

ACUERDOS BILATERALES

Clasificación: 8-2011

Fecha de Ingreso: 18 de febrero de 2011

Nombre del Acuerdo: Alliance to Improve Access to the Judicial System through the use of the Legal Labor Case Management and Monitoring System Software

Materia: Access to the Judicial System

Partes: SG/Pact/USAID

Referencia: Pact/USAID

Fecha de Firma: February 4th, 2011

Fecha de Inicio

Fecha de Terminación

Lugar de Firma: San Salvador

Unidad Encargada: Department of Special Legal Programs

Persona Encargada: Evelyn Jacir de Lovo

Original

Claves

Cierres del proceso



USAID
DEL PUEBLO DE LOS ESTADOS
UNIDOS DE AMÉRICA



LETTER OF AGREEMENT AND LICENSE AGREEMENT

Between Pact,

The United States Agency for International Development

and

The General Secretariat of the Organization of American States

regarding an alliance to Improve Access to the Judicial System

through the use of the Legal Labor Case Management and Monitoring System software

Pact, a United States non-profit organization with regional offices in Residencial Madre Selva, Calle Conchagua 9, Antiguo Cuscatlan, La Libertad, El Salvador (“Pact”); the United States Agency for International Development, a U.S. Government agency with headquarters at the Ronald Reagan Building, Washington, DC 20523, USA (“USAID”); and the General Secretariat of the Organization of American States, a public international organization with headquarters at 1889 F Street, NW, Washington, DC, 20006, USA, (“GS/OAS”) (Pact, USAID and GS/OAS may be hereinafter referred to collectively as the “Parties”):

Recognizing that one of Pact’s objectives is to strengthen Public Defenders and legal assistance providers to provide increased access to the judicial system regarding labor and employment-related cases;

Mindful that in order to accomplish that objective, Pact, with funding from USAID, has designed and implemented a Legal Labor Case Management and Monitoring System software (the “Software”);

Recognizing also that the intellectual property rights for the Software belongs to Pact and that USAID has an irrevocable non-exclusive license to use the Software and to authorize others to use the Software;

Mindful also that the Software allows for the recording of information on the different legal and educational services provided to its target population and also allows for tracking, controlling and monitoring labor and work related legal cases in the countries in which it is being used;

Recognizing also that the General Secretariat of the Organization of American States (“GS/OAS”) is currently working on a project for the promotion of access to justice to vulnerable groups through free university-sponsored legal assistance, which involves activities related to capacity building and research, and is involved in additional events with the parallel objective of creating general awareness and allowing access to justice to the most vulnerable groups of society while involving law students and other individuals in that effort;

Acknowledging that the Parties wish to have an alliance that shall include sharing a case management and monitoring software (the "Software") already developed by PACT, and that the Software will be part of a cooperative project between the OAS and PACT intended to achieve the goal of helping the most vulnerable groups by strengthening the work of free legal aid offices throughout OAS Member States through the implementation of the Software and of additional modules to the Software (hereinafter "Derivative Works") created by the GS/OAS;

Understanding that GS/OAS is the central and permanent organ of the Organization of American States ("OAS") and is authorized to carry out relations of cooperation in accordance with Article 112(h) of the Charter and OAS General Assembly Resolution AG/RES. 57 (I-O/71); and

Bearing in mind that pursuant to planning, implementation, training, and development related activities, the Parties have reached an understanding regarding the technical cooperation aspects of the Project,

Hereby enter into this Letter of Agreement and License Agreement (the "Agreement"), as follows:

I. PURPOSE

1.1 The purpose of this Agreement is to establish a regulatory framework with respect to the license of the Software and its Derivative Works as well as to set forth the rights and obligations of the Parties pertaining to the aforementioned license.

II. PARTIES' REPRESENTATIVES

2.1 For purposes of this Agreement, the authorized representative for Pact shall be Sandra Dueñas-Paschall; the authorized representative for USAID shall be Carl Derrick; and the authorized representative for GS/OAS shall be Evelyn Jacir de Lovo.

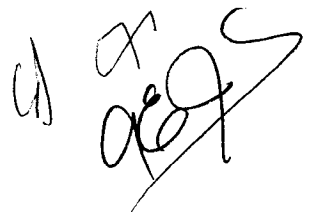
2.2 Any of the Parties may change its authorized representative by notifying the other Parties in writing.

III. SOFTWARE LICENSE

3.1 Through this Agreement, Pact hereby grant to GS/OAS for the term of this Agreement, a free nonexclusive license to use the Software and to create and integrate derivative works for and into, the Software (the "License"). The License granted herein is subject to the following conditions:

3.1.1 GS/OAS shall at all times acknowledge and attribute Pact as the owner of the intellectual property rights for the Software.

