevant, provide recommendations for a governance structure to shepherd a regional approach to digital transformation.

3. Activities

The consultant is free to propose the methodology, the timelines and propose the format of outputs. The SPC expects the proposal will include at least the following activities.

- Desktop study of available strategies, results, initiatives etc.
- Digital Transformation needs assessment of at least 5 members (no travel required).
- Bi-weekly reports on progress.
- Draft, and final report writing.
- Report presentation.

4. Institutional arrangement

The service provider will report to SPC's Director of Information Services.

5. Duration if the work

The consultant will be engaged from the agreement signature date. The final deliverable is expected to be delivered within 16 weeks after contract signature.

6. Duty station and travel

The consultant will work from their duty station. All work is expected to be delivered over phone or video conferencing, e-mail, and other digital channels.

7. Benefits and Health Care

The consultant will not receive any benefits and is responsible for meeting health care insurance, and tax obligations in consultant's tax home.

8. Qualifications of the successful service provider

Respondents will be evaluated based on the following criteria:

Evaluation Criteria	Score weight (%)	Points obtainable
Company profile <ul style="list-style-type: none">• Having sound financial statement (audited) over the last three years• Officially registered vendor• 2 references<ul style="list-style-type: none">- Partnership level- Number of years- Volume of business done with each vendor- Nature of business done with each vendor• Years of experience in supply of Digital Transformation Consultancy services, or similar	5 % 5 % 15 % 5 %	35 35 105 35
Adherence to Specifications required in TOR's <ul style="list-style-type: none">• Quality of the offer and relevance of the proposed workplan• Methodological approach that is applicable to international, non-profit organisations	25 %	175

<ul style="list-style-type: none"> • Understanding of nature of Pacific Community's business and risks • Proposed approach to the consultancy 		
Ability to write comprehensive reports and communication skills <ul style="list-style-type: none"> • Sample previous comprehensive report • Previous experience drafting similar reports 	25 %	175
Cultural fit and good working knowledge of the Pacific Region <ul style="list-style-type: none"> • Experience working with similar international organisations 	20 %	140
TOTAL	100%	700
Qualification Score	70%	490

PROPOSAL SUBMISSION FORM*Request for Proposal (RFP) no: RFP22-3388*

Dear Sir /Madam:

Having examined the Solicitation Documents, the receipt of which is hereby duly acknowledged, we the undersigned, offer to supply the required services for the sum as may be ascertained in accordance with the Price Component attached herewith and made part of this proposal.

We acknowledge that:

- SPC may exercise any of its rights set out in the Request for Proposal documents, at any time;
- The statements, opinions, projections, forecasts or other information contained in the Request for Proposal documents may change;
- The Request for Proposal documents are a summary only of SPC's requirements and is not intended to be a comprehensive description of them;
- Neither the lodgement of the Request for Proposal documents nor the acceptance of any tender nor any agreement made subsequent to the Request for Proposal documents will imply any representation from or on behalf of SPC that there has been no material change since the date of the Request for Proposal documents, or since the date as at which any information contained in the Request for Proposal documents is stated to be applicable;
- Excepted as required by law and only to the extent so required, neither SPC, nor its respective officers, employees, advisers or agents will in any way be liable to any person or body for any loss, damage, cost or expense of any nature arising in any way out of or in connection with any representations, opinions, projections, forecasts or other statements, actual or implied, contained in or omitted from the Request for Proposal documents.
- We undertake, if our proposal is accepted, to commence and complete delivery of all items in the contract within the time frame stipulated.
- **The SPC general conditions of contract are not negotiable.**

We understand that you are not bound to accept any proposal you may receive and that a binding contract would result only after final negotiations are concluded on the basis of the Technical and Price Components proposed.

Company Name:

Position of Representative:

Name of Representative:

Signature of Representative:

Dated this _____ day of _____ 20_____

CONFLICT OF INTEREST DECLARATION
Request for Proposal (RFP) no: RFP22-3388

1. I confirm that I, my family members, and the organisation or company that I am involved with are independent from SPC. To the best of my knowledge, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, which might call into question my independence.

2. If it becomes apparent during the procurement process that I may be perceived to have a conflict of interest, I will immediately declare that conflict and will cease to participate in the procurement process, unless or until it is determined that I may continue.

OR

1. I declare that there is a potential conflict of interest in the submission of my bid [please provide an explanation with your bid]

Name, Signature

Date

Title_____

DUE DILIGENCE QUESTIONNAIRE
Request for Proposal (RFP) no: RFP22-3388

Please complete the following questionnaire and provide supporting documents where applicable.

For individuals operating a business in their personal capacity

1. Please provide any two of the following documents to verify identity and proof of address:
 - a. Passport
 - b. Driver's license
 - c. Voter card or other government-issued identity card
 - d. Bank statement with the individual's name displayed

2. Have you been convicted for criminal offences relating to anti-money laundering or terrorism financing? Yes No

If you answered 'yes', please provide further details.

