GENERAL CONDITIONS OF CONTRACT

FOR THE SERVICES OF INDIVIDUAL CONTRACTORS

1. LEGAL STATUS: The individual contractor shall have the legal status of an independent contractor vis-a-vis the United Nations Development Programme (UNDP), and shall not be regarded, for any purposes, as being either a "staff member" of UNDP, under the UN Staff Regulations and Rules, or an "official" of UNDP, for purposes of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946. Accordingly, nothing within or relating to the Contract shall establish the relationship of employer and employee, or of principal and agent, between UNDP and the Individual contractor. The officials, representatives, employees or subcontractors of UNDP and of the Individual contractor, if any, shall not be considered in any respect as being the employers or agents of the other, and UNDP and the Individual contractor shall be solely responsible for all claims arising out of or relating to their engagement of such persons or entities.

2. STANDARDS OF CONDUCT: In General: The Individual contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of his or her obligations under the Contract. The Individual contractor shall promptly notify UNDP and shall provide all reasonable assistance required by UNDP. The Individual contractor shall not take any action in respect of his or her performance of the Contract or otherwise related to his or her obligations under the Contract that may adversely affect the interests of UNDP.

3. INFRASTRUCTURE INFORMATION AND DATA: The information and data that are delivered or disclosed by any other party to the Individual contractor or that are delivered or disclosed by one of them ("Discloser") to the other ("Recipient") during the course of performance of the Contract shall be handled as confidential ("Information") shall be held in confidence and shall be handled as follows. The Recipient of such information shall use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser’s Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate, and the Recipient may otherwise use the Discloser’s Information solely for the purpose for which it was disclosed. The Recipient may disclose confidential Information to any other party with the Discloser’s prior written consent, as well as to the Recipient’s officials, representatives, employees, subcontractors, and agents who have a need to know such confidential Information for purposes of performing obligations under the Contract, subject to and without any waiver of the privileges and immunities of UNDP, the Individual contractor, and any other party. The Individual contractor may disclose Information to the extent necessary to comply with any laws or rules promulgated by the Secretary-General. The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Recipient to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any other information related to the award of the Contract.

4. TRAVEL, MEDICAL CLEARANCE AND SERVICE INCURRED DEATH:

Travel beyond commuting distance from the Individual contractor’s usual place of residence, and on prior written agreement, such travel shall be at the expense of UNDP. Such travel shall be at economy fare when by air.

UNDP may require the Individual contractor to submit a “statement of good health” from a recognized physician prior to commencement of services in any offices or premises of UNDP, or before engaging in any travel required by UNDP, or connected with the performance of the Contract. The Individual contractor shall provide such a statement as soon as practicable following any such request, and prior to engagement in any such travel, and the Individual contractor warrants the accuracy of any such statement, including, but not limited to, confirmation that the Individual contractor has been fully informed regarding the requirements for travel to any country or countries to which travel may be authorized.

In the event of death, injury or illness of the Individual contractor which is attributable to the performance of services on behalf of UNDP under the terms of the Contract while the Individual contractor is traveling at UNDP expense or is
performing any services under the Contract in any offices or premises of UNDP, the Individual contractor or the Individual contractor’s dependents, as appropriate, shall be entitled to compensation equivalent to that provided under the UNDP insurance policy, available upon request.

6. PROHIBITION ON ASSIGNMENT/MODIFICATIONS: The Individual contractor may not assign, delegate, transfer, pledge, or make any other disposition of the Contract, of any part thereof, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of UNDP, and any attempt to do so shall be null and void. The terms or conditions of any supplemental undertakings, licenses or other forms of Contract concerning any goods or services to be provided under the Contract shall not be valid and enforceable against UNDP nor in any way shall constitute a contract by UNDP thereto, unless any such undertakings, licenses or other forms of contract are the subject of a valid written undertaking by UNDP. No modification or change in the Contract shall be valid and enforceable against UNDP unless provided by means of a valid written amendment to the Contract signed by the Individual contractor and an authorized official or appropriate contracting authority of UNDP.

