



CITY OF CAPE TOWN | ISIXEKO SASEKAPA | STAD KAAPSTAD

AGREEMENT

THE CITY OF CAPE TOWN

and

GLOBAL METRO CITY – THE GLOCAL FORUM
(Registration Number: CH – 020.7.000.907-8)

Prepared by Ms Charnall Lynn Eastland on 5 May 2009
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ANNEXURES

- A Mayoral Committee's Resolution dated the 17th of October 2007.
- B MONACO – UNDP agreement dated the 27th of June 2007 (English translation.)
- C MONACO – UNDP agreement signed on the 27th of June 2007 (French Version).
- D UNDP – GLOCAL agreement signed on the 11th of June 2008.
- E Role Description of the Project Manager.
- F Role description of the WAF Manager
- G. Delegation to Ms Maya Yaul Egozi dated the 1st of May 2009.
- H. **Copy of Passport of Ms Maya Yaul Egozi.**

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1. PREAMBLE

- 1.1 The Principality of Monaco under the auspices of H.R.H. Prince Albert II of Monaco launched the "Humanitarian sport for the development of youth in cities" initiative that will - through the educational values of sport - take in consideration the case of isolated children and deprived youth, and at the same time will allow the re-socialisation of high risk areas using the We Are the Future methodology.
- 1.2 The United Nations Development Programme (hereinafter referred to as "the UNDP") Hub for Innovative Partnerships, aims at recognising the role of territorial communities and supporting them in facing development challenges.
- 1.3 The Global Metro City – the GLOCAL Forum (hereinafter referred to as "GLOCAL") is a Swiss Non Governmental Organisation with offices in Rome, devoted to peacebuilding and development through a decentralized city-to-city approach to international cooperation. GLOCAL is the representing body of the partnership between UNDP and GLOCAL.
- 1.4 The City of Cape Town (hereinafter referred to as the "the CITY") is a large urban area with a high population density, an intense movement of people, goods and services, extensive development and multiple business districts and industrial areas. It represents centres of economic activity with complex and diverse economies, a single area for which integrated development planning and strong interdependent social and economic linkages between its constituent units is desirable. The CITY is a member of the World Alliance of Cities Against Poverty (hereinafter referred to as "WACAP") and will take part in hosting of the FIFA World Cup in 2010.
- 1.5 Initiated in 2004, the We Are the Future (WAF) Programme is dedicated to the development, protection and fulfilment of our world's most important resource, our children. Together with individuals, cities, and local and international organizations, WAF works for the benefit of children and young adults living in deprived areas. It creates municipally-endorsed WAF Child centres to provide specialized programmes in the areas of Information and Communications Technology, Health, Nutrition, Sports and Art. A WAF Child Centre serves children by training youth to run child-based programmes in those sectors. Our vision is to create a community atmosphere where children and youth can flourish and grow without constraints. WAF is based on the belief that these children and youth represent hope for a peaceful life and development in the future. Provide them with the tools to visualize a better future, and the world will reap the benefits.

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- 1.6 On the basis of municipal capacity building, the WAF Programme aims to develop a sustainable model for global-local, private-public partnerships, which include, on the one side, all relevant municipalities and local civil societies and, on the other, global public and private institutions and partners.
- 1.7 GLOCAL and UNDP has agreed to create the WAF Programme in the City of Cape Town, through a WAF Child Centre, owned and run by the CITY which will serve as a hub for a holistic approach to the development of children and youth. The WAF Programme will bring together the Municipality, youth, international institutions, local and international leaders and project managers. Through the WAF Centre, the CITY will coordinate, evaluate, exchange ideas and administer the WAF projects.
- 1.8 The WAF Centre aims to provide children and youth beneficiaries with non-formal education programmes in line with local needs and according to proven development strategies.
- 1.9 In accordance with the UNDP - The Principality of Monaco agreement and in the frame of the "Humanitarian sport for the development of youth in cities" initiative, the Cape Town WAF Centre will focus on Sport and Recreation training and activities. The training programme for youth will empower them to deliver services and educational programmes for local youth and children in these areas critical to the developmental process of young people.

