

## REQUEST FOR PROPOSALS

### **To serve as a Communication and Consultation Facility to support the participation of the Non Governmental Organization (NGO) delegation to the UNAIDS Programme Coordinating Board (PCB)**

The Joint United Nations Programme on HIV/AIDS (UNAIDS) is seeking outside technical assistance from civil society organizations working internationally to host and serve as a **Communication and Consultation Facility** that will support the participation of the nongovernmental organization (NGO) delegation to the UNAIDS Programme Coordinating Board (PCB). The detailed specifications of the work to be carried out are set out below.

#### **Section 1: Background**

UNAIDS was the first UN programme to have civil society formally represented on its governing body, the Programme Coordinating Board (PCB). The contribution of the PCB NGO delegation, which also includes people living with HIV, has been instrumental in the effective inclusion of community voices in the key global policy forum on AIDS.

Following the 15<sup>th</sup> PCB meeting, which tasked the UNAIDS Secretariat to assess the strengths and weaknesses of NGO/civil society participation in the PCB and to identify improvements, an independent review was carried out throughout 2006 and 2007. One of the main recommendations of this review states: *All relevant stakeholders – including the PCB, UNAIDS Secretariat and international donors - to endorse and mobilize resources for an **independent Communication and Consultation Facility and Resource Team** to enhance the participation of the NGO delegation and wider civil society in the PCB.*

At its 20<sup>th</sup> meeting, the PCB endorsed “the establishment of an independent communication and consultation facility (CF) to strengthen the NGO participation and support effectiveness of NGO country-level voices in the Programme Coordinating Board policy dialogue, and requested that the CF be supported by the UNAIDS Secretariat”. The first PCB NGO Communication and Consultation Facility (PCBNGOCF) was established and hosted in the World AIDS Campaign in April 2008, following a competitive bidding process that was spearheaded by the PCB NGOs and supported by the UNAIDS Secretariat.

The CF is providing the PCB NGO delegation with a base for independent support and has strongly contributed to the strengthening of the communication and consultation with wider civil society, thus ensuring that the PCB NGO delegation is appropriately nominated and equipped to represent civil society issues to the PCB. The CF support has been commended as an effective support for the PCB NGO work and the PCB has recommended that this support be renewed for the next biennium 2010-2012. A new bidding process for the recruitment of a host for the PCB NGO CF is therefore initiated.

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The contract will be entered into between the UNAIDS Secretariat and the organization hosting the CF, with UNAIDS administering the contract in accordance with the provisions therein. Monitoring of the CF's implementation and performance relating to the delivery of services specified under the terms and conditions of the contract will be undertaken by the UNAIDS Secretariat in conjunction with the PCB NGO delegation. The PCB NGOs will have the lead responsibility of providing management oversight on the CF. The PCB NGOs will also provide for the political and strategic orientation and activities of the CF and make suggestions to improve the relevance and impact of its work.

All civil society organizations that operate globally and have community-based interests in the success of the UNAIDS PCB are encouraged to apply. NOTE: the organization applying for the CF Host will be granted a two year contract and will be required to develop a detailed work plan and agree to a performance assessment framework prior to the signing of the contract.

## **Section 2: Terms of Reference of the Communication and Consultation Facility**

The CF, under the guidance of the PCB NGOs, will serve as an independent administrative secretariat for the PCB NGO delegation and will work in close collaboration with the UNAIDS Secretariat. The organization, which will be recruited in this process, and that will host the CF, provides all relevant administrative, financial and technical resources to make the CF function properly. These include, but are not limited to:

1. Management of the logistics of recruitment process for new members, including hosting an application process, marketing the call for nominations and arranging phone interviews
2. Management of travel and logistics for observers to attend UNAIDS PCB meetings
3. Provision of technical and strategic support to the PCB NGO delegation; developing briefing and concept notes; preparing agendas of meetings; carrying out research and support in writing board reports.
4. Hosting of regular (possibly biweekly) and ad hoc conference calls for the delegation, including developing agendas and taking minutes
5. Management of contracts for technical experts including: researchers, process facilitators, trainers editors, translators
6. Hosting and maintaining of an interactive website\*, and development and implementation of other instruments to engage civil society in a dialogue on PCB issues
7. Management of an international consultative group made up of civil society technical experts who can provide ongoing support to the PCB NGO delegation on matters relevant to the PCB agenda
8. Building links with the broader international AIDS initiatives, such as the GFATM, UNITAID, GAVI, IHP+.
9. Mobilization of additional funds for the delegation to support PCB observers and to undertake networking activities such as collaborating with NGOs involved with the initiatives such as the Global Fund Board, UNITAID
10. Assisting the PCB NGO delegation in planning and conducting annual orientation meetings
11. Developing an annual work plan for approval for the PCB NGOs and provide biannual reporting on progress, activities and expenditures
12. Implementing any other relevant duty as directed by the PCB NGO delegation

\*This website is already developed and functional.

### **Section 3: Selection criteria**

The applicant should:

1. Be an existing civil society organization or network operating globally and that has demonstrated coordination and communication ability, influence and reach within civil society and across sectors
2. Demonstrate an ability to network widely and formally involve a variety of civil society partners, including (and not exclusively):
  - Organizations of people living with HIV
  - AIDS service organizations
  - Organizations of key populations (including, but not limited to, MSM, sex workers and drug users)
  - Advocacy and communications organizations
  - Indigenous national and community based organizations
  - Faith based organizations
  - Private sector and labour coalitions
  - UNAIDS and Global Fund NGO delegates/representatives
3. Demonstrate that their workplan will be cost-effective, and that they have experience overcoming cross cultural, language and geographical barriers
4. Demonstrate past experience in collaborating with civil society organizations and networks of people living with HIV in all aspects of the AIDS response including prevention, care, treatment and support.
5. Demonstrate capacity to interact and work with partners in more than one language
6. Demonstrate competence to mobilize resources for activities as outlined in item 9; Section 2 on page 2
7. Demonstrate that the resource person who would be responsible for the day to day management of CF has the necessary skills and experience

In addition to the above criteria, the CF host organization should also possess:

1. An understanding of the scope of work of the UNAIDS PCB, particularly as it relates to civil society
2. A proven knowledge of challenges in meaningful involvement of CS in the global policy arena
3. Proven experience of participation in AIDS policy making at the global level, and in building the capacity of civil society groups to engage in such processes
4. Proven experience in working with vulnerable populations, such as drug users, men who have sex with men, sex workers, indigenous groups, ethnic minorities and organizations representing women's interests
5. Willingness and ability to represent and promote PCB NGO policy issues and concerns broadly among multilateral and bilateral donor agencies, global coordinating bodies, civil society organizations and other stakeholders
6. Stable financial and banking systems that can move and track funds swiftly and responsibly
7. The ability and capacity to communicate effectively and broadly with reliable and modern communications infrastructures
8. First-hand experience in facilitating networking among multiple constituencies.
9. Transparent governance and operations; publicly available lists of governing bodies; clear policies and procedures approved by the organization

10. All required national accreditation documentation
11. The ability to work easily in English is essential. Ability to work in at least one other official UN language (Arabic, Chinese, French, Russian and Spanish) is an asset

Applications from a lead agency representing networks or multiple civil society organizations will be welcomed. In particular, joint proposals made by 2 or more NGOs, and between NGOs from developed and developing countries.

All civil society organizations that operate globally and have community-based interests are encouraged to apply. NOTE: the Communication and Consultation Facility host organization will be awarded a two-year contract, starting at latest at the beginning of the month of July 2010, and will be required submit a work plan for approval by the PCB NGO and to agree to a performance assessment framework prior to the signing of the contract.

#### **Section 4: Selection Process**

The CF selection committee will comprise of representatives from the PCB NGO delegation, broader civil society, and the UNAIDS Secretariat. The selection committee will be responsible for reviewing the applications submitted, interviewing short listed applicants if necessary and identifying the proposals that meet the minimal technical requirements.

The final selection will be carried out on the basis of the most technically sound proposal and most competitive budget.

A two-stage procedure will be utilized in evaluating the proposals, with technical evaluation of the proposal being completed prior to any focus on or comparison of price. Only those proposals scoring over 80% of the total technical marks will be considered for the next stage. The following criteria and marking contained in table below will be used for the award.