3. Have you ever been the subject of any investigation, indictment, conviction or civil enforcement action related to financing terrorists? Yes No

If you answered 'yes', please provide further details.

For companies and other legal entities

1. Please provide the following documents to verify identity and proof of address:
 - a. Evidence of Power of Attorney/Board Resolution granted to the officers to transact business on its behalf; and
 - b. Any of the following documents:
 - Certificate of Incorporation
 - Memorandum and Articles of Association
 - Telephone bill in the name of the company
 - Bank statement with the entity's name displayed

1. Does your entity have foreign branches and/or subsidiaries? Yes No

2. If you answered 'yes' to the previous question, please confirm the areas of your entity covered by responses to this questionnaire

Head Office & domestic branches Yes No N/A

Domestic subsidiaries Yes No N/A

Overseas branches Yes No N/A

Overseas subsidiaries Yes No N/A

3. Is your entity regulated by a national authority? Yes No

If you answered 'yes' please specify the name:

4. Does your entity have a written policy, controls and procedures reasonably designed to prevent and detect money laundering or terrorist financing activities? Yes No

If you answered 'yes', please send SPC your policy in English

5. Does your entity have an officer responsible for an anti-money laundering and counter-terrorism financing policy? Yes No

If yes, please state that officer's contact details:

6. Does your entity provide financial services to customers determined to be high risk including but not limited to:

- Foreign Financial Institutions Yes No

- Casinos Yes No

- Cash Intensive Businesses Yes No

- Foreign Government Entities Yes No

- Non-Resident Individuals Yes No

- Money Service Businesses Yes No

7. If you answered 'yes' to any of the boxes in question 7, does your entity's policies and procedures specifically outline how to mitigate the potential risks associated with these higher risk customer types? If yes, how?

8. Has your entity ever been the subject of any investigations or had any regulatory or criminal enforcement actions resulting from violations of laws and regulations relating to either money laundering or terrorism financing? Yes No

If you answered 'yes' please provide details

9. Has the director or CEO of your entity ever been the subject of any investigations or had any regulatory or criminal enforcement actions resulting from violations of laws and regulations relating to either money laundering or terrorism financing? Yes No

If you answered 'yes' please provide details

I declare that none of the funds received or to be received by my organisation will be used to finance terrorism or involve money laundering.

I declare that the particulars given herein above are true, correct and complete to the best of my knowledge, and the documents submitted in support of this form are genuine and obtained legally from the respective issuing authority.

Date:

Name:

Signature:

Title:

TECHNICAL PROPOSAL SUBMISSION FORM*Request for Proposal (RFP) no: RFP22-3388***1. Background****1.1 Contact**

Registered name of the Organisation: Please provide registration document, including registration number (TIN / VAT, etc.)	
Year established:	
Full Physical Address:	
Contact person:	
Email address:	
Postal Address:	
Telephone contact:	
Number of employees:	
Proprietor's/shareholder's details:	

Please provide evidence of certification of compliance with legal obligations (insurance, work safety, accounting monitoring) when applicable.

2. Current clients**Reference 1:**

Name and address of International Organisation or similar major client:	
Name of reference person and contact details:	Name: Job title: Email: Telephone:
Description of actual services provided by your company. Please provide details, expanding as necessary:	

Reference 2:

Name and address of International Organisation or similar major client:	
Name of reference person and contact details:	Name: Job title: Email: Telephone:
Description of actual services provided by your company. Please provide details, expanding as necessary:	

3. Partners and personnel

List the qualifications and experience of key personnel proposed for management and execution of the consultancy. (Curriculum vitae for personnel proposed for this consultancy should be submitted with the Proposal).

Name	Position	Qualifications (Please provide current CVs)	Years of experience in current position

4. Documentation

Please add any relevant document to support your proposal, such as methodology, sample previous comprehensive report, technical memo, personal CV, presentation of your company, proposed workplan for implementing the proposal, etc.

5. Certification

I, the undersigned, warrant that the information provided in this form is correct and, in the event of changes, details will be provided as soon as possible:

Name: _____
Functional Title: _____
Date: _____

Signature: _____

Company Seal/Stamp (if any)

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FINANCIAL PROPOSAL SUBMISSION FORM
Request for Proposal (RFP) no: RFP22-3388

Below we ask service providers for reference prices for some of their services.

If travel is required, expenses will be covered by SPC in accordance with SPC's travel policy.