2. PARTIES

The Parties to this Agreement are:

- 2.1 **The City of Cape Town** herein represented by **Lokiwe Mtwazi** in her capacity as **Executive Director: Community Services**.
- 2.2 **Global Metro City – The Glocal Forum** which is a non-governmental organisation with offices in Rome, herein represented by **Uri Savir** in his capacity as **President & Chief Executive Officer**.

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3. DEFINITIONS

3.1 In this Agreement, unless clearly inconsistent with or otherwise indicated by the context-

3.1.1 "**bank account**" means the CITY'S primary bank account the details being:

Account Holder: City of Cape Town

Name of Banker: ABSA Bank Ltd

Account Number: 40 5658 4569

Branch: Public Sector – Western Cape

Branch Code: 631609

Positive Identifier/Reference: 192042743.

3.1.2 "**City of Cape Town**" (hereinafter referred to as "the CITY") means the Metropolitan Municipality, established in terms of the *Local Government: Municipal Structures Act 117 of 1998* read with the *Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000*.

3.1.3 "**Global Metro City – The Glocal Forum**" (hereinafter referred to as "GLOCAL") means the non-governmental organisation with registration number: CH -020.7.000.907-8 and with its head office at Witikonstrasse 61, CH – 8030, Zurich, Switzerland and It is the representing body of the partnership between UNDP and GLOCAL.

3.1.4 "**GLOCAL PARTNERS**" means the UNDP and MONACO.

3.1.5 "**Local Glocal Representative**" means the co-ordinator appointed by GLOCAL who will act as a liaison person between the CITY, the

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GLOCAL Partners and additional partners as mentioned in clause 8.9 hereof.

- 3.1.6 "**MONACO**" means the Government of His Serene Highness, the Prince of Monaco.
- 3.1.7 "**Notice**" means a written notice.
- 3.1.8 "**Parties**" mean the parties to this Agreement identified in clause 2.
- 3.1.9 "**Project Manager**" means the Senior Manager assigned by the City to oversee the implementation of this Agreement.
- 3.1.10 "**Stakeholders**" means other non-governmental organisations and other community organisations that can add value to the WAF Programme.
- 3.1.11 "**Target community**" mean the surrounding Gugulethu Community whose youth and children will benefit from the WAF Programme.
- 3.1.12 "**the CITY'S fiscal year**" means the financial year of the CITY commencing on 1 July and ending on 30 June of a given year.
- 3.1.13 "**the MONACO – UNDP Agreement**" means the agreement signed by MONACO and the UNDP on the 27th of June 2007 whereby MONACO placed at the UNDP disposal the amount of \$300.000.00 (Three Hundred Thousand US Dollars) to be used by the UNDP to finance the starting of the programme "a humanist sport to the service of youth development in cities", beginning with a pilot phase, in the City of Cape Town.
- 3.1.14 "**the UNDP- GLOCAL Agreement**" means the agreement signed by the UNDP and GLOCAL on the 11th of June 2008, whereby the UNDP placed

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at the disposal of GLOCAL the amount of \$75.000.00 (Seventy Five Thousand US Dollars) for the first year of activities to be used to create a WAF Programme in the City of Cape Town.

3.1.15 "**this Agreement**" means this Agreement, together with the Annexures hereto.

3.1.16 "**UNDP**" means the United Nations Development Programme.

3.1.17 "**WACAP**" means World Alliance of Cities Against Poverty.

3.1.18 "**WAF Manager**" means the person who is responsible for the management of the WAF Child Centre and all daily activities taking place therein according to the Work plan.

3.1.19 "**WAF Programme**" means the We Are the Future programme dedicated to the development, protection, fulfilment and empowerment of children. The WAF Programme works for the benefit of children and young adults living in deprived areas. It creates municipally endorsed WAF Child Centres to provide specialized programmes in the areas of Information and Communications Technology, Health, Nutrition, Sport and Art. A WAF Child Centre serves children by training youth to run child-based programmes in those sectors. The WAF Programme to be based in Cape Town will initially focus on sport training and recreation activities for the development of youth and children.

3.1.20 "**Workplan**" means the document prepared by the CITY and approved by both Parties which clearly outlines the objectives, activities, outputs and indicators of the WAF Programme.