<b>Scoring</b>	<b>Points Awarded</b>
Experience and expertise of key staff(s) assigned to be responsible for CF	30
Demonstrated experience in managing global communications media including, conference calls, list serves, email lists, blogs and other emerging media mechanisms	15
Demonstrated experience in collaborating with civil society organizations and networks of people living with HIV and AIDS in all aspects of the AIDS response	15
Demonstrated experience in raising and managing funds to support CS engagement in the response to HIV and in developing and accounting for workplans	15
Demonstrated experience in overcoming cross cultural, language and geographical barriers to encourage full participation in national, regional and multilateral fora that respond to HIV and AIDS	15
Previous demonstrated experience in facilitating global, regional and local networks of CS to be engaged in monitoring UNAIDS policy and performance.	10
Clarity of proposal	10

- **Total: 110 points possible**

The maximum number of points for the Price Component is 20. This maximum number of points will be allocated to the lowest price proposal. All other price proposals will receive points in inverse proportion according to the following formula:

Points for the Price Component of a proposal being evaluated =  
[Maximum number of points for the Price Component] x [Lowest price]  
[Price of proposal being evaluated]

The UNAIDS Secretariat does not bind themselves to accept the lowest or any tender or to give any reasons for their decisions.

The UNAIDS Secretariat reserves the right to seek clarifications, additional information and to negotiate further with one or several of the bidders on their technical and or financial bids. The UNAIDS Secretariat reserves the right to annul the process and not to award the contract.

## **Section 5: Application Process**

### **1) Preparation of bids**

The Bid prepared by the Bidder and all correspondence and documents relating to the Bid shall be written in English. The Bid shall consist of two parts: the technical and the financial proposals.

#### **Technical proposal:**

Please submit a no-more than 10-page proposal describing your organization's compatibility with the above selection criteria. Your proposal should include the following information:

#### **A. Organizational background**

- Explain your organizational mandate and how this is used to facilitate policy development and advocacy at the national, regional and global levels
- Describe your organization's experience in building the capacity of NGO policy and advocacy
- Indicate the nature and extent of your organization's involvement in the UNAIDS PCB and other multilateral fora, such as the Global Fund to Fight AIDS TB and Malaria
- Explain how the role of **Communication and Consultation Facility** host would fit with your organization's mission and current workplan

#### **B. Workplan and staffing**

- Provide a description of your organization's capacity to provide support to the PCB NGOs including a summary of past experience and success in generating funding from sources such as both governments and foundations to support CS advocacy and networking
- Describe how your organization would carry out the TOR and achieve the objectives outlined above to support the NGO delegation to the PCB: including a costed workplan
- Provide the CV(s) and job description(s) of the individual(s) your organization will assign/recruit to fill the CF lead role

## Financial proposal

Please submit an outline of the anticipated costs for duration of two years.

All prices shall be quoted in US dollars. Service tax, Value Added Tax or any other taxes and duties in respect of this contract shall be payable by the contractor and should be included in the budget. The UNAIDS Secretariat will not entertain any subsequent claim whatsoever in this respect. The UNAIDS Secretariat does not bind themselves to accept the lowest or any tender or to give any reasons for their decisions.

A break down of the possible activities is provided in the table below as an example and you should also base yourself on activities listed under section 2. **Please note that activities outlined in item 9 of Section 2 will be in addition to core CF activities and should not be included in the calculation of this budget.** (Same overhead percentage cost provided in the financial proposal will apply for the implementation of these supplementary activities).

Budget area	
Core operational costs	<p>Includes staffing, IT, travel, local transport, equipment, supplies etc. The following are indications for the costing:</p> <ol style="list-style-type: none"> <li>1. Full-time, paid professional position(s) to coordinate and implement the activities</li> <li>2. Manage the recruitment process for new members including hosting an online application process, arranging phone interviews and marketing the call for nomination</li> <li>3. Host conference calls (bi-monthly) for the delegation, including developing agendas and taking minutes</li> <li>4. Manage travel and logistics for:               <ol style="list-style-type: none"> <li>a. One participant (1 additional observer) per region to each PCB (4PCB meetings in biennium and 5 regions)</li> <li>b. CF staff attending PCB meetings</li> <li>c. 1 participant (PCB NGO) attending 2 relevant regional meetings per biennium, for each of the 5 different regions.</li> </ol> </li> <li>5. Manage contracts for technical experts, facilitators for briefing meetings, orientation facilitation, research, etc (duration 40 person-days)</li> <li>6. Translation costs -- 500 pages for each of the 6 UN languages</li> <li>7. Manage the UNAIDS PCB NGO website (daily information, story drafting, e-forum,..) *the website exists already.</li> <li>8. Fundraise for the delegation to undertake activities that are not otherwise covered by the initial budget (e.g. joint meeting with Global Fund Board NGOs,..)</li> </ol> <p>(Please include any applicable taxes (eg. Service tax, VAT etc). As a policy UNAIDS does not provide funding for establishment of new infrastructure such as construction of new building, purchase of vehicles etc.)</p>