3.1.2 GS/OAS may create derivative works based on the Software, which may consist *inter alia* in designing and implementing additional modules for the Software ("Derivative Works"). GS/OAS shall be



acknowledged as the owner of the intellectual property rights of the Derivative Works, which include the capacity of granting nonexclusive licenses of use to third parties.

3.1.3 GS/OAS agrees to indemnify and hold harmless USAID against any and all liability, claims, suits, losses, costs and legal fees caused by, arising out of, or resulting from any infringement that it may commit in use of the Software by GS/OAS or on behalf of GS/OAS.

3.1.4 The names and logos of all Parties shall appear in the Software and the Derivative Works.

3.1.5 GS/OAS hereby grants to Pact and USAID a free irrevocable nonexclusive license for the use of all Derivative Works and to have all Derivate Works to be used on behalf of USAID, for the term of this Agreement. Under this license, USAID shall be able to allow third parties to use all Derivative Works through its development programs.

3.1.6 Pursuant to Pact's written requests, GS/OAS shall also grant to Pact beneficiaries, free nonexclusive licenses for the use of all Derivative Works, by means of written license agreements.

3.1.7 GS/OAS shall inform Pact and USAID prior to granting licenses for the use of the Derivative Works to third parties.

3.1.8 The Parties shall comply with the copyrights and trademarks laws of the United States of America and any other local legal requirements pertaining to the use of the Software and its Derivative Works.

3.1.9 GS/OAS shall notify Pact and USAID if it becomes aware of any infringement to the intellectual property rights pertaining to the Software, but shall not take action either in its own name or in the name of Pact or of USAID against third parties for infringement of such intellectual property rights. Pact and USAID shall determine in their sole discretion what action, if any, they will take in such instance.

3.1.10 Pact and USAID shall notify GS/OAS if they become aware of any infringement to the intellectual property rights pertaining to the Derivative Works, but shall not take action either in their own names or in the name of GS/OAS against third parties for infringement of such intellectual property rights. GS/OAS shall determine in its sole discretion what action, if any, it will take in such instance.

3.2 The Parties may extend the duration of this License to beyond termination of this Agreement, through a written modification as set forth in Article 7.2, below.

IV. USERS/BENEFICIARIES OF THE SOFTWARE AND DERIVATIVE WORKS

4.1 Currently, there are several civil society organizations that have become Software users in each of the countries that are party of the Dominican Republic-Central America-United States Free Trade Agreement. For the purpose of this Agreement, the countries where the Software is implemented are deemed beneficiary countries. GS/OAS Member States which are not already Software beneficiaries and potential users in such Member States may be selected as Software beneficiaries through the designation of Software users; provided, however, that authorization of such beneficiaries and users shall be subject to the mutual agreement of all the Parties.

4.2 GS/OAS Member States and organizations within the member states may also be selected as beneficiaries and users of the Derivative Works subject to the mutual agreement of the Parties.

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V. DEVELOPMENT, MAINTENANCE, TRAINING AND IMPLEMENTATION OF SOFTWARE AND DERIVATIVE WORKS

5.1 Subject to availability of funds and following a mechanism to be set forth by GS/OAS in coordination with Pact, GS/OAS will provide technical assistance, per diem and travel costs to the consultants that will be hired for the implementation of the Software and Derivative Works with GS/OAS Member States, beneficiaries of the Software and/or Derivative Works.

5.2 Subject to the availability of funds, Pact may contribute funding for implementation and training for the Software and Derivative Works. Any such Contributions from Pact will be detailed in supplementary agreements, which shall be governed by the terms of this Agreement, unless the Parties expressly provide otherwise in those instruments.

5.3 Nothing in this Agreement constitutes an implied or express obligation of funds by USAID.

5.4 In order to fulfill its goal to help strengthen free legal aid offices on all law subjects in various OAS Member States, GS/OAS will hire a Software implementer to create Derivative Works based on the Software, which shall include designing and implementing additional modules for the Software.


VI. PRIVILEGES AND IMMUNITIES; DISPUTE RESOLUTION; COMMUNICATIONS; APPLICABLE LAW

6.1 Nothing in this Agreement constitutes an express or implied waiver of the privileges and immunities of the United States of America, USAID, the OAS or GS/OAS, their personnel and assets, in accordance with the OAS Charter, relevant agreements and pursuant to general principles and practices of international law.

6.2 Any dispute or complaint arising from the application or interpretation of this Agreement, including the License granted herein and execution of the Project shall be settled by direct negotiations between the Parties. PACT and GS/OAS are unable to reach a mutually satisfactory solution, they shall submit the matter to a mutually agreed upon procedure of arbitration. The decision shall be final and binding and not subject to appeal.