3.1.21 Words importing the singular shall include the plural, and *vice versa*. Words importing the masculine gender shall include the feminine and

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neuter genders, and *vice versa*, and words importing natural persons shall include legal persons, and *vice versa*.

3.1.22 Any reference in this Agreement to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of signature hereof and as amended or re-enacted from time to time.

3.1.23 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision was a substantive provision in the body of the Agreement.

3.1.24 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day.

4. INTRODUCTION

4.1 On the 27th of June 2007 MONACO entered into an agreement with the UNDP whereby \$300.000.00 (Three Hundred Thousand US Dollars) over three years was placed at the disposal of the UNDP to be used to finance the starting of the programme, "a humanist sport to the service of youth development in Cities" beginning with a pilot phase in one or more townships in the City of Cape Town taking into consideration the co-operation programme already established in the fight against poverty projects in the townships. The MONACO – UNDP Agreement is attached hereto marked **Annexure B** and **Annexure C**.

4.2 Then on the 11th of June 2008 the UNDP and GLOCAL entered into a Partnership whereby the UNDP placed at the disposal of GLOCAL, funds in the amount of \$75.000.00 (Seventy Five Thousand US dollars) for the

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first year of activities, to be used to create a WAF Programme in the CITY, through a We Are the Future (WAF) Child Centre owned and run by the CITY and which will serve as a hub for a holistic approach to the development, through sport and recreation, of children and youth. The UNDP- GLOCAL Agreement is attached hereto marked **Annexure D**.

- 4.3 The UNDP and GLOCAL agreed to create the WAF Programme in the City of Cape Town, through a WAF Child Centre to be based at N.Y 49 Sport Complex in Gugulethu, to be owned and run by the CITY.
- 4.4 The Parties are agreeing to the following terms and conditions herein for the funding of the WAF Programme and WAF Child Centre.

5. THE WAF PROGRAMME

- 5.1 The WAF Programme will be based at N.Y 49 Stadium Gugulethu.
- 5.2 Target communities and other relevant stakeholders will be consulted with respect to the content and implementation of the WAF Programme.
- 5.3 The WAF Programme focus will include but not be limited to sport and recreation training and activities for the development of youth and children. Sports improve team work and leadership capabilities, basic life skills and relational capacities through physical activity and play through sports games, teamwork, leadership, basic life skills, relational capacities, psychosocial stimulation, awareness and knowledge about fitness. Other disciplines to be potentially added to the WAF Programme are Health, Information Technology and Arts and Culture subject to the additional available funding.
- 5.4 The WAF Programme will train, equip and empower the youth in the community to run programmes for children which will focus on the development of teamwork, leadership, basic life skills, relational

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capacities, psychosocial stimulation awareness and knowledge about fitness.

- 5.5 The proposed activities will be contained in an annual Workplan which will clearly outline the objectives, activities, related costs, outputs and indicators of the WAF Programme.
- 5.6 The Workplan is to be finalised and approved within 30 (THIRTY) days from the date of signature by the last party signing this agreement.

6. FUNDING

- 6.1 GLOCAL shall provide the WAF Programme with the amount of **\$50,000.00 (Fifty Thousand US Dollars)** for the first year of activities.
- 6.2 The funds for the first year of the WAF activities will be allocated according to the budgeted Workplan agreed upon between the Parties.
- 6.3 The funds will be transferred into the bank account quarterly.
- 6.4 GLOCAL will transfer the funds in terms of clause 6.3 hereof, subject to the condition that the UNDP has transferred a like amount to GLOCAL for utilisation by the WAF Programme.
- 6.5 The funds for the first quarter of activities will be transferred in one lump sum into to the bank account subject to clause 6.2 herein.
- 6.6 Thereafter the funds will be transferred on a quarterly basis subject to the submission of reports and financial records and subject to clause 6.2 herein.

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- 6.7 The funds transferred in terms of clause 6.3 hereof are subject to the following conditions.
- 6.7.1 The CITY will create project(s) after budgetary approval.
- 6.7.2 Interest earned on the amount so transferred will be utilised for the WAF Programme.
- 6.7.3 Financial control of the WAF Programme will vest in the CITY.
- 6.7.4 The Project Manager will be responsible for any expenditure incurred by the WAF Programme.
- 6.8 In the event that the WAF Programme fails to commence within three months after payment has been effected, all funds paid by GLOCAL to the CITY shall be refunded. GLOCAL must give notice to the CITY requesting payment of such funds which must be paid within 30 days.

