

# GENERAL CONDITIONS- Consultants

## 1. LEGAL STATUS

The Consultant shall perform the work under this contract as an independent contractor in a personal capacity, and not as a representative of any entity or authority. The execution of the work under this contract does not create an employer/employee relationship between UNAIDS and the Consultant. The Consultant is neither a "staff member" under the UNAIDS Staff Regulations and policies and procedures, nor an "official" for the purpose of the 1947 Convention on the privileges and immunities of the Specialized Agencies. Depending on the situation, Consultants may be accorded the status of "expert" performing missions for UNAIDS within the meaning of Annex VII of the aforesaid Convention. If the Consultant is required to travel at the request of UNAIDS, he/she may be given a United Nations certificate.

The consultant certifies that if they are former UNAIDS staff members who accepted a separation by mutual agreement (SMA) are not assigned to projects involving UNAIDS for a period of five (5) years following their separation from the Organization.

## 2. CODE OF CONDUCT

**2.1** The Consultant agrees to respect the impartiality and independence of UNAIDS and shall neither seek nor accept instructions regarding the work to be performed under this contract from any Government or from any authority external to the UNAIDS. During the period of this contract, the Consultant shall refrain from any conduct that may adversely reflect on UNAIDS and shall not engage in any activity that is incompatible with the aims and objectives of the Organization.

**2.2 Compliance with UNAIDS Codes and Policies.** By entering into this agreement, the Consultant acknowledges that it has read, and hereby accepts and agrees to comply with the WHO/UNAIDS Policies (as defined below). In connection with the foregoing, the Consultant shall not engage in any conduct that would constitute a violation of the standards of conduct, as described in the WHO/UNAIDS Policies. Without limiting the foregoing, the Consultant shall promptly report to UNAIDS, in accordance with the terms of the applicable WHO/UNAIDS Policies, any actual or suspected violations of the WHO/UNAIDS Policies of which the Consultant becomes aware. For the purposes of this contract, the terms "WHO/UNAIDS Policies" means collectively: (i) the WHO Code of Ethics and Professional Conduct; (ii) the WHO Policy on the Preventing and Addressing Sexual Misconduct (PASM) (iii) the WHO Policy on Preventing and Addressing Abusive Conduct; (iv) the WHO Code of Conduct for Responsible Research; (v) the WHO Policy on Whistleblowing and Protection Against Retaliation; (vi) the UNAIDS Secretariat Ethics Guide; (vii) the UN Standards of Conduct for International Civil Service; and (viii) the UN Supplier Code of Code, in each case, as amended from time to time and which are publicly available on the WHO website at the following links: <http://www.who.int/about/finances-accountability/procurement/en/> for the UN Supplier Code of Conduct and at <http://www.who.int/about/ethics/en/> for the other WHO Policies.

**2.3 Zero tolerance for sexual exploitation and abuse, sexual harassment, and other types of abusive conduct.** UNAIDS has zero tolerance towards sexual exploitation and abuse, sexual harassment and other types of abusive conduct. In this regard, and without limiting any other provisions contained herein, the Consultant warrants that he/she shall (i) not engage in any conduct that would constitute sexual exploitation or abuse as described in the WHO Policy on Sexual Exploitation and Abuse Prevention and Response, and/or sexual harassment and other types of abusive conduct as described in the WHO Policy on Preventing and Addressing Abusive Conduct; and (ii) promptly report to UNAIDS, in accordance with the terms of the respective Policies, any actual or suspected violations of either Policy of which the Consultant becomes aware.

## 3. CONFIDENTIALITY

The Consultant shall exercise the utmost discretion in all matters relating to the performance of work under this contract. The Consultant shall treat all information (in whatever format) to which he/she may gain access in connection with or as a result of the work to be performed under the contract, as confidential and proprietary, and agrees to take all reasonable measures to ensure that such information:

- is not used for any purpose other than the performance of the work; and
- is disclosed and provided only to persons who have a need to know for the purpose of performing the work and are bound by like obligations of confidentiality and non-use as contained in this contract.

The Consultant shall not be bound by any obligation of confidentiality or non-use, to the extent he/she is clearly able to demonstrate that the information is or becomes part of the public domain through no fault of the Consultant.

The Consultant agrees to return any and all copies of the aforesaid information to UNAIDS upon completion of the work.

In addition, the Consultant undertakes to abide by similar obligations of confidentiality and non-use as provided above with regard to the work performed under this contract.