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	Direct expenses*	Travel and accommodation to PCB for one additional observer per region  Support to PCB members to attend regional meetings (5) Travel for new PCB members to attend regional meetings

\* The costs of the tickets and per diems will be provided separately on the contract, and therefore does not need to be incorporated in the financial proposal.

Please use the following budget categories for this financial proposal:

- 1. Professional services:**
  - Cost of staff assigned to this activity
  - Consultants and other professional services such as researchers, facilitation for meeting etc.
  - IT support
  - Translation
  
- 2. Travel, accommodation and per diem:**
  - Support to PCB NGOs to attend relevant regional meetings
  
  - Direct meeting expenses including Orientation meeting and other related support activities
  
- 3. Communication:**
  - Include costs related to conf calls, (once every 2- weeks), global list serve, on line application process for PCB recruitment, etc.
  
- 4. Administrative and overhead for host agency**

### Other documentation required

- A letter from your organization signed by the Chief Executive Officer or Chairperson stating that your organization is able to provide administrative and programmatic support to host the CF
- Your organizational chart and governance structure
- Summary of policies and procedures approved by your organization
- Copies of registration documents
- Copies of audited financial statements for the past two fiscal years

## 2) Submission of Bids

Should you be interested in undertaking the above work:

A: Please send your bid to the following address:

Chief, Finance and Administration  
Programme Support Department  
UNAIDS  
20, avenue Appia  
1211 Geneva 27  
Switzerland

The Bidder should submit **three copies each** of Technical as well as Financial proposals. Among the three copies one copy of each proposal should be marked as "ORIGINAL." In the event of a discrepancy between them, the original shall govern.

The Technical and Financial proposals shall be submitted in **two separate sealed envelopes**. The first sealed envelope will be clearly marked as "Communication and Consultation Facility -The technical Proposal ". Similarly, the second sealed envelope will be clearly marked as "Communication and Consultation Facility -The Financial Proposal." Both of the envelopes must contain the name, address, telephone number, fax number & e-mail address of the Bidder and his contact person.

The two envelopes should then be placed in a larger envelope. Please add in large letters on the outside of the envelope "**SEALED BID - DO NOT OPEN**" and the following reference: CSP/Communication Facility/10.03.2010.

B: Your proposal can also be sent to **2 separate secure emails**: [TechnicalBids@unaid.org](mailto:TechnicalBids@unaid.org) for the technical proposal and [FinancialBids@unaid.org](mailto:FinancialBids@unaid.org) for the price component and indicate in the subject line: CSP/Communication Facility/10.03.2010

## 3) Deadline for Submission of Bids/Late Bids

Bids containing the technical and financial proposals shall be submitted in hard copies to the above office on or before 5:00 pm, Geneva time, **on 10 March 2010**. Any bid **received after** this deadline shall be rejected.

**Contact for questions:** The Civil Society Partnerships Unit, UNAIDS; [csp@unaid.org](mailto:csp@unaid.org)

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## **Annex 1: General And Contractual Conditions**

The general terms and conditions of the contractual agreement ("the Contract") between UNAIDS and the selected bidder ("the Contractor") will include provisions as set forth in this section, and will cover the following issues:

- responsibilities, indemnities and liabilities of the Contractor(s) and UNAIDS;
- conditions concerning the termination of the contract(s);
- clear deliverables and acceptance procedures;
- payment terms tied to the satisfactory completion of the work;
- training and post implementation support;
- allowance for changes;
- warranties and representations;
- notices.