7. DURATION

- 7.1 This Agreement commences upon the signature of the last party signing this Agreement and will continue for one year.
- 7.2 The effective date of this Agreement shall be the date of signature by the Party who signed last.
- 7.3 This agreement will be renewed annually subject to the conditions set out below.
- 7.3.1 All terms of this agreement will apply to the renewal period.
- 7.3.2 The grant amount for the period of renewal has been included in the CITY'S budget.
- 7.3.3 The UNDP and GLOCAL have signed an agreement in terms of which the UNDP has placed at the disposal of GLOCAL an additional amount of \$ 75.000.00(Seventy Five Thousand US Dollars).

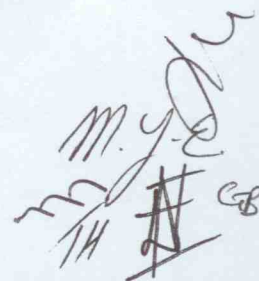


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- 7.3.4 This Agreement will not be renewed if any of the Parties has defaulted on the terms of this Agreement.
- 7.3.5 GLOCAL shall inform the CITY of the renewal of the Agreement in writing given and received not later than 60 days prior to the date on which the renewal period is to commence.
- 7.3.6 The CITY has accepted the renewal of the Agreement in writing within 7(Seven) days of receiving notification in terms of clause 7.3.5.
- 7.4 If this Agreement is renewed in terms of clause 7.3. herein then this Agreement shall be renewed automatically without the need of any further act by the Parties.

8. DUTIES OF GLOCAL

- 8.1 GLOCAL undertakes to transfer the funds as reflected in clause 6 hereof, subject to the fulfilment of the terms and conditions set out in this Agreement.
- 8.2 GLOCAL will monitor and evaluate the WAF Child Centre's activities and the financial integrity of the WAF Programme, in conjunction with its partners and the CITY, in order to ensure that the programme is managed according to the spirit and intentions of the GLOCAL PARTNERS. The monitoring will cover the overall management of the WAF Child Centre, activities carried out, as well as the use of inputs, infrastructure and services.
- 8.3 GLOCAL will focus on attracting local and international support for the WAF Programme as well as negotiating goods and services with these international partners.
- 8.4 GLOCAL will communicate to the CITY the following:

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- 8.4.1 Decisions taken by GLOCAL which concern the CITY;
 - 8.4.2 Guidelines and operational decisions that are relevant to the CITY;
 - 8.4.3 Reports issued by and for GLOCAL to the GLOCAL PARTNERS and the general public.
- 8.5 GLOCAL will report to the UNDP on the development of the WAF Programme.
- 8.6 GLOCAL will determine the disbursements of funds by agreement with the GLOCAL PARTNERS and the CITY according to the agreed Workplan and activities and subject to the limitations of the agreement between GLOCAL and UNDP.
- 8.7 GLOCAL will approve the Workplan by mutual agreement with the CITY. The Workplan is to be finalised and approved within 30 days from the date of signature by the last party signing this agreement.
- 8.8 GLOCAL will enter into an Independent Contractor Agreement with the Local Glocal Representative.
- 8.8.1 The Local Glocal Representative's role description and function is as described in clause 8.2 hereof.
 - 8.8.2 The payment to the Local Glocal Representative is governed by the Independent Contractor Agreement as mentioned in clause 8.8 hereof.
 - 8.8.3 GLOCAL will appoint the Local Glocal Representative initially on a 6 (six) month Contract and thereafter the appointment will be reviewed.
 - 8.8.4 The Local Glocal Representative's appointment may be renewed after consultation between GLOCAL and the CITY.
 - 8.8.5 GLOCAL and the CITY will have to consent in writing to the renewal of the Local Glocal Representative's Contract.
 - 8.8.6 The Local Glocal Representative shall at no time be considered an employee of the CITY, nor shall the Local Glocal Representative be considered an Independent Contractor of the CITY and nor shall the

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CITY be jointly and severally liable in the event of any contravention by GLOCAL of any of its obligations in terms of the Independent Contractor Agreement mentioned in clause 8.8 hereof.