The above-mentioned obligations of confidentiality and restrictions on use shall survive the expiry or earlier termination of this contract.

## 4. TITLE RIGHTS

All rights in the work, including ownership of the original work and copyright thereof, shall be vested in UNAIDS, which reserves the right (a) to revise the work, (b) to use the work in a different way from that originally envisaged, or (c) not to publish or use the work.

## 5. TRAVEL

If Consultants are required by UNAIDS to travel beyond commuting distance from their usual place of residence, any reimbursement of such travel shall be governed by conditions equivalent to the relevant travel policies of UNAIDS. It is the Consultant's responsibility to ensure that he/she holds the required visas and/or work permit(s) to perform work in the place(s) of assignment. The contract shall not become effective, and the Consultant shall not commence work on the contract, until the Consultant has obtained all necessary visa(s) and/or work permit(s) (if any).

In the event that, during the term of contract, the Consultant is required to undertake travel (and no travel was foreseen at the time of signature of the contract), UNAIDS shall be entitled to adjust or terminate the contract if the Consultant does not obtain the necessary visa(s).

## 6. MEDICAL CLEARANCE

In accordance with UNAIDS' instructions, Consultants shall be required to provide a duly completed and signed Medical Certificate of Fitness for Work. If no duly completed and signed Medical Certificate of Fitness for Work is obtained by UNAIDS by the start date of the contract, the contract shall not become effective, and the Consultant shall not commence work on the contract.

## 7. DECLARATION OF INTERESTS

UNAIDS shall require the Consultant to complete a UNAIDS Declaration of Interest ("DoI") and disclose any circumstances that could give rise to a potential conflict of interest in relation to the work. In particular, the Consultant is required to disclose relationships he/she may have with the tobacco and/or arms industry.

In such event, the DoI Form must be completed by the Consultant and evaluated by UNAIDS, before the contract can become effective. Thus, the Consultant undertakes not to commence work on the contract, until UNAIDS has confirmed to the Consultant in writing that the information disclosed by the Consultant does not require modification or cancellation of the contract.

## 8. TOBACCO/ARMS RELATED DISCLOSURE STATEMENT

The Consultant may be required to disclose relationships they may have with the tobacco and/or arms industry through completion of the WHO Tobacco/Arms Disclosure Statement. In the event WHO/UNAIDS requires completion of this Statement, the Consultant undertakes not to permit work on the agreement to commence, until UNAIDS has assessed the disclosed information and confirmed to the Consultant in writing that the work can commence.

## 9. ANTI-TERRORISM AND UN SANCTIONS; FRAUD AND CORRUPTION

The Consultant warrants for the entire duration of the contract that:

- (i) it is not and will not be involved in, or associated with, any person or entity associated with terrorism, as designated by any UN Security Council sanctions regime, that it will not make any payment or provide any other support to any such person or entity and that it will not enter into any employment or subcontracting relationship with any such person or entity.
- (ii) it shall not engage in any illegal, corrupt, fraudulent, collusive or coercive practices (including bribery, theft and other misuse of funds) in connection with the execution of the contract; and
- (iii) the Consultant shall take all necessary precautions to prevent the financing of terrorism and/or any illegal corrupt, fraudulent, collusive or coercive practices (including bribery, theft and other misuse of funds) in connection with the execution of the contract.

Any payments used by the Consultant for the promotion of any terrorist activity, or any illegal, corrupt, fraudulent, collusive or coercive practice shall be repaid to UNAIDS without delay.

## 10. RESEARCH INVOLVING HUMAN PARTICIPANTS

If and to the extent the work to be performed under this agreement includes surveys or interviews involving human participants (hereinafter referred to as "research"), the following shall apply:

**10.1 Ethical Aspects.** It is the responsibility of the contractor to safeguard the rights and welfare of human subjects involved in research performed under this agreement, in accordance with the appropriate national code of ethics or legislation, if any, and in the absence thereof, the Helsinki Declaration and any subsequent amendments. Prior to commencing any such research, the contractor shall ensure that (a) the rights and welfare of the subjects involved in the research are adequately protected, (b) freely given informed consent has been obtained for all participants, (c) the balance between risk and potential benefits involved has been assessed and deemed acceptable by a panel of independent experts appointed by the contractor, and (d) any special national requirements have been met.

**10.2 Regulatory Requirements.** It is the responsibility of the contractor to comply with the relevant national regulation pertaining to research involving human subjects.