Services under this Contract will be supplied on a fixed-price basis in a UN convertible currency (preferably US Dollars), based on the UN exchange rate of the date of invoice.

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### **Responsibility**

The Contractor will be responsible to ensure that the services rendered under the Contract are in accordance with the specifications and within the time prescribed.

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### **Source of Instructions**

The Contractor shall neither seek nor accept instructions from any authority external to UNAIDS in connection with the performance of its services under this Contract. The Contractor shall refrain from any action which may adversely affect UNAIDS and shall fulfil its commitments with the fullest regard to the interests of UNAIDS.

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### **Warranties**

The Contractor will warrant and represent to UNAIDS as follows:

- 1) The deliverables shall meet the specifications and shall function in a manner which is fully adequate to meet its intended purpose. The Contractor furthermore warrants that the deliverables shall be error-free, in that the Contractor shall correct any errors in the deliverables, free of charge, within fifteen days after their notification to the Contractor, during a period of at least six months after completion of the work. It is agreed, however, that errors and other defects, which have been caused by modifications to the deliverables made by UNAIDS without agreement of the Contractor are not covered by this paragraph.
- 2) The deliverables shall, to the extent it is not original, only be derived from, or incorporate, material over which the Contractor has the full legal right and authority to use it for the proper implementation of this Contract. The Contractor shall obtain all the necessary licenses for all non-original material incorporated in the deliverables including, but not limited to, licenses for UNAIDS to use any underlying software, application, and operating deliverables included in the deliverables or on which it is based, so as to permit UNAIDS to fully exercise its rights in the deliverables and the software without any obligation on UNAIDS's part to make any additional payments whatsoever to any party.
- 3) The deliverables shall not violate any copyright, patent right, or other proprietary

right of any third party and be delivered to UNAIDS free and clear of any and all liens, claims, charges, security interest and any other encumbrances of any nature whatsoever.

- 4) The Contractor, its employees and any other persons and entities used by the Contractor shall furthermore not copy and/or otherwise infringe on the copyright of any document or other material (whether machine readable or not) to which the Contractor, its employees and any other persons and entities used by the Contractor have access in the performance of this Contract.
- 5) Except as otherwise explicitly provided in this Contract, the Contractor shall at all times provide all the necessary on-site and off-site resources to meet its obligations hereunder. The Contractor shall only use highly qualified staff, acceptable to UNAIDS, to perform its obligations hereunder.
- 6) The Contractor shall take full and sole responsibility for the payment of all wages, benefits and monies due to all persons and entities used by it in connection with the implementation and execution of the Contract, including, but not limited to, the Contractor's employees, permitted subcontractors and suppliers.

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### **Legal Status**

The Contractor shall be considered as having the legal status of an independent contractor and as such there will be no employer/employee relationship between UNAIDS on the one side and the Contractor or any person used by the Contractor on the other side.

Thus the Contractor shall be solely responsible for the manner in which the work is carried out. UNAIDS shall not be responsible for any loss, accident, damage or injury, including, but not limited to, damage to test equipment, spare parts and other property, suffered by the Contractor or persons or entities claiming under the Contractor, arising during or as a result of the implementation or execution of the Contract, including travel, whether sustained on UNAIDS premises or not.

The Contractor shall obtain adequate insurance to cover such loss, accident, injury and damages, before commencing work on the Contract. The Contractor shall be solely responsible in this regard and shall handle any claims for such loss, accident, damage or injury.

Nothing in or relating to the agreement with the Contractor shall be deemed a waiver of any of the privileges and immunities of UNAIDS in conformity with the Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on November 21, 1947 or otherwise under any national or international law, convention or agreement.

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### **Relation Between the Parties**

The Contract does not constitute a partnership between the Parties or to constitute either Party as the agent of the other.

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### **Waiver of Breach**

The waiver by an act, omission or knowledge of either Party, its agents or its employees of any provision or breach of the contract shall not prevent subsequent enforcement of such provision or excuse further breaches.

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## Liability

The Contractor hereby indemnifies and holds UNAIDS harmless from and against the full amount of any and all claims and liabilities, including legal fees and costs, which are or may be made, filed or assessed against UNAIDS at any time and based on, or arising out of, breach by the Contractor of any of its representations or warranties under the Contract, regardless of whether such representations and warranties are explicitly incorporated here in or are referred to in any attached Appendices.