- 8.9 GLOCAL may with the CITY'S written agreement, approach additional partners to support the WAF Programme.

9. DUTIES OF THE CITY

- 9.1 The CITY will serve as the co-ordinating body and facilitator of the implementation of the WAF Programme.

- 9.2 The CITY will set up The Management Committee which will be a co-ordinating body consisting of the CITY as well as community representatives to oversee the activities of the WAF Child Centre.

9.3 The Infrastructure

- 9.3.1 The CITY will provide the premises and infrastructure located at N.Y 49 Sport Complex in Gugulethu, Cape Town, where the WAF Child Centre will be hosted.
- 9.3.2 The CITY confirms that it is the registered owner of the said premises and is entitled to utilise it for the purpose as mentioned in clause 5 hereof.
- 9.3.3 The CITY will refurbish and renovate the premises to the extent required to make it functional for the purpose as mentioned in clause 5 hereof.
- 9.3.4 The CITY will be responsible for the operation, maintenance of the WAF Child Centre as well as the payment of the centre's utilities including but not limited to electricity, gas, water, security, insurance and building maintenance.

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9.3.5 The CITY cannot for the duration of this Agreement give up, compromise, sell or in any way harm its right to the premises mentioned in clause 9.3.1 hereof.

9.4 The Project Manager

9.4.1 The CITY will assign a Project Manager who will be an employee of the CITY.

9.4.2 The Project Manager will be assigned in terms of the conditions of employment of the CITY.

9.4.3 The CITY will be responsible for the salary and benefits of the Project Manager.

9.4.4 The Project Manager's role description and function is detailed in **Annexure E** attached hereto.

9.4.5 The Project Manager will report to the Director: Sport, Recreation & Amenities and provide GLOCAL with the reports as mentioned in clause 9.7.1 hereof.

9.5 The WAF Manager

9.5.1 The CITY will appoint a WAF Manager who will be an employee of the CITY.

9.5.2 The WAF Manager will be appointed in terms of the conditions of employment of the CITY.

9.5.3 The CITY will be responsible for the salary and benefits of the WAF Manager.

9.5.4 The WAF Manager's role description and function is detailed in **Annexure F** attached hereto.

9.5.5 The WAF Manager will report to the Project Manager.

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9.6 The Financial Management system

- 9.6.1 The CITY confirms that it has effective, efficient and transparent financial management and internal control systems, to ensure that funding is utilised in accordance with clause 5 hereof.
- 9.6.2 The CITY will provide the regulations and procedures for reporting on Accounting, Auditing and Monitoring processes.
- 9.6.3 The interest accrued from the monies paid to the CITY in terms of clause 6 hereof shall only be utilised for the purpose set out in clause 5 hereof.
- 9.6.4 Expenditure vouchers, including cash cheques clearly indicating the purpose the funds were utilised for, shall be retained for audit purposes.
- 9.6.5 The CITY will furnish GLOCAL with recent financial statements, prepared by a registered Accountant, at the end of the CITY'S fiscal year.
- 9.6.6 The CITY will be responsible for the assignment of a registered Accountant to prepare the financial statements in respect of the financial year during which this Agreement is in force, which cost shall be paid from the funds received in terms of clause 6 hereof.
- 9.6.7 The CITY shall submit quarterly financial reports reflecting expenditure to GLOCAL as detailed in clause 9.7.1.2.b) hereof.
- 9.6.8 Should the audit report not be acceptable in terms of the procedures described in clause 10, the CITY will be requested to repay the amount advanced less the monies utilised in terms of clause 5, into GLOCAL's bank account. GLOCAL must give written notice to the CITY requesting payment of such funds which must be paid within 30 days from date of notice.

9.7 Reporting

- 9.7.1 The Project Manager will submit to GLOCAL the following reports:

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9.7.1.1 Monthly reports-

- a) Activities report – summarizing all actions undertaken for the WAF Programme including preparation and implementation of activities, topics and outcomes of the activities.
- b) Attendance report – Statistical reports on participants in the activities, including but not limited to number of participants, age and gender.