Description of your services	Hourly Cost in EUR

Certification

I, the undersigned, warrant that the information provided in this form is correct and, in the event of changes, details will be provided as soon as possible:

Name: _____

Functional Title: _____

Date: _____

Signature: _____

Company Seal/Stamp (if any)

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Annex VIII: SPC GENERAL TERMS AND CONDITIONS OF CONTRACT

1 LEGAL STATUS OF THE PARTIES

- 1.1 SPC and the Contractor will be referred to as a “Party” individually or the “Parties” collectively.
- 1.2 Pursuant to the Canberra Agreement, the Pacific Community has full juridical personality and enjoys such privileges and immunities as are necessary for the independent fulfilment of its purposes.
- 1.3 The Contractor has the legal status of an independent Contractor vis-à-vis SPC. The Contractor’s personnel and sub-contractors are not to be considered in any respect employees or agents of SPC.

2 SOURCE OF INSTRUCTIONS

- 2.1 The Contractor will only accept instructions from SPC in the performance of the Contract. The Contractor will refrain from any action that may adversely affect SPC and will fulfil its commitments with the fullest regard to the interests of SPC. Should any authority external to SPC seek to impose any instructions concerning or restrictions on the Contractor’s performance under the Contract, the Contractor will promptly notify SPC and provide all reasonable assistance required by SPC.

3 CONTRACTOR’S RESPONSIBILITY FOR EMPLOYEES

- 3.1 The Contractor will be responsible for the professional and technical competence of its employees and will select, for work under the Contract, reliable individuals who will perform effectively in the implementation of the Contract, respect the local laws and customs, and conform to a high standard of moral and ethical conduct.
- 3.2 The Contractor shall not discriminate against any person because of race, gender or gender identity, sexual orientation, impairment or disability, religious or political beliefs, age, marital or relationship status, pregnancy, breastfeeding or other family responsibilities.

4 SPECIFIED PERSONNEL

- 4.1 The Contractor must ensure that the services are performed in accordance with the Contract. Where personnel have been specified, they must provide those services. SPC may remove any personnel (including Specified Personnel) from work in respect of the Contract. If it does so, or if Specified Personnel are unable or unwilling to perform the Contract, the Contractor will provide replacement personnel (acceptable to SPC) of suitable ability and qualifications at no additional cost and at the earliest opportunity.

5 ASSIGNMENT

- 5.1 The Contractor may not assign, transfer, pledge or make other disposition of the Contract or any part thereof, or any of the Contractor’s rights, claims or obligations under the Contract except with the prior written consent of SPC.

6 SUB-CONTRACTING

- 6.1 No subcontracting will be permitted under the Contract unless it is proposed in the initial submission or is agreed to by SPC in writing. In any event, the total responsibility for the Contract remains with the Contractor. The Contractor shall be responsible for ensuring that all subcontracts shall be fully consistent with the Contract and shall not in any way prejudice the implementation of any of its provisions.
- 6.2 Prior to employing individuals or engaging subcontractors to perform services under the Contract, the Contractor agrees, at its own expense, to perform due diligence necessary to ensure compliance with the terms of the Contract.

7 PURCHASE OF GOODS

- 7.1 To the extent that the Contract involves any purchase of goods, and unless specifically stated in the Contract, the following terms and conditions apply to any purchases of goods:

Delivery of the goods

- 7.2 The Contractor shall hand over or make available the goods, and SPC shall receive the goods, at the place for the delivery of the goods and within the time for delivery of the goods specified in the Contract.
- 7.3 The Contractor shall provide to SPC such shipment documentation (including, bills of lading, airway bills, and commercial invoices) as are specified in the Contract or otherwise, as are customarily utilised in the trade.
- 7.4 Unless otherwise specified in the Contract, (including, but not limited to, in any “INCOTERM” or similar trade term), the entire risk of loss, damage to, or destruction of the goods shall be borne exclusively by the Contractor until physical delivery of the goods to SPC in accordance with the terms of the Contract. Delivery of the goods shall not be deemed in itself as constituting acceptance of the goods by SPC.

Packaging of the goods

- 7.5 The Contractor shall package the goods for delivery in accordance with the highest standards of packaging for the type and quantities and modes of transport of the goods. The goods shall be packed and marked in a proper manner in accordance with the instructions stipulated in the Contract or, otherwise, as customarily done in the trade, and in accordance with any requirements imposed by applicable law or by the transporters and manufacturer of the goods. The packing, in particular, shall mark the Contract or Purchase Order number and any other identification information provided by SPC as well as such other information as is necessary for the correct handling and safe delivery of the goods. Unless otherwise specified in the Contract, the Contractor shall have no right to any return of the packing materials.

Transportation and freight

- 7.6 Unless otherwise specified in the Contract (including, but not limited to, in any "INCOTERM" or similar trade term), The Contractor shall be solely liable for making all transport arrangements and for payment of freight and insurance costs for the shipment and delivery of the goods in accordance with the requirements of the Contract. The Contractor shall ensure that SPC receives all necessary transport documents in a timely manner so as to enable SPC to take delivery of the goods in accordance with the requirements of the Contract.