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## Assignment

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNAIDS.

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## Officials not to Benefit

The Contractor warrants that no official of UNAIDS has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract. The Contractor also warrants that it is not and will not be involved in, or associated with, any entity involved in terrorism.

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## Indemnification

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNAIDS, 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 this Contract. 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. (These obligations shall not lapse upon termination of the contract)

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## Contractor's Responsibility for Employees

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals UNAIDS will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

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## Subcontracting

Any intention to subcontract aspects of this contract must be specified in detail in the tender submitted. Information concerning the subcontractor, including the qualifications of the staff proposed for use must be covered with same thoroughness as the prime contractor. No subcontracting will be permitted under this Contract unless it is proposed in the initial submission or formally agreed to by UNAIDS at a later time. In any event, the total responsibility for the Contract rests with the prime contractor.

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## Place of Performance

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## Language

The internal communications of the work performed for this project, management and contractual communications for this project will be executed in English.

## Confidentiality

- 1) Except as explicitly provided in the Contract, the Contractor shall keep confidential all information which comes to its knowledge during, or as a result of, the implementation and execution of the Contract. Accordingly, the Contractor shall not use or disclose such information for any purpose other than the performance of its obligations under the Contract. The Contractor shall ensure that each of its employees and/or other persons and entities having access to such information shall be made aware of, and be bound by, the obligations of the Contractor under this paragraph. However, there shall be no obligation of confidentiality or restriction on use, where: (i) the information is publicly available, or becomes publicly available, otherwise than by any action or omission of the Contractor, or (ii) the information was already known to the Contractor (as evidenced by its written records) prior to becoming known to the Contractor in the implementation and execution of this Contract; or (iii) the information was received by the Contractor from a third party not in breach of an obligation of confidentiality.
- 2) The Contractor, its employees and any other persons and entities used by the Contractor shall furthermore not copy and/or otherwise infringe on copyright of any document (whether machine-readable or not) to which the Contractor, its employees and any other persons and entities used by the Contractor have access in the performance of this Contract. (These obligations shall not lapse upon termination of the contract)

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## Confidential Nature of Documents and Information

All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under this Contract shall be the property of UNAIDS, shall be treated as confidential and shall be delivered only to UNAIDS authorized officials prior to completion of work under this Contract.

The Contractor may not communicate at any time to any other person, Government or authority external to UNAIDS, any information known to it by reason of its association with UNAIDS which has not been made public except with the authorization of UNAIDS; nor shall the Contractor at any time use such information to private advantage. These obligations do not lapse upon termination of this Contract.

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## Title Rights

- 1) This is a work made for hire. UNAIDS shall be the owner of all intellectual property rights, including but not limited to patents, copyrights and trademarks, with regard to all deliverables and other material which bears a direct relation to, or is made in consequence of, the services provided to the Organization by the Contractor.
- 2) UNAIDS reserves the right to revise the work, to use the work in a different way from that originally envisaged or to not use the work at all.
- 3) At UNAIDS's request, the Contractor shall take all necessary steps, execute all

necessary documents and generally assist UNAIDS in securing such proprietary rights and transferring them to UNAIDS in compliance with the requirements of applicable law.

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### **Cancellation**

UNAIDS shall have the right to cancel the Contract (in addition to other rights, such as the right to claim damages):

- 1) At will with the provision of thirty (30) days prior notice in writing;
- 2) In the event the Contractor fails to begin work on the date agreed, or to implement the work in accordance with the terms of the Contract; or
- 3) In the event the progress of work is such that it becomes obvious that the obligations undertaken by the Contractor and, in particular, the time of fulfilment, will not be respected.
- 4) In addition, UNAIDS shall be entitled to terminate the Contract (or part thereof), in writing, with immediate effect (in addition to other rights, such as the right to claim damages), if, other than as provided in the paragraph above, the Contractor is:
  - a. In breach of any of his material obligations under the Contract and fails to correct such breach within a period of thirty (30) days after having received a written notification to that effect from UNAIDS; or
  - b. Adjudicated bankrupt or formally seeks relief of his financial obligations.

