

ANNEX 4

International Telecommunication Union (ITU) General Conditions for Contracts for Purchase of Services

I Legal Status

1.1 The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis the ITU. The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of ITU.

1.2 Under no circumstances may the Contractor, its personnel and/or sub-contractors claim any of the privileges, immunities and facilities enjoyed by the ITU, in order to obtain any exemption from, or reimbursement for, costs related to any taxes, duties, fees or levies whatsoever, which may be imposed upon them in connection with the Contract or otherwise, or to be immune from any claim or judicial process arising out of the performance of the Contract, for which the Contractor shall assume full responsibility, or brought against them on any other ground.

II Source of Instructions

Unless agreed upon in writing and in advance with ITU, the Contractor shall neither seek nor accept instructions from any authority external to the ITU in connection with the performance of the Contract. The Contractor shall refrain from any action, which may adversely affect the ITU and shall fulfil its commitments with the fullest regard to the interests of ITU.

III Contractor's Responsibility for Employees

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under the Contract, reliable individuals who will perform effectively in the implementation of the Contract, respect the applicable laws, regulations, rules and ordinances promulgated by the competent authorities of the Swiss Confederation, as well as the local customs, and conform to a high standard of moral and ethical conduct.

IV Removal of Employees

Upon written request of the ITU stating the reasons therefore, the Contractor shall remove any member of its personnel and/or that of its sub-contractor(s) and shall replace, if necessary, such member by another one acceptable to the ITU.

On the contrary replacement by the Contractor of member of its personnel and/or that of its sub-contractor(s) already engaged in the project is not allowed, exceptions could be managed upon written request of the Contractor stating the reasons therefore, after ITU approval, the Contractor could remove the member of its personnel and/or that of its sub-contractor(s) and shall replace, if necessary, such member by another one acceptable to the ITU.

The Contractor shall submit to the ITU sufficiently in advance the curriculum vitae of the person it envisages to newly designate, who shall meet the standard requirements stated in Section III above,

for ITU's consideration and approval, which shall not be unreasonably withheld or delayed by the latter. Costs and additional expenses resulting from such removal of any member of the Contractor's personnel and/or that of its sub-contractor(s) and his replacement shall be at the Contractor's own expense. Such removal shall not be considered as termination in part or in whole of the Contract between ITU and the Contractor.

V Assignment

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

VI Sub-contracting

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of the ITU for all sub-contractors. The approval of the ITU of a sub-contractor shall not relieve the Contractor of any of its obligations under the Contract. The terms of any sub-contract shall be subject to and conform with the provisions of the Contract between ITU and the Contractor.

VII Officials not to Benefit

The Contractor warrants that no official of the ITU has received or will be offered by the Contractor any direct or indirect benefit arising from the Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of the Contract.

VIII Conflict of Interest

During the period of one year following the date of submission of its Final Report, the Contractor and the members of its personnel, including the persons having left its services in the meantime, shall remain under the obligation to request in writing the ITU's authorization for any other engagement they intend to enter into, which may have any direct or indirect relation with the overall objective of the Study. If the ITU, upon receipt of such a request, considers that any such engagement might result in a conflict of interest with that overall objective, it may refuse such authorization and reserves its right to take any measure it considers necessary to protect its interests.

IX Non-employment of Respective Personnel

Neither ITU nor the Contractor shall, during the period of one year following the date of submission of the Final Report of the Contractor, either employ or consider employment of any member of the personnel of the other Party without the prior written approval of the latter.

X Indemnification

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, the ITU, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractors' employees, officers, agents or subcontractors, in the performance of the Contract. This provision shall extend, *inter alia*, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its

employees, officers, agents, servants or sub-contractors. The obligations under this Section do not lapse upon termination of the Contract.

XI Insurance and Liabilities to Third Parties

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

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

11.3 The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under the Contract.

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

XII Title to Equipment

Title to any equipment and supplies that may be furnished by the ITU shall rest with the ITU and any such equipment shall be returned to the ITU at the conclusion of the Contract or when no longer needed by the Contractor. Such equipment, when returned to the ITU, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate the ITU for equipment determined to be damaged or degraded beyond normal wear and tear.

XIII Copyright, Patents and Other Proprietary Rights

The ITU shall be entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to products, or documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of the Contract. At ITU's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to ITU in compliance with the requirements of the applicable law.

XIV Use of Name, Emblem, Acronym or Official Seal of ITU

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with the ITU, nor shall the Contractor, in any manner whatsoever use the name, emblem, acronym or official seal of the ITU, or any acronym of the name of the ITU in connection with its business or otherwise.

XV Confidential Nature of Documents, Information and Other Data

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

15.2 The Contractor may not communicate at any time to any other person, Government or authority external to the ITU, any information known to it by reason of its association with ITU, which has not been made public, except with the prior written authorization of the ITU; nor shall

the Contractor at any time use such information to private advantage. These obligations do not lapse upon termination of the Contract.

XVI Privileges, Immunities and Facilities

Nothing in the Contract shall constitute a waiver of the privileges, immunities and facilities, which the ITU enjoys by virtue of the international agreements and national laws applicable to it.

XVII Force Majeure

Force Majeure under the Contract shall mean acts of God, industrial disturbances, acts of public enemy, civil disturbances, explosions or any other occurrence which is beyond the control of either Party and which neither Party, exercising due care, is able to overcome. Immediately upon occurrence of any act constituting Force Majeure, either of the Parties shall give written notice and full particulars thereof to the other Party, if the occurrence of the Force Majeure risks to render the proper performance of the Contract, wholly or in part, impossible. In that event, both Parties shall, within three (3) calendar days after receipt of such written notice by either of the Parties, enter into negotiations, in order to assess mutually the Force Majeure and its impact on the proper performance of the Contract and to agree mutually on any necessary period of suspension of services to be performed hereunder, and on any extension of the duration of the Contract needed to complete its performance or, if necessary, to agree upon the termination of the Contract and on the settlement of the related financial issues. The resolution agreed upon by both Parties during these negotiations, which shall be terminated no later than three (3) working days after their commencement, shall be recorded in a written agreement between the Parties which shall be annexed to the Contract, and shall form an integral part thereof. If the Parties are unable to agree on the adjustments to be made as a consequence of an act of Force Majeure, the Contract shall terminate at the end of the above-designated period of negotiations, and the dispute shall be settled in accordance with the provisions of Section XVIII below.

XVIII Settlement of Disputes and Governing Law

Any dispute between the Contractor and ITU arising from, or in connection with, the Contract shall be settled directly and amicably by them through mutual negotiations. In the case of failure of such negotiations, the dispute shall be settled by a sole arbitrator to be nominated at the request of either of the Parties by the Court of Arbitration of the International Chamber of Commerce (ICC). The place of arbitration shall be Geneva. The language of arbitration shall be English. The arbitration shall be carried out in accordance with the Rules of Arbitration of the International Chamber of Commerce, as at present in force. The arbitrator's ruling shall be binding and final upon the Parties and any recourse against this ruling to any court or tribunal shall be excluded.