Warranties

- 7.7 In addition to and without limiting any other warranties, remedies or rights of SPC stated in or arising under the Contract, the Contractor warrants and represents that:
- a) The goods, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such goods are ordinarily used and for any purposes expressly made known in writing in the Contract, and shall be of even quality, free from faults and defects in design, material, manufacturer and workmanship;
 - b) If the Contractor is not the original manufacturer of the goods, the Contractor shall provide SPC with the benefit of all manufacturers' warranties in addition to any other warranties required to be provided under the Contract;
 - c) The goods are of the quality, quantity and description required by the Contract, including when subjected to conditions prevailing in the place of final destination;
 - d) The goods are new and unused;
 - e) All warranties, even after the end of the Contract, will remain fully valid following any delivery of the goods and for a period of not less than one (1) year following acceptance of the goods by SPC in accordance with the Contract;
 - f) During any period in which the Contractor's warranties are effective, upon notice by SPC that the goods do not conform to the requirements of the Contract, the Contractor shall promptly and at its own expense correct such non-conformities or, in case of its inability to do so, replace the defective goods with goods of the same or better quality or, at its own cost, remove the defective goods and fully reimburse SPC for the purchase price paid for the defective goods; and,
 - g) The Contractor shall remain responsive to the needs of SPC for any services that may be required in connection with any of the Contractor's warranties under the Contract.

Acceptance of the goods

- 7.8 Under no circumstances shall SPC be required to accept any goods that do not conform to the specifications or requirements of the Contract. SPC may condition its acceptance of the goods upon the successful completion of acceptance tests as may be specified in the Contract or otherwise agreed in writing by the Parties. In no case shall SPC be obligated to accept any goods unless and until SPC has had a reasonable opportunity to inspect the goods following delivery. If the Contract specifies that SPC shall provide a written acceptance of the goods, the goods shall not be deemed accepted unless and until SPC in fact provides such written acceptance. In no case shall payment by SPC constitute acceptance of the goods.

Rejection of the goods

- 7.9 Notwithstanding any other rights of, or remedies available to SPC under the Contract, in case any of the goods are defective or otherwise do not conform to the specifications or other requirements of the Contract, SPC, at its sole option, may reject or refuse to accept the goods, and within thirty (30) days following receipt of notice from SPC of such rejection or refusal to accept the goods, the Contractor shall, in sole option of SPC:
- a) Provide a full refund upon return of the goods, or a partial refund upon a return of a portion of the goods, by SPC; or,
 - b) Repair the goods in a manner that would enable the goods to conform to the specifications or other requirements of the Contract; or,
 - c) Replace the goods with goods of equal or better quality; and,
 - d) Pay all costs relating to the repair or return of the defective goods as well as the costs relating to the storage of any such defective goods and for the delivery of any replacement goods to SPC.

Title to the goods

- 7.10 Unless otherwise expressly provided in the Contract, title in and to the goods shall pass from the Contractor to SPC upon delivery of the goods and their acceptance by SPC in accordance with the requirements of the Contract.

8 PROVISION OF SERVICES

- 8.1 To the extent that the Contract involves any provision of services, whether in whole or in part, and unless specifically stated in the Contract, the following terms and conditions shall apply to any provision of services:

Examination and acceptance

- 8.2 SPC reserves the right to assess the services provided under the Contract, at any time prior to the expiry of the Contract. In the event that the services are not performed in accordance with the terms of reference and/or the provisions of the Contract, and at no additional cost, the Contractor shall make such adjustments as SPC may request in writing to provide the services in accordance with the terms of the Contract, so as not to unduly delay delivery.

Delay and defaults

- 8.3 If there should be any delay in the performance of the Contract or any part thereof, the Contractor shall notify SPC in writing giving the cause.
- 8.4 If the Contractor is unable to obtain any services necessary for the performance of the Contract from its normal sources, it shall remain liable for any delays when equivalent services can be obtained from other sources in good time.
- 8.5 In any event, if the Contractor fails to complete the services required within the time specified in the Contract, or within any extension that may be granted, SPC may, without prejudice to any further rights it may have under the Contract:
- a) Suspend or cancel the right of the Contractor to proceed further with any services – or part thereof – in which there has been a delay;
 - b) Obtain elsewhere upon such terms and conditions as may be deemed appropriate replacement services similar to those which the Contractor failed to provide;

- c) Make a corresponding adjustment to the consideration payable to the Contractor; provided, however, that the Contractor shall continue performance of the Contract to the extent not suspended or cancelled under the provisions of this paragraph.
- 8.6 The Contractor shall be liable for any excess costs or damages caused to SPC by a failure or delay on the part of the Contractor in the performance of its obligations under the Contract, except where such failure or delay is due to:
- a) causes which are attributable to SPC; or,
 - b) Force Majeure.
- 8.7 SPC shall determine the effects of any delay or default particularly in regard to an adjustment of the consideration due to the Contractor and to excess costs or damages caused to SPC and its findings shall be binding.
- 8.8 If the Contractor doesn't cure the default or delay for providing the services within a reasonable timeframe, SPC may terminate the Contract for cause, according to article 29 of these General Terms and Conditions.