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### **Force Majeure**

No party to the Contract shall be responsible for a delay caused by force majeure, that is, a delay caused by strike, lock-out, foreign or civil war, or any other event outside his control, it being agreed, however, that UNAIDS shall be entitled to terminate the Contract (or any part of the Contract) forthwith if the implementation of the work is delayed or prevented by any such reason for an aggregate of thirty (30) days. Such termination shall be subject to payment of an equitable part of the Contract sum and/or other reasonable charges. In the event of such termination, the Contractor shall, in accordance with the ownership rights referred to in section *0 Title rights*, deliver to UNAIDS all work products and other materials so far produced.

- a) Force majeure, as used in this Article, means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force which are beyond the control of the Parties.
- b) In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to UNAIDS, of such occurrence or change if the Contractor is thereby rendered unable, UNAIDSily or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify UNAIDS of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of this Contract. The notice shall include steps proposed by the Contractor to be taken including any reasonable alternative means for performance that is not prevented by force majeure. On receipt of the notice required under this Article, UNAIDS shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.
- c) If the Contractor is rendered permanently unable, UNAIDSily, or in part, by

reason of force majeure to perform its obligations and meet its responsibilities under this Contract, UNAIDS shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in section *O Cancellation*, except that the period of notice shall be seven (7) days instead of thirty (30) days.

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### **Use of UNAIDS name and emblem**

Without UNAIDS's prior written approval, the Contractor shall not, in any statement of an advertising or promotional nature, refer to the Contract or his relationship with UNAIDS. In no case shall the Contractor use the name or the emblem of the UNAIDS, or any abbreviation thereof, in relation to its business or otherwise.

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### **Successors and Assignees**

The Contract shall be binding upon the successors and assignees of the Contractor and the Contract shall be deemed to include the Contractor's successors and assignees, provided, however, that nothing in the Contract shall permit any assignment without the prior and written approval of UNAIDS.

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### **Payment**

Payment will be made against presentation of an invoice in a UN convertible currency (preferably US Dollars) for each deliverable and subject to UNAIDS's acceptance of each such deliverable. Any payments by UNAIDS to the Contractor shall reflect any tax exemptions to which UNAIDS is entitled by reason of the immunity it enjoys. UNAIDS is exempt from all direct taxes, customs duties and the like and the Contractor shall consult with UNAIDS so as to avoid the imposition of such charges. As regards duties and other indirect taxes, the Contractor shall list such charges on invoices as a separate item and, to the extent required, cooperate with UNAIDS to enable reimbursement thereof.

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### **Title to Equipment**

Title to any equipment and supplies that may be furnished by UNAIDS shall rest with UNAIDS and any such equipment shall be returned to UNAIDS at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to UNAIDS, 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 UNAIDS for equipment determined to be damaged or degraded beyond normal wear and tear.

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### **Insurance and Liabilities to Third Parties**

The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.

The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.

The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract. Except for the workmen's compensation insurance, the insurance policies under this Article shall:

- a) Name UNAIDS as additional insured;
- b) Include a waiver of subrogation of the Contractor's rights to the insurance carrier against UNAIDS;
- c) Provide that UNAIDS shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

The Contractor shall, upon request, provide UNAIDS with satisfactory evidence of the insurance required under this Article.

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### **Settlement of Disputes**

Any dispute relating to the interpretation or application of the contract shall, unless amicably resolved, be subject to conciliation. In the event of failure of the latter, the dispute shall be settled by arbitration. The arbitration shall be conducted in accordance with the modalities to be agreed upon by the parties or, in the absence of agreement, with the rules of arbitration of the International Chamber of Commerce. The parties shall accept the arbitral award as final.

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### **Observance of the Law**

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

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### **Authority to Modify**

No modification or change in this Contract, no waiver of any of its provisions or any additional contractual relationship of any kind with the Contractor shall be valid and enforceable against UNAIDS unless provided by an amendment to this Contract signed by the authorized official of UNAIDS.

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### **Privileges and Immunities**

Nothing in or relating to this Contract shall be deemed a waiver of any of the privileges and immunities of UNAIDS in conformity with the Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on November 21, 1947 or otherwise under any national or international law, convention or agreement.