7. SUBCONTRACTORS: In the event that the Individual contractor requires the services of subcontractors to perform any obligations under the Contract, the Individual contractor shall obtain the prior written approval of UNDP for any such subcontractors. UNDP may, in its sole discretion, reject any proposed subcontractors or require such subcontractor’s removal without having to give any justification therefore, and such rejection shall not estop the Individual contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of his or her obligations under the Contract. The Individual contractor shall be solely responsible for all services and obligations performed by his or her subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

8. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF THE UNITED NATIONS: The Individual contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with UNDP, nor shall the Individual contractor, in any manner whatsoever, use the name, emblem or official seal of UNDP, or any abbreviation of the name of UNDP, in connection with his or her business or otherwise without the written permission of UNDP.

9. INDEMNIFICATION: The Individual contractor shall indemnify, defend, and hold and save harmless UNDP, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or character including, but not limited to, all litigation costs and expenses, a lawyer’s fees, settlement payments and damages, based on, arising from, or relating to (a) allegations or claims that the use by UNDP of any patented device, copyrighted material or any other right or property right of any third party, (b) any breach of any agreement with any third party, (c) any products liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers’ compensation.

10. INSURANCE: The Individual contractor shall pay UNDP promptly for all loss, destruction or damage to the property of UNDP caused by the Individual contractor, or by any subcontractor, or anyone directly or indirectly employed by them in the performance of the Contract. The Individual contractor shall be solely responsible for taking out and for maintaining adequate insurance required to meet any of his or her obligations under the Contract, as well as for arranging, at the Individual contractor’s sole expense, such life, health and other forms of insurance as the Individual contractor may consider to be appropriate to cover the period during which the Individual contractor provides services under the Contract. The Individual contractor acknowledges and agrees that none of the insurance arrangements the Individual contractor shall, in any way, be construed to limit the individual contractor’s liability arising under or relating to the Contract.

11. ENCUMBERANCES AND LIENS: The Individual contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on any property, purchased or held by the Contractor, on file in any exhibition, on deposit due to the Individual contractor or to become due for any work done or against any goods supplied or materials furnished under the Contract, by reason of any other claim or demand against the Individual contractor.

12. FORCE MAJEURE: OTHER CHANGES IN CONDITIONS: In the event of and as soon as possible after the occurrence of any cause constituting force major, the Individual contractor shall give notice and full particulars in writing to UNDP of such occurrence or cause if the Individual contractor is thereby rendered unable, wholly or in part, to perform his or her obligations and meet his or her responsibilities under the Contract. The Individual contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event, which interferes or threatens to interfere with the performance of the Contract. Not more than fifteen (15) days following the provision of such notice, the Individual contractor shall submit a statement to UNDP of estimated expenditures that will likely be incurred for the duration of the change in conditions or the event. In the receipt of the notice or notices required hereunder, UNDP shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Individual contractor of a reasonable extension of time in which to perform any obligations under the Contract or suspension thereof.

Force major as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, insurrection, 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 Individual contractor. The Individual contractor acknowledges that and agrees that, with respect to any obligations under the Contract that the Individual contractor must perform or in any areas in which UNDP is engaged in, preparing to engage in, or in any way associated with, humanitarian or similar operations, any delay or failure to perform such obligations arising from or relating to such conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, and in and of itself, constitute force major under the Contract.

13. TERMINATION: Either party may terminate the Contract, in whole or in part, upon giving written notice to the other party. The period of notice shall be five (5) days in the case of contracts for a total period of less than two (2) months and fourteen (14) days in the case of contracts for a longer period. The initiation of conciliation or arbitral proceedings, as provided below, shall not be deemed to be a ‘cause’ for or otherwise to be in itself a termination of the Contract. UNDP may, without prejudice to any other right or remedy, forthwith in the event that (a) the Individual contractor is adjudged bankrupt, or is liquidated, or becomes insolvent, applies for moratorium or stays on any payment or repudiation obligations, or applies to obtain stay of the execution of a judgment or any declared insolvent; (b) the Individual contractor makes an assignment for the benefit of one or more of his or her creditors; (c) a Receiver is appointed on account of the insolvency of the Individual contractor or the Individual contractor offers a settlement in lieu of bankruptcy or receivership; or (d) UNDP reasonably determines that the Individual contractor has become subject to a materially adverse change in financial condition that threatens to endanger the ability of the Individual contractor to perform any of the obligations under the Contract. In the event of any termination of the Contract, upon receipt of notice of termination by UNDP, the Individual contractor undertakes, in the notice of termination or otherwise in writing: (a) take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses and losses to a minimum; (b) promptly prepare and forward to UNDP any further or additional commitments under the Contract as of and following the date of receipt of such notice; (c) deliver all completed or partially completed films, scripts, storyboards, story points, drawings, information and other property owned or held by the Individual contractor, or of any subcontractor or anyone directly or indirectly employed by them in the performance of the Contract, which give rise to legal liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers’ compensation.