9 EXECUTION OF WORKS

- 9.1 To the extent that the Contract involves any execution of works, whether in whole or in part, and unless specifically stated in the Contract, the following terms and conditions shall apply to any execution of works:

Obligation to Perform in Accordance with the Contract

- 9.2 The Contractor shall execute and complete the works and remedy any defects therein in strict accordance with the Contract, with due care and diligence and to the satisfaction of SPC, and shall provide all labour, including the supervision thereof, materials, constructional plant and all other things, whether of a temporary or permanent nature, required in and for such execution, completion and remedying of defects, as far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract. The Contractor shall comply with and adhere strictly to SPC's instructions and directions on any matter, touching or concerning the works.
- 9.3 The Contractor shall execute and complete the works in accordance with article 26 of these general terms and conditions, in particular with regard to health and safety requirements, insurance, working conditions for workers, construction, administration and environmental law.

Insurance of the works

- 9.4 The Contractor shall insure at its own costs, immediately following signature of the Contract, in the joint names of SPC and the Contractor for the entire duration of the Contract, including the defect liability period, against all loss or damage from whatever cause arising, other than cause of Force majeure and against loss or damage for which the Contractor is responsible.
- 9.5 The Contractor shall insure against his liability for any death, material or physical damage, loss or injury which may occur to any property (including that of SPC) or to any person (including any employee of SPC) by or arising out of the execution of the works or in the carrying out of the Contract.
- 9.6 The Contractor shall insure against the liability of any accident or injury any workman or other person in the employment of the Contractor or any subcontractor.

Responsibility of the Contractor

- 9.7 The Contractor shall take full responsibility for the adequacy, stability, and safety of all site operations and methods of construction.
- 9.8 The Contractor shall be responsible for the true and proper setting out of the works in relation to original points, lines and levels of reference given by SPC in writing and for the correctness of the position, levels, dimensions and alignment of all parts of the works and for the provision of all necessary instruments, appliances and labor in connection therewith. If, at any time during the progress of the works, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the works, the Contractor, on being required so to do by SPC, shall, at his own cost, rectify such error to the satisfaction of SPC.

Delays or damage to the works

- 9.9 The Contractor shall give written notice to SPC whenever planning or progress of the works is likely to be delayed or disrupted unless any further drawing or order, including a direction, instruction or approval, is issued by SPC within a reasonable time. The notice shall include details of drawing or order required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late.

- 9.10 In the event that any damage or loss should happen to the works or to any part thereof from any cause whatsoever (except as shall be due to Force Majeure), the Contractor shall at his own cost repair and make good the same so that, at completion, the works shall be in good order and condition and in conformity in every respect with the requirements of the Contract and SPC's instructions.

Fossils, artifacts, and antiques

- 9.11 All fossils, coins, artifacts, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the site of the works shall as between SPC and the Contractor be deemed to be the absolute property of SPC. SPC shall then decide how such discoveries are to be dealt with, taking due account of the law of the State in which the works are carried out. The Contractor shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal acquaint SPC of such discovery.

Ownership of paid material and work

- 9.12 All material and work covered by payments made by SPC to the Contractor shall thereupon become the sole property of SPC.

Defect liability period

- 9.13 During a period of 12 months, calculated from the date of completion of the works, the Contractor shall be bound to SPC by a defect liability period. During this period, the Contractor shall finish the work outstanding, if any, and execute all such work of repair, amendment, reconstruction, rectification. Further, the Contractor shall make good defects, imperfections, shrinkages, or other faults as may be required of the Contractor in writing by SPC. The Contractor shall also be liable for any damage to the works occasioned by him in the course of any operations carried out during the defect liability period.

- 9.14 All such outstanding work shall be carried out by the Contractor at his own expense if, in the opinion of SPC, the necessity thereof is due to the use of material or workmanship not in accordance with the Contract, or to neglect or failure on the part of the Contractor to comply with any obligation expressed or implied, on the Contractor's part under the Contract. For this purpose, SPC may withhold payment of minimum 5% of the remuneration as a defect liability bond pending expiry of the defect liability period for claims relating to defects. The Contractor may redeem this bond by providing a defect liability guarantee.