## **Personnel**

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### **Approval of Contractor Personnel**

UNAIDS reserves the right to approve any employee, subcontractor or agent furnished by the Contractor. All of the Contractor's employees, subcontractors or agents performing work under this Agreement must have appropriate levels of experience and be adequately trained to perform the services. UNAIDS reserves the right to undertake an interview process as part of the approval of Contractor personnel.

The Contractor acknowledges that the skill and experience of the Contractor's personnel proposed to be assigned to the project are material elements in UNAIDS's engaging the Contractor for the project. Therefore, in order to ensure timely and cohesive completion of the project, both parties intend that personnel initially assigned to the project continue through to project completion. Once an individual has been approved and assigned to

the project, such individual will not thereafter be taken off the project by the Contractor, or reassigned by the Contractor to other duties involving comparable employment by the Contractor while the project is in progress and for so long as there has been no suspension. Circumstances may arise, however, which necessitate that personnel be substituted during the progress of work due to delays or due to promotions, termination, sickness, vacation or other similar material change in the employment circumstance of the employee, at which time a replacement of comparable background and experience may be substituted, subject to approval of UNAIDS.

UNAIDS may refuse access to or require replacement of any employee, subcontractor or agent of the Contractor if such individual renders, in the sole judgment of UNAIDS, inadequate or unacceptable performance, or if for any other reason UNAIDS finds such individual does not meet its security or responsibility requirements. The Contractor shall replace such an individual within fifteen (15) business days of receipt of written notice. The replacement will be comparable in skills required and will be billed at a rate that is equal to or less than the rate of the individual being replaced.

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### **Project Managers**

Each party shall appoint a qualified project manager ("Project Manager") UNAIDS shall serve as such party's primary liaison throughout the course of the project including the Services. The Project Manager shall be authorized by the respective party to answer all questions posed by the other party and convey all decisions made by such party during the course of the project including the Services and the other party shall be entitled to rely on such information as conveyed by the Project Manager.

The Project Managers shall meet on a monthly basis in order to review the status of the project and provide UNAIDS with reports. Such reports shall include detailed time distribution information in the form requested by UNAIDS, which will be used to provide the Contractor's billing information to UNAIDS and shall cover problems, meetings, progress and status against the implementation timetable.

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### **Foreign Nationals**

The Contractor shall verify that all its employees, agents and subcontractors are legally entitled to work in Switzerland and other countries required by the nature of the assignment. UNAIDS reserves the right to request legally mandated Contractor-held documentation attesting to the same for each employee, agent or subcontractor of the Contractor assigned to work on the project. Each party hereby represents that it does not discriminate against individuals on the basis of race, gender, creed, national origin, citizenship.

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### **Compliance with UNAIDS's Policies**

The Contractor shall at all times comply with and ensure that the Contractor and each of its subcontractors and their employees and agents comply with any applicable laws and regulations and any UNAIDS policies and all UNAIDS reasonable written direction and procedures relating to: (i) occupational health and safety, (ii) security and administrative requirements, including, but not limited to computer network security procedures, (iii) sexual harassment, (iv) privacy, (v) general business conduct and disclosure, (vi) conflicts of interest and (vii) business working hours and official holidays.

In the event that the Contractor becomes aware of any violation or potential violation by the Contractor, its subcontractor or any of their employees or agents, of any laws, regulations, UNAIDS policies or of other UNAIDS reasonable written directions and procedures, the Contractor shall immediately notify UNAIDS of such violation. UNAIDS,

in its sole discretion, shall determine the course of action to remedy such violation, in addition to any other remedy available to UNAIDS in law or equity or under this Agreement.

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### **Ethical Behaviour**

UNAIDS, the Contractor and each of the Contractor's subcontractors and their employees and agents shall adhere to the highest ethical standards in the performance of this Agreement.

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### **Engagement of Third Parties and use of In-house Resources**

The Contractor acknowledges that UNAIDS may elect to engage Third Parties to participate in or oversee certain aspects of the project and that UNAIDS may elect to use its in-house resources for the performance of certain aspects of the project. The Contractor shall at all times cooperate with and ensure that the Contractor and each of its subcontractors and their employees and agents cooperate, in good faith, with such Third Parties and with any UNAIDS in-house resources.