9.7.1.2 Quarterly Reports-

- a) Workplan report – Analysis of progress to date towards the completion of the annual Workplan.
- b) Financial report – This report should comply with the workplan report and explain how the funds were used versus the planned Workplan including related invoices and receipts or other proof of the use of the funds.

9.7.1.3 Yearly Reports-

- a) Workplan report.
- b) Financial report.

10. FINANCES AND ACCOUNTING RECORDS

- 10.1 Appropriate accounting records in compliance with generally accepted accounting practices shall be maintained by the CITY to record the utilisation of the funds.
- 10.2 At GLOCAL'S written request, the CITY shall allow GLOCAL or its representative to inspect and copy any document, record, book of account or bank statement relating to the utilisation of the funds mentioned in clause 6.

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- 10.3 The CITY shall furnish to GLOCAL, or its representative on written request, any document, record, book of account or bank statement.
- 10.4 If GLOCAL finds an audit report to be unacceptable, it will then advise the CITY in writing within 5 (five) days after receiving a copy of the audit report.
- 10.5 An Independent Auditor, chosen by mutual agreement between the Parties, will be appointed to audit the WAF Programmes' financial records to evaluate it in terms of generally accepted accounting practices.
- 10.6 The monies will only be repaid to GLOCAL in terms of clause 9.6.8 hereof should the Auditor mentioned in clause 10.5 hereof confirm that the report is unacceptable in terms of generally accepted accounting practices.
- 10.7 The decision of this auditor will be final and binding on the Parties.
- 10.8 The Auditor appointed in terms of clause 10.5 hereof will be paid from the funds mentioned in clause 6 hereof.

11. INTELLECTUAL PROPERTY

- 11.1 The ownership of any intellectual property owned by any Party prior to the commencement of this Agreement shall be and remain vested with that Party.
- 11.2 Neither Party shall under any circumstances whatsoever reproduce, copy or use the intellectual property of the other Party, or permit the use of the intellectual property by any third party, except as provided for

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herein and with written consent of the Party owning said intellectual property.

12. CONFIDENTIALITY

- 12.1 Except as otherwise provided in this clause, the terms and conditions of this Agreement, all data, reports, records and other information of any kind whatsoever developed or acquired by any party in connection with this Agreement ("the confidential information") shall be treated by the Parties as confidential. Neither Party shall reveal or otherwise disclose such confidential information to any third party without the prior written consent of the other Party and shall take all reasonable steps and precautions to ensure that such information remains strictly confidential and that any third party does not obtain access thereto or knowledge thereof. The foregoing restrictions shall not apply to the disclosure of necessary confidential information to employees, agents or contractors of the parties. Any third party that may become privy to such information shall first undertake in writing to protect the confidential nature thereof.
- 12.2 The confidentiality undertaking in this clause shall not apply in respect of confidential information within the public domain or a party's knowledge at the commencement of this Agreement or to disclosure required to satisfy the order of a court or to comply with the provisions of any law or regulation in force from time to time.
- 12.3 The Parties shall not at any time during the term of this Agreement, release any statement to the press, or make any other public statement of any nature which could reasonably be expected to be published in any media regarding the relationship between the Parties or the subject matter of this Agreement, without the prior written consent of the Parties. The Parties will appoint a designated person to ensure all communications and press releases are approved.

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13. LIMITATION OF LIABILITY

Notwithstanding anything to the contrary set out in this Agreement, the Parties hereby undertake to place reliance on the South African common law of contract, insofar as it relates to any claims that may arise as a result of the conduct of any Party to this Agreement.

14. NATURE OF RELATIONSHIP

14.1 GLOCAL shall have the authority to bind the CITY to international private or public partner entities subject to the following:

14.1.1 The CITY'S liability will only be to the extent of the funding as mentioned in clause 6 hereof.

14.1.2 The Agreements mentioned in clause 14.1 hereof must be to the benefit and advancement of the WAF Programme and WAF Child Centre.

14.1.3 The written consent of the CITY needs to be obtained prior to signature thereof.

14.2 The CITY may sign and execute agreements with local partners subject to the following:

14.2.1 The Agreements mentioned in 14.2 hereof must be to the benefit and advancement of the WAF Programme and WAF Child Centre.

