



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*Criminal Division  
Fraud Section*

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Washington, DC 20005*

February 10, 2016

Mark Rochon, Esq.  
John E. Davis, Esq.  
Miller & Chevalier Chartered  
655 Fifteenth Street, NW  
Suite 900  
Washington, DC 20005-5701

Re: *United States v. Unitel LLC*

Dear Counsel:

Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, and on the understandings specified below, the United States of America, by and through the Fraud Section, Criminal Division, United States Department of Justice, and the Office of the United States Attorney for the Southern District of New York (collectively the "Offices") will accept a guilty plea from Unitel LLC ("Unitel" or the "defendant") to Count One of the criminal information (the "Information") in the above-referenced case. Count One charges the defendant with one count of conspiracy to commit offenses against the United States in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, Title 15, United States Code, Section 78dd-1, and carries a maximum fine of the greatest of \$500,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant resulting from the offense, Title 18, United States Code Section 3571(c)(3), (d); five years' probation, Title 18, United States Code Section 3561(c)(1); and a mandatory special assessment of \$400, Title 18, United States Code Section 3013(a)(2)(B).

**The Defendant's Agreement**

Pursuant to Fed. R. Crim. P. 11(c)(1)(C), Unitel agrees to waive its right to indictment by a grand jury and further agrees to plead guilty to the one-count Information in this case. Upon acceptance by the Court of this Agreement, the defendant further agrees to persist with that plea through sentencing and, as set forth below, to cooperate fully with the Offices in their investigation into all matters related to the conduct charged in the Information.

The defendant understands and agrees that this Agreement is between the Offices and Unitel. This Agreement does not bind any other division or section of the Department of Justice, or any other federal, state, local, or foreign prosecuting, administrative, or regulatory authority. The Offices will bring this Agreement and the cooperation of the defendant, its direct or indirect affiliates, subsidiaries, and parent corporations, to the attention of other prosecuting authorities or other agencies, if requested by the defendant.

The defendant agrees that this Agreement will be executed by an authorized corporate representative. Defendant further agrees that a Resolution duly adopted by the defendant's Supervisory Board, attached to this Agreement as Exhibit 1, represents that the signatures on this Agreement by Unitel and its counsel are authorized by defendant's Supervisory Board.

The defendant agrees and represents that it has the full legal right, power, and authority to enter into and perform all obligations under this Agreement. As discussed below, in light of the disposition with the defendant's parent corporation, the parties agree that no fine should be imposed on the defendant. The defendant agrees to pay the Clerk of the Court for the United States District Court for the Southern District of New York the mandatory special assessment of \$400 per count within ten (10) business days from the date of sentencing.

The defendant agrees that if it, its parent corporation, or any of its direct or indirect affiliates or subsidiaries, issues a press release or holds a press conference in connection with this Agreement, the defendant shall first consult with the Offices to determine whether (a) the text of the release or proposed statements at any press conference are true and accurate with respect to matters between the Offices and the defendant; and (b) the Offices have an objection to the release or statement. Nothing in this Paragraph restricts the defendant, its parent corporation, or any of its direct or indirect affiliates or subsidiaries, from fulfilling obligations under the federal securities laws or from interacting with investors.

The defendant agrees to abide by all terms and obligations of this Agreement as described herein, including, but not limited to, the following:

- a. To plead guilty as set forth in this Agreement;
- b. To abide by all sentencing stipulations contained in this Agreement;
- c. To: (i) appear, through duly appointed representatives, as ordered for all Court appearances; and (ii) obey any other ongoing Court order in this matter, consistent with all applicable U.S. and foreign laws, procedures, and regulations;
- d. To commit no further crimes;
- e. To be truthful at all times with the Court and the Offices;
- f. To pay the applicable fine and special assessment;

- g. To work with its parent corporation in fulfilling the obligations of the VimpelCom Deferred Prosecution Agreement entered into between VimpelCom Ltd. and the Offices in a related matter (the "VimpelCom DPA").

The defendant agrees to cooperate fully with the Offices in any and all matters relating to the conduct described in this Agreement, the Statement of Facts attached as Exhibit 2, and the Information filed pursuant to this Agreement, and other conduct related to corrupt payments, false books, records, and accounts, and the failure to implement adequate internal accounting controls, subject to applicable law and regulations, until the later of the date upon which all investigations and prosecutions arising out of such conduct are concluded, or the end of the term of the VimpelCom DPA. At the request of the Offices, the defendant agrees to also cooperate fully with other domestic or foreign law enforcement and regulatory authorities and agencies, as well as the Multilateral Development Banks ("MDBs"), in any investigation of the defendant, its affiliates, or any of its present or former officers, directors, employees, agents, and consultants, or any other party, in any and all matters relating to the conduct described in this Agreement, the Statement of Facts, and the Information, and other conduct related to corrupt payments, false books, records, and accounts, and the failure to implement adequate internal accounting controls under investigation by the Offices at any time during the term of the VimpelCom DPA. The defendant agrees that its cooperation pursuant to this paragraph shall include, but not be limited to, the following, subject to the obligation of the defendant to comply with local law and regulations, including relevant data privacy and national security laws and regulations:

- a. The defendant agrees to truthfully disclose all factual information not protected by a valid claim of attorney-client privilege, work product doctrine, or applicable foreign laws, including relevant data privacy and national security laws and regulations, with respect to its activities, those of its affiliates, and those of its present and former directors, officers, employees, agents, and consultants, including any evidence or allegations and internal or external investigations, about which the defendant has any knowledge or about which the Offices may inquire. This obligation of truthful disclosure includes, but is not limited to, the obligation of the defendant to provide to the Offices, upon request, any document, record, or other tangible evidence about which the Offices may inquire of the defendant, to the extent such disclosure does not violate applicable laws or regulations.