10 TERMS OF PAYMENT

- 10.1 No invoice shall be submitted by the Contractor until the corresponding milestone has been formally accepted by SPC in accordance with the terms of the Contract. The payment term of 30 (thirty) days runs from the day the invoice is accepted by SPC, after successful completion of the related milestone.
- 10.2 Each invoice shall mention the reference number of the Contract/Purchase Order and shall be issued in the legal name and address of SPC's Headquarters or Regional office as follows:

The Pacific Community SPC Headquarters
95 Promenade Roger Laroque
P D5, 98848 Noumea Cedex
New Caledonia

- 10.3 The contractually agreed price is not subject to any adjustment or revisions because of currency fluctuations or conversion rates, or the actual costs incurred by the Contractor in the performance of the Contract.
- 10.4 The Contractor shall be solely responsible for the arrangement of any visas required and the payment of any tax or any other liabilities incurred during the provision of the Services.
- 10.5 SPC shall not be responsible for any expenses incurred by the Contractor in performing the Contract unless specifically stated in the Contract.

11 OFFICIAL NOT TO BENEFIT

- 11.1 The Contractor warrants that no official of SPC has received or will be offered by the Contractor any direct or indirect benefit arising from the Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of the Contract.

12 INDEMNIFICATION

- 12.1 The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, SPC, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of the Contract. This obligation does not extend to actions and omissions of SPC.

- 12.2 This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors.
- 12.3 The obligations under this clause do not lapse upon termination of the Contract.

13 FRAUD AND CORRUPTION

- 13.1 The Contractor shall adhere to the highest standard of ethical conduct and not engage in corrupt, fraudulent, collusive, coercive or obstructive practices.
- 13.2 The Contractor agrees to bring allegations of corrupt, fraudulent, collusive, coercive or obstructive practices arising in relation to the Contract, of which the Contractor has been informed or has otherwise become aware, promptly to the attention of SPC.
- 13.3 For purposes of these General Terms and Conditions, the following definitions shall apply:
- (i) **"corruption"** means the abuse of entrusted power for private gain. It may include improperly influencing the actions of another party or causing harm to another party. The gain or benefit may be for the person doing the act or for others.
- (ii) **"fraud"** means any dishonest act or omission that causes loss or detriment to SPC or results in an unauthorised benefit or advantage to either the person(s) acting or omitting or to a third party. The act or omission can be either deliberate or reckless in relation to the harm caused or the benefit or advantage obtained.
- 13.4 Any breach of this representation and warranty shall entitle SPC to terminate the Contract immediately upon notice to the Contractor, at no cost to SPC.

14 INSURANCE AND LIABILITIES TO THIRD PARTIES

- 14.1 SPC shall have no responsibility for the purchase of any insurance which may be necessary in respect to any loss, injury, damage or illness occurring during the execution by the Contractor of the present Contract.
- 14.2 The Contractor will hold insurance against all risks in respect of its employees, sub-contractors, property and equipment used for the execution of the Contract, including appropriate worker's compensation for personal injury or death.
- 14.3 The Contractor will also hold liability insurance in an adequate amount to cover third party claims for any claims arising from or in connection with the provision of services under the Contract.
- 14.4 The Contractor shall, upon request, provide SPC with satisfactory evidence of insurance cover as required under this clause.

15 ENCUMBRANCES/LIENS

- 15.1 The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with SPC against any monies due or to become due for any work done or materials furnished under the Contract, or by reason of any other claim or demand against the Contractor.

16 TITLE TO EQUIPMENT FURNISHED BY SPC

- 16.1 Title to any equipment and supplies that may be provided by SPC rests with SPC. Such equipment shall be returned to SPC at the conclusion of the Contract or when no longer needed by the Contractor. On return, the equipment shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate SPC for equipment determined to be damaged or degraded beyond normal wear and tear.

17 INTELLECTUAL PROPERTY RIGHTS

- 17.1 SPC is entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to products, or documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of the Contract. This includes derivative works created as a result of products created pursuant to the Contract. The Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for SPC.
- 17.2 To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, SPC does not and shall not claim any ownership interest thereto, and the Contractor grants to SPC a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.
- 17.3 At SPC's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to SPC.
- 17.4 Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents, and all other data compiled by or received by the Contractor under the Contract shall be the property of SPC, shall be made available for use or inspection by SPC at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to SPC authorised officials on completion of work under the Contract.

18 TITLE TO DELIVERABLES

- 18.1 The Contractor warrants that the contractual deliverables are unencumbered by any third party's proprietary rights. Unless otherwise expressly provided in the Contract, title to contractual deliverables shall pass to SPC when they are handed over to it.

19 USE OF NAME, EMBLEM OR OFFICIAL SEAL OF SPC

- 19.1 The Contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill the fact that it is a Contractor with SPC, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of SPC, or any abbreviation of the name of SPC in connection with its business or otherwise without SPC's prior written approval.

