

NON-DISCLOSURE AGREEMENT

BETWEEN:

The Union of journalists of South Sudan (UJOSS) whose principal place of business is at 2nd floor, Commercial Centre, Opposite Sadecco, Juba- South Sudan.

And

[----- *in South Sudan*] (The “**Recipient**”).

The UJOSS has agreed to provide to the Recipient information relating to [-----] (the “**Project**”). The UJOSS and the Recipient are entering into this Agreement (“**Agreement**”) in order to define their respective rights and obligations in relation to the disclosure of Confidential Information by the UJOSS to the Recipient in connection with the Project.

1 Definitions

In this Agreement:

- 1.1 “**Confidential Information**” means information whether in written or any other form whatsoever which:
 - 1.1.1 by its nature is confidential, is designated by the Union of Journalists of South Sudan as confidential; or the Recipient knows or ought to know is confidential; and;
 - 1.1.2 Is disclosed by or on behalf of the UJOSS to the Recipient, or otherwise is in the possession of the Recipient, in connection with the Project and whether disclosed before, on or after the effective date at the top of this Agreement.
- 1.2 Notwithstanding Clause 1.1 above, Confidential Information shall not include information which:
 - 1.2.1 entered or subsequently enters the public domain without breach of this Agreement or any other obligation of confidentiality by the Recipient;
 - 1.2.2 the Recipient can demonstrate was already in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the UJOSS and was not previously acquired from the UJOSS under any obligation of confidentiality;
 - 1.2.3 is disclosed to the Recipient by a third party without breach by the Recipient or such third party of any obligation of confidentiality owed to the UJOSS;
 - 1.2.4 the Recipient can demonstrate is independently developed or discovered by or for it not as a result of any activities relating to the Project;
 - 1.2.5 is hereafter disclosed by the UJOSS to a third party without restriction on disclosure or use, including, by way of the publication of a patent specification;
 - 1.2.6 is disclosed by the Recipient with the prior written permission of the UJOSS; and;
 - 1.2.7 is required to be disclosed in accordance with the Freedom of Information Act (FOIA), if applicable, or otherwise is required to be disclosed by law, order of court, the requirements of any regulatory or taxation authority or the rules of any stock exchange.
- 1.3 “**FOIA**” means the Freedom of Information Act or any replacement legislation.
- 1.4 “**Purpose**” means any discussions and negotiations between or within the parties concerning or in connection with the Project.
- 1.5 Headings are for reference only and shall have no effect on the interpretation of this Agreement.
- 1.6 References to “includes”, “including”, “for example” or “such as” shall not imply any form of limitation.

2 Restrictions on Disclosure and Use

In consideration of the UJOSS's disclosure of Confidential Information, and subject always to the requirements of Clause 3, the Recipient undertakes to the UJOSS:

- 2.1 to keep the Confidential Information confidential at all times;
- 2.2 to use it only for the Purpose and not for any other purpose including not to make any commercial use of it and not to use the same for the benefit of itself or any third party other than pursuant to a further agreement with the UJOSS. For the avoidance of any doubt, the disclosure of the Confidential Information by the UJOSS does not in itself constitute an offer by the other nor form the basis of any future contract unless the parties specifically agree otherwise.
- 2.3 not to disclose, without the UJOSS's prior written consent:
 - 2.3.1 the fact that the Confidential Information has been made available to the Recipient or any other person or;
 - 2.3.2 the fact of discussions or negotiations between the Recipient and the UJOSS in relation to the Project; or
 - 2.3.3 any proposed or possible terms and conditions which are applicable in relation to the Project;
- 2.4 to take reasonable security precautions (at least as comprehensive as the precautions the Recipient takes to protect its own confidential information which the Recipient warrants are adequate to prevent unauthorised disclosure, copying or use) to keep confidential the Confidential Information;
- 2.5 not to disclose Confidential Information to any person except in confidence to such of its directors, employees and professional advisers who reasonably need access to the Confidential Information for the Purpose and provided that all such persons to whom Confidential Information is so disclosed are informed of the terms of this Agreement and prior to disclosure to them either.
 - 2.5.1 are obliged by their contracts of employment or service not to disclose the same; or
 - 2.5.2 where non-existing contractual obligation exists, have entered into legally binding confidentiality agreements on equivalent terms to this Agreement;
- 2.6 to be responsible for the performance of Clauses 2.1, 2.2, 2.3 and 2.4 above on the part of its directors, employees and professional advisers to whom Confidential Information is disclosed pursuant to Clause 2.5 above;
- 2.7 not to copy, reproduce, summarise or reduce to writing any part of any Confidential Information except as may be reasonably necessary for the Purpose and that any copy or copies, reproductions, summaries or reductions so made shall be the property of the UJOSS, and;
- 2.8 Not to reverse engineer, decompile or disassemble any software disclosed by the UJOSS.