**10.3 Protection of Subjects.** Without prejudice to obligations under applicable laws, the contractor shall make appropriate arrangements to eliminate or mitigate any negative consequences to subjects or their families resulting from the conduct of the research under this agreement. Such arrangements shall to the extent feasible include appropriate counselling, medical treatment and financial relief. The contractor furthermore undertakes to protect the confidentiality of the information relating to the possible identification of subjects involved in the research.

## 11. CONCURRENT CONTRACTS

By signing this contract, the Consultant certifies that he/she does not presently, and will not during the term of this contract:

- (1) hold any form of contractual relationship with UNAIDS that confers upon the Consultant the status of a UNAIDS staff member (whether at UNAIDS HQ, any UNAIDS regional, country or project office, or any programme, centre or other entity where staff is subject to UNAIDS Staff Regulations and Rules; and/or
- (2) hold concurrently with this contract any other non-staff contract issued by UNAIDS (Agreement for Performance of Work, Consultant Contract or other contract pursuant to which he/she will deliver work to UNAIDS), where the overall work required of the Consultant under the various contracts is equal to 40 hours per week or more. The Consultant understand that a false statement may result in the cancellation of any or all contracts, and/or withdrawal of any offer of a contract, with UNAIDS.

## 12. RESPONSIBILITY

12.1 As provided in section 1 above, the execution of the work does not create any employer/employee relationship between UNAIDS and the Consultant.

12.2 Accordingly, the Consultant 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 suffered by the Consultant and/or any other person whatsoever arising in or out of the execution of the work, including travel. Without prejudice to the foregoing and without altering the foregoing in any way, UNAIDS shall, subject to the following paragraph, provide the Consultant with insurance coverage for accidents and emergency\* illness sustained during the performance of the work, as provided below.

12.3 The Consultant is solely responsible for verifying and complying with all national, local and other legal requirements (including, without limitation, with respect to health, medical and/or life insurance coverage, taxation, social security and other matters) which are applicable to the Consultant in each location in which the work under this contract is performed.

12.4 The Consultant must complete the designation, change or revocation of beneficiary form provided by UNAIDS prior the commencement of the work.

### **13. INSURANCE**

13.1 The Consultant agrees and accepts that, except as explicitly provided herein, he/she shall not be entitled to any other insurance coverage, benefits and/or allowances.

13.2 The Consultant is solely responsible for obtaining and maintaining, at the Consultant's sole expense, any health, medical, life and/or other insurance coverage, under any relevant national, institutional, or private insurance schemes, which is required pursuant to any laws, rules, or regulations applicable to the Consultant and/or the work in all locations in which the Consultant shall undertake the work on behalf of UNAIDS.

13.3 Provided that UNAIDS has received a duly completed and signed Medical Certificate of Fitness for Work from the Consultant, the Consultant shall be covered, subject to the conditions and limits contained in the insurance policy, for (i) compensation in case of accidental death or permanent disability and (ii) medical expenses in case of accident or emergency\* illness. A description of the coverage pursuant to the afore-mentioned insurance policy and an information booklet containing additional information, including with regard to the procedure for submission and reimbursement of claims, are available on the website of Cigna: [www.cignahealthbenefits.com](http://www.cignahealthbenefits.com) under "Plan members". The standard reference number 378/WHCPVE should be entered and on the next screen, the standard date of birth 31/01/1977.

*\*Note: "Emergency (as used herein) means a life-threatening situation or situation where the patient must start treatment within 48 hours and for whom travel is not possible for medical reasons.*

13.4 For travel in UNAIDS vehicles, UNAIDS may provide passenger insurance covering the Consultant.

13.5 UNAIDS does not assume any responsibility for non-payment by the insurance company of all or part of a claim submitted by the Consultant hereunder. Insurance claims must be submitted by the Consultant directly to the insurance company, which will review and process the claim without the involvement of UNAIDS. Any appeals related to any insurance claim or parts thereof must be referred directly by the Consultant to the insurance company.