20 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION

- 20.1 All documents and information relating to the Contract as well as any other information of which the Contractor becomes aware in the course of performing the Contract that is not in the public domain must be treated as confidential during and beyond the term of the Contract. The Contractor shall not be permitted to make use of any such data and information for the Contractor's own purposes.
- 20.2 The Contractor may not communicate at any time to any other person, Government or authority external to SPC, any information known to it by reason of its association with SPC which has not been made public except with the authorisation of SPC; nor shall the Contractor at any time use such information to private advantage.
- 20.3 SPC undertakes to treat as confidential and not to disclose to any third-party information concerning the Contractor's trade secrets or business affairs disclosed by him for the purposes of the Contract.
- 20.4 These obligations do not lapse upon termination of the Contract.

21 USE OF AND LIABILITY FOR DATA

- 21.1 The Contractor's use of all data supplied to him by SPC is restricted exclusively to the purpose of performing his obligations under the Contract.
- 21.2 The Contractor must ensure that personal data is processed in accordance with all applicable laws, regulations and general principles on the protection of personal data. Where the Contractor is to process personal data on behalf of SPC, such processing will be governed by and carried out in accordance with [SPC's Privacy Policy](#).

22 TAX EXEMPTION

- 22.1 Under host country agreements and legislation of SPC members conferring privileges and immunities, as an intergovernmental organization, SPC is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognise SPC's exemption from such taxes, duties or charges, the Contractor shall immediately consult with SPC to determine a mutually acceptable procedure.
- 22.2 The Contractor authorises SPC to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with SPC before the payment thereof and SPC has, in each instance, specifically authorised the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide SPC with written evidence that payment of such taxes, duties or charges has been made and appropriately authorised.
- 22.3 The Contractor is responsible for payment of their own income taxes.

23 CONFLICT OF INTEREST

- 23.1 The Contractor must take all the necessary measures to prevent any situation of conflict of interest or professional conflicting interest.

- 23.2 The Contractor must notify SPC in writing as soon as possible of any situation that could constitute a potential conflict of interest during the performance of the Contract. The Contractor must immediately take action to rectify the situation. SPC may do any of the following:
- (i) verify that the Contractor's action is appropriate,
 - (ii) require the Contractor to take further action within a specified deadline.

24 SOCIAL AND ENVIRONMENTAL RESPONSIBILITY

- 24.1 SPC has committed to ethically and sustainably managing social and environmental risks and impacts of its activities through its [Social and Environmental Responsibility Policy](#).
- 24.2 Accordingly, SPC requires the Contractor to comply with the following obligations as set out in [SPC's Chapter XI Manual of Staff Policies](#).

Child protection

- 24.3 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in [the Convention on the Rights of the Child](#). This includes, among other things, Article 3 which requires the best interests of the child to be a primary consideration in all actions concerning children; Article 32 which protects children from economic exploitation and child labour; and Article 34 which protects children from sexual exploitation and abuse.

Where the Contractor is providing services directly related to or involving children, the Contractor will either have its own Child protection policy in place or use its best endeavours to act in accordance with the principles of [SPC's child protection policy](#).

The Contractor agrees to bring allegations of any abuse or exploitation of children arising in relation to the Contract, of which the Contractor has been informed or has otherwise become aware, promptly to the attention of SPC.

- 24.4 Any breach of this representation and warranty shall entitle SPC to terminate the Contract immediately upon notice to the Contractor, at no cost to SPC.

Human rights

- 24.5 The Contractor is committed to respecting, and acting in a manner which avoids infringing on, human rights, and ensures that they are not complicit in human rights abuses committed by others.
- 24.6 Any breach of this representation and warranty shall entitle SPC to terminate the Contract immediately upon notice to the Contractor, at no cost to SPC.

Gender equality and social inclusion

- 24.7 SPC is committed to progress gender equality and social inclusion in all area of its work. The Contractor is expected to respect gender equality and diversity in the workplace.
- 24.8 The Contractor is expected to have measures in place to ensure equal pay for work of equal value, to prevent bullying and any forms discrimination; and to ensure a safe workplace environment for women and men of all diversities.

Sexual harassment, sexual abuse or sexual exploitation

- 24.9 SPC will not tolerate any form of sexual harassment, abuse or exploitation. As per [Chapter XI of SPC's Manual of Staff Policies](#), the Contractor shall refrain from and shall take

all reasonable and appropriate measures to prohibit its employees or other persons engaged and controlled by it from engaging in sexual harassment, sexual abuse and sexual exploitation.

- 24.10 The Contractor agrees to bring allegations of sexual harassment, sexual abuse or sexual exploitation arising in relation to the Contract, of which the Contractor has been informed or has otherwise become aware, promptly to the attention of SPC.

- 24.11 For purposes of these General Terms and Conditions, the following definitions shall apply:

- (i) "sexual harassment" means behaviour that is unwelcome, unsolicited, unreciprocated of a sexual nature. It is behaviour that is likely to offend, humiliate or intimidate.
- (ii) "sexual abuse" means actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
- (iii) "sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes. It includes profiting monetarily, socially, or politically from sexual exploitation of another.