14.2.2 The CITY'S liability will only be to the extent of the funding as mentioned in clause 6 hereof.

15. IMPLEMENTATION OF GOOD FAITH

15.1 The Parties undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance



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of all such acts, as may be necessary or incidental to give or conducive to the giving of effect to the terms, conditions and import of this Agreement.

- 15.2 The parties shall at all times during the continuance of this Agreement observe the principles of good faith towards one another in the performance of their obligations in terms of this Agreement.

16. FORCE MAJEURE

- 16.1 If either party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under this Agreement by any cause beyond the reasonable control of that party, including, without limitations, acts of God, civil commotion, riots, insurrection, acts of government, fire, explosion, the elements, epidemics, governmental embargoes or like causes ("force majeure"), the party so affected shall, to the extent so prevented, be relieved of its obligations hereunder during the period of such events and shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damage either general, special or consequential which the other party may suffer due to or resulting from such delay or failure; provided always that written notice of the occurrence constituting force majeure shall be given within 24 (twenty four) hours by the affected party.
- 16.2 The parties agree that, should force majeure last more than 6 (six) weeks, the party who has not invoked force majeure to excuse any non-performance of its obligations may cancel this Agreement by giving 10 (ten) days' written notice to the other party.

17. BREACH, CANCELLATION AND TERMINATION

- 17.1 Should any Party ("the defaulting party") commit a breach of any provision of this Agreement and fail to remedy such breach, or if the

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breach is not capable of remedy, fail to implement remedial action acceptable to the other Party, within 60 (sixty) days of receiving a written notice from the other Party ("the aggrieved party") requiring the defaulting Party to do so, the aggrieved Party shall be entitled, in addition to its other remedies in law or in terms of this Agreement, to cancel this Agreement forthwith and without prejudice to its rights to claim damages, provided that if the defaulting Party commits two or more breaches of any material provision of this Agreement in any 2 (two) month period of this Agreement, the aggrieved Party is entitled without prejudice to any of its other rights or remedies in law or under this Agreement to terminate this Agreement forthwith by notice in writing to the defaulting Party.

- 17.2 If a third party fails to fulfill its commitment as detailed in a Project Implementation plan, GLOCAL and the CITY will work together to replace the lost resources.

18. CESSION AND ASSIGNMENT

- 18.1 No party shall cede or assign its rights or obligations under this Agreement without the prior written consent of the other party, which consent may not be unreasonably withheld.
- 18.2 Any cession or assignment agreed to by a party will not relieve the other party of any obligations with respect to any covenant, condition, or obligation required to be performed by that party under this Agreement.

19. NO WAIVER

The failure of either Party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy

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consequent upon a breach hereof shall not constitute a waiver by such Party to require strict and punctual compliance with each and every provision of this Agreement.

20. WHOLE AGREEMENT

- 20.1 This document embodies the whole Agreement between the Parties.
- 20.2 No amendment, consensual cancellation or variation of any of the provisions of this Agreement, including this clause 20, or any settlement of a dispute relating to the Agreement, shall be of any force or effect unless reduced to writing and signed by both parties.

21. DISPUTE RESOLUTION

- 21.1 The Parties agree that, in the event of a dispute between them arising out of this Agreement, neither Party shall interrupt or suspend the performance of its obligations in terms of this Agreement, pending resolution of the dispute.
- 21.2 Any dispute in regard to the interpretation or enforcement of this Agreement which cannot be resolved through good faith negotiations between the Parties shall be finally resolved in accordance with the rules of the Arbitration Foundation of Southern Africa ("AFSA") or its successor in title by an arbitrator who is agreed to between the parties, or failing agreement within 7(seven) days of the dispute arising, an arbitrator or arbitrators appointed by the President of AFSA or his or her successor in title.
- 21.3 In the event that a dispute arises in regard to this Agreement, either Party shall be entitled to require by written notice to the other that the

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dispute be submitted to Arbitration in terms of the arbitration laws of the Republic of South Africa.