13.6 Any insurance coverage provided by UNAIDS ceases upon the expiration or earlier termination of the contract.

### **14. PERFORMANCE OF WORK**

If the work is not satisfactorily completed (and, where applicable, delivered) by the date specified in this contract (including in respect of the submission of any required technical and financial reports), UNAIDS may specify an additional period for this purpose. Normally such additional period shall be at least one week, unless it is clear from the contract that it was particularly important that the performance be completed and delivered on the date specified, in which case UNAIDS may specify a shorter period or refuse to grant any additional period at all. In the event that the work is not satisfactorily performed and delivered on the date specified, or any additional period granted by UNAIDS (including in respect of the submission of any required technical and financial reports), UNAIDS may rescind this contract (in addition to the other remedies), subject to an equitable arrangement being made in case of delay caused by force majeure.

Any technical report or financial statement required shall be submitted by the date set in this contract, but in any event no later than the deadline for completion of the work.

### **15. TERMINATION OF CONTRACT**

In the event the Consultant fails to satisfactorily perform the work or otherwise breaches any of the terms of this contract, UNAIDS shall be entitled to terminate this contract in writing with immediate effect.

### **16. TAXATION AND SOCIAL SECURITY**

UNAIDS shall have no responsibility whatsoever for any taxes, duties, social security contributions or other contributions payable by the Consultant. The Consultant shall be solely responsible for withholding and paying any taxes, duties, social security contributions and any other contributions which are applicable to the Consultant in each location in which the work hereunder is performed, and the Consultant shall not be entitled to any reimbursement thereof by UNAIDS. Without limiting the foregoing, Consultants working in Switzerland must register with the applicable Swiss cantonal tax authorities and social security authorities, within the prescribed timeframes.

### **17. REMUNERATION AND REIMBURSEMENT OF EXPENSES**

If this contract provides for the payment of an all-inclusive sum, that sum is payable in the manner provided, subject to satisfactory performance and delivery of the work (including receipt of any required technical reports). If this contract provides for the payment of a maximum amount, the funds shall be used exclusively for the work specified in this contract and any unspent balance of advance payments shall be refunded to UNAIDS. Payment shall be made in the manner provided subject to satisfactory performance and delivery of the work (including receipt of any required technical reports) and where applicable, subject to receipt of the required financial statements outlining and justifying the number of days or weeks worked and/or justifying any agreed expenses (including through the submission of written vouchers).

### **18. MISCELLANEOUS**

#### **Contract**

The Annexes attached hereto form an integral part of this contract. The relationship between the parties is subject only to the terms and conditions of this contract and its annexes. Any contractual terms and conditions of the Consultant, whether included in his/her offer, invoices and/or any other document, are hereby excluded.

#### **Information provided by the Consultant**

The Consultant certifies that any and all information provided to UNAIDS prior to the issuance and execution of the contract (including but not limited to information concerning family relationships with serving UNAIDS staff members, previous employment or assignments with UNAIDS, and/or his or her higher educational qualifications) is true and complete to the best of the Consultant's knowledge.

The Consultant understands that a false statement may result in the cancellation of any or all contracts, and/or the withdrawal of any offer of a contract, with UNAIDS.

#### **Breach of essential terms**

The Consultant acknowledges and agrees that each of the provisions of Paragraphs 2.2, 2.3, 8, 9 hereof constitutes an essential term of this contract, and that in case of breach of any of these provisions, UNAIDS may, in its sole discretion, decide to:

- (i) terminate this contract, and/or any other contract concluded by UNAIDS with the Consultant, immediately upon written notice to the Consultant, without any liability for termination charges or any other liability of any kind; and/or
- (ii) exclude the Consultant from participating in any ongoing or future tenders and/or entering into any future contractual or collaborative relationships with UNAIDS.

UNAIDS shall be entitled to report any violation of such provisions to UNAIDS governing bodies, other UN agencies, and/or donors.

#### **Use of UNAIDS Name and Emblem**

Without UNAIDS prior written approval, the Consultant shall not advertise, or seek promotion of, the fact that he/she is a consultant to the Joint United Nations Programme on HIV/AIDS. Also, the Consultant shall in no other manner whatsoever use the name, emblem, or official seal of UNAIDS in connection with his/her business or otherwise.

#### **Privileges and Immunities of UNAIDS**

Nothing contained in this contract shall be construed as a waiver of any of the privileges and immunities enjoyed by UNAIDS under national or international law, and/or as submitting UNAIDS to any national court jurisdiction.

#### **19. SETTLEMENT OF DISPUTES**

Any matter relating to the interpretation or application of this agreement which is not covered by its terms shall be resolved by reference to Swiss law. Any dispute relating to the interpretation or application of this agreement shall, unless amicably settled, 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.