14. NON-EXCLUSIVITY: UNDP shall have no obligation respecting, and no limitations on, its right to obtain goods of the same kind, quality and quantity, or to obtain any services of the kind described in the Contract, from any other source at any time.

15. TAXATION: Article II, section 7, of the Convention on the Privileges and Immunities of the United Nations provides, inter alia, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for the use of specific utility services, and is exempt from all import duties, customs, taxes and other obligations or duties or charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the exemptions of the United Nations from such taxes, restrictions, duties or charges, the Individual contractor shall immediately consult with UNDP to determine a mutually acceptable procedure. UNDP shall have no liability for taxes, duties or other similar charges payable by the Individual contractor in respect of any amounts paid to the Individual contractor under this Contract, and the Individual contractor acknowledges that UNDP will not issue any statements of earnings to the Individual contractor in respect of any such payments.
16. AUDITS AND INVESTIGATIONS: Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or by other authorized and qualified agents of UNDP. The Individual contractor acknowledges and agrees that UNDP may conduct investigations relating to any aspect of the Contract or the award thereof, and the obligations performed thereunder.

The Individual contractor shall provide full and timely cooperation with any post-payment audits or investigations hereunder. Such cooperation shall include, but shall not be limited to, the Individual contractor’s obligation to make available any relevant documentation and information for the purposes of a post-payment audit, or an investigation at reasonable times and on reasonable conditions. The Individual contractor shall require his or her employees, subcontractors and agents, if any, including, but not limited to, the Individual contractor’s attorneys, accountants or other advisers, to reasonably cooperate with any post-payment audits or investigations carried out by UNDP hereunder.

If the findings or circumstances of a post-payment audit or investigation so warrant, UNDP may, in its sole discretion, take any measures that may be appropriate or necessary, including, but not limited to, suspension of the Contract, with no liability whatsoever to UNDP.

The Individual contractor shall refund to UNDP any amounts shown by a post-payment audit or investigation to have been paid by UNDP other than in accordance with the terms and conditions of the Contract. Such amount may be deducted by UNDP from any payment due to the Individual contractor under the Contract.

The right of UNDP to conduct a post-payment audit or an investigation and the Individual contractor’s obligation to comply with such shall not lapse upon expiration or prior termination of the Contract.

17. SETTLEMENT OF DISPUTES:

AMICABLE SETTLEMENT: UNDP and the Individual contractor shall use their best efforts to amicably settle any dispute, controversy or claim arising out of the Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules then obtaining of the United Nations Commission on International Trade Law (“UNCITRAL”), or according to such other procedure as may be agreed upon by the parties in writing.

ARBITRATION: Any dispute, controversy or claim between the parties arising out of the Contract, or the breach, termination, or invalidity thereof, unless settled amicably as provided above, shall be referred to either of the parties to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 (“Interim Measures of Protection”) and Article 32 (“Form and Effect of the Award”) of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate (“LIBOR”) then prevailing, and any such interest shall be simple interest only. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy or claim.

18. LIMITATION ON ACTIONS: Except with respect to any indemnification obligations in Article 9, above, or as are otherwise set forth in the Contract, any arbitral proceedings in accordance with Article 17, above, arising out of the Contract must be commenced within three (3) years after the cause of action has accrued.

The Parties further acknowledge and agree that, for these purposes, a cause of action shall accrue when the breach actually occurs, or, in the case of latent defects, when the injured Party knew or should have known all of the essential elements of the cause of action, or in the case of a breach of warranty, when tender of delivery is made, except that, if a warranty extends to future performance of the goods or any process or system and the discovery of the breach subsequently must await the time when such goods or other process or system is ready to perform in accordance with the requirements of the Contract, the cause of action accrues when such time of future performance actually begins.

19. PRIVILEGES AND IMMUNITIES: Nothing in or relating to the Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.