- 24.12 Any breach of this representation and warranty shall entitle SPC to terminate the Contract immediately upon notice to the Contractor, at no cost to SPC.

Environmental responsibility

- 24.13 The Contractor must ensure a rational use and management of natural resources and ecosystems.
- 24.14 The Contractor shall use all efforts to prevent or, where not possible, to minimise the impact of their activities towards climate change and damage to the environment.

25 ANTI-MONEY LAUNDERING/COUNTER TERRORISM FINANCING

- 25.1 SPC systematically carries out enhanced checks on the entities with which it collaborates to ensure that none of them is involved in money laundering or terrorism financing.

- 25.2 The Contractor agrees to take all reasonable efforts to ensure that none of the funds received under the Contract are used for money laundering or for terrorism financing.

- 25.3 The Contractor agrees that the recipients of any amounts provided by SPC hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via: <https://scsanctions.un.org/fop/fop?xml=htdocs/resources/xml/en/consolidated.xml&xslt=htdocs/resources/xsl/en/consolidated.xsl>

- 25.4 For purposes of these General Terms and Conditions, the following definitions shall apply:

- (i) "money laundering" means the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her actions, or the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime.

- (ii) “terrorism financing” means directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out acts of terrorism.

25.5 Any breach of this representation and warranty shall entitle SPC to terminate the Contract immediately upon notice to the Contractor, at no cost to SPC.

26 GOVERNING LAW AND OBSERVANCE OF THE LAW

26.1 These General Terms and Conditions will be governed by the general principles of international law to the exclusion of any single national system of law. General principles of law shall be deemed to include the UNIDROIT Principles of International Commercial Contracts 2016.

26.2 The Contractor must comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of the Contract.

27 AUTHORITY TO MODIFY

27.1 No modification or change, nor waiver of any of the provisions of the Contract and/or these General Terms and Conditions will be valid and enforceable against SPC unless provided by an amendment to the Contract signed by the authorised official of SPC.

27.2 If the Contract shall be extended before its expiry for additional periods in accordance with the terms and conditions of the Contract, the terms and conditions applicable to any such extended term of the Contract shall be the same terms and conditions as set forth in the Contract, unless the Parties shall have agreed otherwise pursuant to a valid amendment concluded in accordance with Article 27.1, above.

28 FORCE MAJEURE AND OTHER CHANGES IN CONDITIONS

28.1 Force majeure for the purposes of these General Terms and Conditions means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, provided that such acts arise from causes beyond the control and without the fault or negligence of the Parties.

28.2 In the event of the occurrence of any cause constituting force majeure and within fifteen (15) days of the occurrence of the force majeure event, the affected Party shall give notice and full particulars in writing to the other Party, of such occurrence or cause if the affected Party is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The affected Party should notify the other Party of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of the Contract.

28.3 The notice shall include steps proposed by the affected Party to be taken, including any reasonable alternative means for performance that is not prevented by force majeure. On receipt of the notice or notices required hereunder, the Party not affected by the occurrence of a cause constituting force majeure shall take such action as it reasonably considers to be appropriate or necessary in the circumstances, including the granting to the affected Party of a reasonable extension of time in which to perform any obligations under the Contract.

28.4 If the Contractor is rendered permanently unable, wholly or in part, by reason of force majeure to perform its obligations and meet its responsibilities under the Contract, SPC shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for in clause 29 “Termination”, except that the period of notice shall be seven (7) days instead of thirty (30) days.

29 TERMINATION

29.1 Either party may terminate the Contract for cause, in whole or in part, with fifteen (15) days’ written notice to the other party. The initiation of arbitral proceedings in accordance with clause 30 “Settlement of Disputes” below shall not be deemed a termination of the Contract.

29.2 SPC reserves the right to terminate without cause the Contract, at any time with thirty (30) days written notice to the Contractor, in which case SPC shall pay the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.

29.3 In the event of any termination of the Contract by SPC, no payment shall be due from SPC to the Contractor except for work and services satisfactorily performed in conformity with the express terms of the Contract. The Contractor shall take immediate steps to terminate the work and services in a prompt and orderly manner and to minimise losses and further expenditure.

29.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a receiver be appointed on account of the insolvency of the Contractor, SPC may, without prejudice to any other right or remedy it may have, terminate the Contract forthwith. The Contractor shall immediately inform SPC of the occurrence of any of the above events.

30 SETTLEMENT OF DISPUTES

30.1 The Parties will use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to the Contract or the breach, termination or invalidity thereof.

30.2 If a dispute is not settled within sixty (60) days of one Party notifying the other of a request for amicable settlement, the dispute can be referred by either Party to arbitration in accordance with the general principles of international law. The arbitration will be governed by the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) as at present in force. The arbitral tribunal shall have no authority to award punitive damages. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

31 PRIVILEGES AND IMMUNITIES

31.1 Nothing in or relating to the Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of SPC.