- 21.4 The award that may be made by the Arbitrator:
- 21.4.1 shall be final and binding;
 - 21.4.2 shall be carried into effect and;
 - 21.4.3 May be made an order of any court to whose jurisdiction the Parties to the dispute are subject.
- 21.5 Nothing in this clause shall prevent the other party from obtaining interim relief in a court pending the outcome of the arbitration.
- 21.6 If the dispute is between a third party that is based outside the Republic of South Africa, then an international organisation, such as the World Bank will be asked to arbitrate on the issue.
- 21.7 If the dispute is between a third party that is based inside the Republic of South Africa, then the rules of the Arbitration Foundation of Southern Africa ("AFSA") or its successor in title will be applicable.

22. JURISDICTION

The parties consent to the jurisdiction of the High Court of South Africa, Western Cape High Court, Cape Town, in respect of all matters arising out of and disputes in connection with or in relation to this agreement.

23. APPLICABLE LAW

Regardless of the place of execution, performance or domicile of the parties, this agreement and all modifications and amendments hereof,

M. J. E. Co.
[Handwritten signature]

shall be governed by and construed under and in accordance with the laws of South Africa.

24 **INDEMNITY**

- 24.1 The CITY hereby indemnifies and holds GLOCAL harmless against any claim of any nature whatsoever arising from any willful or negligent action or omission of the CITY pertaining or incidental to the discharge of any obligation contemplated in this Agreement.

25. **NOTICES AND DOMICILIUM**

- 25.1. The parties choose as their *domicilia citandi et executandi* the following addresses:-

25.1.1 **The CITY:**

Directorate: Sport, Recreation & Amenities

12 Hertzog Boulevard

Civic Centre

Cape Town

8001

Facsimile: (021) 418 8221

25.1.2 **GLOBAL METRO CITY – THE GLOCAL FORUM**

Uri Savir : President & CEO.

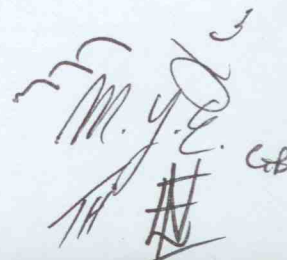
Witikonerstrasse

61, CH – 8030,

Zurich,

Switzerland

- 25.2 Either party hereto shall be entitled from time to time by written notice to the other party, to vary its *domicilium* to any other address.

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25.3 Any notice required or permitted to be given in terms of this Agreement shall be valid and effective only in writing and if received or deemed to have been received by the addressee.

25.4 Any notice given and payment made by one party to the other "the addressee" which –

25.4.1 is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* for the time being shall be presumed, until the contrary is proved, to have been received by the addressee at the time of delivery;

25.4.2 is posted by prepaid registered post from an address to the addressee at the addressee's *domicilium* for the time being, shall be presumed, until the contrary is proved, to have been received by the addressee on the 7th day after the date of posting;


25.4.3 is transmitted by telefax (subject to the transmitter retaining the fax transmission slip) shall be deemed (in the absence of proof to the contrary) to have been received within one hour of transmission where it is transmitted during normal business hours of the receiving instrument and within 2 hours of the commencement of the following day where it is transmitted outside those business hours.

25.5 Notwithstanding anything to the contrary contained in this clause 24, a written notice or communication actually received by a party from another, including by way of facsimile transmission shall be adequate written notice or communication to it notwithstanding that it was not sent or delivered at its chosen *domicilium*.

25.6 Any notice in terms of or in connection with this agreement shall be valid and effective only if in writing and if received or deemed to have been received by the addressee.

SIGNED AT ON THE 19th DAY OF May 2009

WITNESSES

1. _____ 

for and on behalf of the CITY

2. _____ 

LOKIWE MTWAZI
EXECUTIVE DIRECTOR:
COMMUNITY SERVICES



(Signed after approval from the Community Services Portfolio Committee. See resolution attached hereto marked Annexure I)

SIGNED AT _____ ON THE _____ DAY OF _____ 2009

WITNESSES

1. [Signature]

2. [Signature]

for and on behalf of GLOBAL METRO CITY - THE GLOCAL FORUM

Maya Yaul Egozi
MAYA YAUL EGOZI

Duly authorised hereto by Mr Uri Savir, President and CEO of GLOCAL Forum in terms of the authorisation dated the 1st of May 2009 attached hereto as Annexure G.

[Handwritten initials and signatures]
M.Y.E.
TH [Signature] GB