3 FOIA and other Compulsory Disclosure

- 3.1 The Recipient recognises that, if Freedom of Information Act is applicable, the UJOSS may be required to release information under FOIA whether the information is held by the UJOSS, by the Recipient or another person on behalf of the UJOSS. If the UJOSS receives a FOIA request for information and requires assistance in obtaining such information, the Recipient (or any agent or sub-contractor of the Recipient) shall at its own cost ensure (and procure that any of its agents and sub-contractors so ensure) that the UJOSS's request for assistance is responded to promptly and in any event within five (5) calendar days of receipt.
- 3.2 In the event that the Recipient is required by law to disclose Confidential Information the Recipient will provide the UJOSS with prompt written notice thereof and shall use reasonable endeavours to consult with the UJOSS with a view, as far as practicable, to taking into account the UJOSS's views in determining whether to disclose the information and/or the timing, manner and content of disclosure.

4 Notification of Unauthorised Disclosure

The Recipient shall notify the UJOSS immediately upon discovery of any unauthorised use or disclosure of Confidential Information by the Recipient or any person to whom it discloses pursuant to this Agreement, or any other breach of this Agreement by the Recipient or such other person, and shall co-operate with the UJOSS in every reasonable way to help the UJOSS regain possession of the Confidential Information and prevent its further unauthorised use.

5 Return of Confidential Information

- 5.1 Upon receipt of the UJOSS's request in writing the Recipient shall, and shall procure that any persons to whom it discloses Confidential Information pursuant to this Agreement shall to the extent technically possible, return to the UJOSS all documents and materials containing Confidential Information, (including any copies, reproductions, summaries and reductions to writing thereof) or, at the UJOSS's option, certify destruction of the same.
- 5.2 Notwithstanding the completion of the Purpose or the return of documents as contemplated in Clause 5.1 above, the Recipient shall continue to be bound by the undertakings set out in Clause 2.

6 Termination of Obligations

The obligations of the Recipient under Clause 2 of this Agreement shall expire (*indicate date, month and years*) years from the date of this Agreement.

7 Property in Confidential Information

All Confidential Information is and shall remain the property of the UJOSS nonetheless anything added thereto by the Recipient. By disclosing information to the Recipient, the UJOSS does not grant any express or implied right to the Recipient to or under any of the UJOSS's patents, copyrights, trademarks, or trade secret information. No warranty or representation, express or implied, is given as to the accuracy, efficiency, completeness, capabilities or safety of any materials or information provided under this Agreement.

8 Non-Assignment

This Agreement is personal to the parties and shall not be assigned or otherwise transferred in whole or in part by either party without the prior written consent of the other party.

9 Miscellaneous

- 9.1 Any notice required to be given pursuant to this Agreement shall be in writing and sent either by hand, by prepaid recorded delivery or registered post or by e-mail which has been received, as evidenced by receipt by the sender of a read receipt or acknowledgement by return email, to the relevant party at the address specified under its name below, and any such notice shall be deemed to have been received by the addressee at the time of delivery.
- 9.2 Any amendment or dissimilarity to this Agreement shall only be made by prior written agreement between the UJOSS and the Recipient.
- 9.3 The failure of either party to exercise or enforce any right conferred upon it by this Agreement shall not be deemed to be a waiver of any such right or operate so as to bar the exercise or execution thereof at any time(s) thereafter, as a waiver of another or constitute a continuing waiver.
- 9.4 Without prejudice to the rights of either party in respect of actions relating to fraudulent falsification, this Agreement and any appendices and any documents referred to in this Agreement constitute the entire understanding between the parties with respect to the subject matter thereof and supersedes all prior agreements, negotiations and discussions between the parties relating thereto.
- 9.5 The Recipient acknowledges that monetary damages may not be a sufficient remedy for unauthorised disclosure of Confidential Information and that the UJOSS shall be entitled, without waiving any other rights or remedies, to such injunctive or reasonable relief as may be deemed proper by a court of competent jurisdiction.
- 9.6 The unenforceability of any single provision of this Agreement shall not affect any other provision hereof. Where such a provision is held to be unenforceable, the parties shall use their best



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endeavours to negotiate and agree upon an enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the unenforceable provision.

- 9.7 This Agreement shall be governed by South Sudan media law. It is irrevocably agreed for the benefit of the UJOSS that the courts of South Sudan are to have jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and that accordingly any suit, action or proceeding arising out of or in connection with this Agreement (in this Clause referred to as "Proceedings") may be brought in such courts. Nothing in this Clause shall limit the right of the UJOSS to take Proceedings against the Recipient in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking by the UJOSS of Proceedings in any other jurisdiction, whether concurrently or not.
- 9.8 This Agreement may be executed in any number of counterparts, each of which when executed (and delivered or transmitted by electronic means) shall constitute a duplicate original, and all the counterparts shall together constitute the one agreement.

Signed for and on behalf of the
Union of Journalists of South Sudan

Signed for and on behalf of
[THE RECIPIENT]

Signature _____

Name _____

Title _____

Date _____

Signature _____

Name _____

Title _____

Date _____