6.3 Communications. Any notice, request, document, or other communication submitted by any Party to the other Parties under this Agreement will be in writing or by mail, telefax, or electronic mail ("e-mail"), and will be deemed duly given or sent when delivered to such party at the following address:

To USAID: Director of Democracy and Governance office USAID Mission in San Salvador
Mail Address: USAID/San Salvador
Unit #3110
APO AA 34023
Telefax: (503) 2501-2999
E-mail: webmaster_es@usaid.gov



To Pact: Compliance office
Mail Address: 1828 L St, NW
Suite 300
Washington, DC 20036
Telefax: (202) 466-5665
E-mail: info@pactworld.org

To GS/OAS: Department of Special Legal Programs
Secretariat for Legal Affairs
Mail Address: Organization of American States
19th st. & Constitution Ave. N.W.,
Washington, D.C. 20006
Telefax: (202)-458-6029
E-mail: oasweb@oas.org

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

6.4 The law applicable to this Agreement shall be United States federal law of the District Courts of the District of Columbia, USA.

VII. MODIFICATIONS; TERM; TERMINATION

7.1 Modifications to this Agreement may only be made by mutual agreement in writing by the duly authorized representatives of the Parties. The instruments in which the modifications are set out shall be attached as annexes to this Agreement and shall form part of it.

7.2 This Agreement shall enter into force upon signature by the duly authorized representatives of all the Parties and shall remain in force for a period of five (5) years from the date of execution. Nonetheless, the Parties may extend the period of this Agreement by joint consent in writing by their duly authorized representatives.

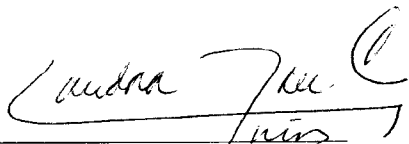
7.3 This Agreement may be terminated early by the joint consent of all the Parties or by either of the Parties by written notice to the other two Parties with no less than thirty days' notice. Notwithstanding the termination of this Agreement, project activities that have been fully financed shall be continued to completion unless the parties mutually decide otherwise. Early termination of this Agreement shall not affect the duration of the License granted herein pursuant to Article III, above.

7.4 Termination of this Agreement shall not affect irrevocable obligations assumed by GS/OAS with respect to the Project prior to receipt of the notice of termination. In this respect, such obligations may be partially paid out of the financial resources of any contribution made by Pact pursuant to Article 5.2 herein, including the costs to GS/OAS resulting from early termination of the Agreement.

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IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement in triplicate on the dates and places indicated below.

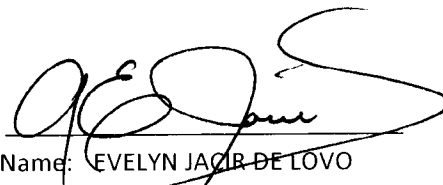
For Pact



Name: SANDRA DUEÑAS-PASCHALL
Title: Director
USAID Citizens' Access to Labor
Justice Program for CAFTA-DR

Date: February 4, 2011
Place: San Salvador

For GS/OAS



Name: EVELYN JACIR DE LOVO
Title: Director
Department of Special Legal Programs
Secretariat for Legal Affairs
Organization of American States

Date: February 4, 2011
Place: San Salvador

For USAID



Name: CARL DERRICK
Title: USAID El Salvador Mission Director
Date: February 4, 2011
Place: San Salvador



Organización de los Estados Americanos
Organização dos Estados Americanos
Organisation des Etats Américains
Organization of American States

ORDEN EJECUTIVA No. 05-06 REV. 1

ANEXO III

DELEGACIÓN DE AUTORIDAD

ACUERDO DE COOPERACIÓN

**“LETTER OF AGREEMENT AND LICENSE AGREEMENT
Between Pact, The United States Agency for International Development
And The General Secretariat of the Organization of American States
regarding an alliance to Improve Access to the Judicial System
through the use of the Legal Labor Case Management and Monitoring System software”**,

Yo, José Miguel Insulza, Secretario General de la Organización de los Estados Americanos (OEA), por este medio, autorizo a la señora Evelyn Jacir de Lovo, Directora del Departamento de Programas Jurídicos Especiales de la Secretaría de Asuntos Jurídicos, a suscribir en nombre y representación de la Secretaría General de la OEA el Acuerdo arriba mencionado.

Esta delegación de autoridad expira el 5 de febrero de 2011.

Nombre y Firma del Secretario General

Lugar: Washington, D.C.

Fecha: 31 de Enero de 2011