- b. Upon request of the Offices, the defendant agrees to designate knowledgeable employees, agents or attorneys to provide to the Offices the information and materials described in Paragraph (a) above on behalf of the defendant, to the extent permitted by applicable laws or regulations. The defendant further agrees to provide complete, truthful, and accurate information at all times.

- c. The defendant agrees to use its best efforts to make available for interviews or testimony, as requested by the Offices, present or former officers, directors, employees, agents, and consultants of the defendant. This includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with domestic or foreign law enforcement and regulatory authorities. Cooperation under this Paragraph shall include identification of witnesses who, to the knowledge of the defendant, may have material information regarding the matters under investigation.

d. With respect to any information, testimony, documents, records, or other tangible evidence provided to the Offices pursuant to this Agreement, the defendant consents to any and all disclosures, subject to applicable law and regulations (including relevant foreign data privacy and national security laws and regulations), to other governmental authorities, including United States authorities and those of a foreign government, as well as the MDBs, of such materials as the Offices, in their sole discretion, shall deem appropriate.

e. During the Term of the VimpelCom DPA, should the defendant learn of credible evidence or allegations of possible corrupt payments, related false books and records, or the failure to implement or circumvention of internal controls, including the existence of internal or external investigations into such conduct, the defendant agrees to promptly report such evidence or allegations to the Offices.

Except as may otherwise be agreed by the parties hereto in connection with a particular transaction, the defendant agrees that in the event that, during the Term of the VimpelCom DPA, the defendant sells, merges, or transfers all or substantially all of its business operations, as they exist as of the date of this Agreement, whether such sale is structured as a sale, asset sale, merger, transfer, or other change in corporate form, it shall include, as determined in the sole discretion of the Offices (considering all relevant factors related to the transaction and the Agreement), in any contract for such sale, merger, transfer, or other change in corporate form provisions to bind the purchaser, or any successor in interest thereto, to any or all obligations described in this Agreement.

Except as may otherwise be agreed by the parties hereto in connection with a particular transaction, if, during the Term of the VimpelCom DPA, the defendant undertakes any change in corporate form that involves business operations that are material to the consolidated financial statements of the defendant, as they exist as of the date of this Agreement, whether such transaction is structured as a sale, asset sale, merger, transfer, or other similar transaction, the defendant shall provide notice to the Offices at least thirty (30) days prior to undertaking any such transaction. If such transaction (or series of transactions) is completed and has the effect of circumventing or frustrating the enforcement purposes of this Agreement, as determined in the sole discretion of the Offices (considering all relevant factors related to the transaction and the Agreement), it shall be deemed a breach of this Agreement.

#### **The United States' Agreement**

In exchange for the corporate guilty plea of the defendant and the complete fulfillment of all of its obligations under this Agreement, and in exchange for the agreement of the defendant's parent corporation, VimpelCom Ltd., to assume all of the obligations set forth in the VimpelCom DPA, the Offices agree that it will not file additional criminal charges against the defendant or any of its direct or indirect affiliates or subsidiaries, or its parent corporations, relating to the conduct described in the Statement of Facts attached as Exhibit 2 or the Information filed pursuant to this Agreement, including, but not limited to, criminal cases alleging violations of the FCPA, Travel Act, money laundering statutes, mail or wire fraud statutes, or conspiracy statutes, except as provided by the VimpelCom DPA.

This Agreement does not provide any protection against prosecution for any corrupt payments, false accounting, or internal accounting controls violations in the future by the defendant, or by any of its officers, directors, employees, agents, or consultants, whether or not disclosed by the defendant pursuant to the terms of this Agreement. This Agreement also does not close or preclude the investigation or prosecution of any natural persons, including any officers, directors, employees, agents, or consultants of the defendant, who may have been involved in any of the matters set forth in the Information, Statement of Facts, or in any other matters.

### **Factual Basis**

The defendant is pleading guilty because it is guilty of the charges contained in the Information. The defendant admits, agrees, and stipulates that the factual allegations set forth in the Information are true and correct, that it is responsible for the acts of its present and former officers and employees described in the Statement of Facts attached here to and incorporated herein as Exhibit 2, and that the Statement of Facts accurately reflects the defendant's criminal conduct.

### **Defendant's Waiver of Rights, Including the Right to Trial and Appeal**

The defendant represents to the Court that defendant is satisfied that the defendant's attorneys have rendered effective assistance. Defendant understands that by entering into this Agreement, the defendant surrenders certain rights as provided in this Agreement. Defendant understands that the rights of defendants include the following:

- a. If the defendant persisted in a plea of not guilty to the charges, defendant would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the defendant, the United States, and the Court all agree.
- b. At a trial, the United States would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those witnesses and the defendant's attorney would be able to cross-examine them. In turn, the defendant could, but would not be required to, present witnesses and other evidence on its own behalf. If the witnesses for the defendant would not appear voluntarily, the defendant could require their attendance through the subpoena power of the Court.
- c. At a trial, no inference of guilt could be drawn from the defendant's refusal to present evidence. However, if the defendant desired to do so, it could present evidence on its behalf.

The defendant understands that nothing in this Agreement will restrict access by the United States Probation Office or the Court to information and records in the possession of the United States or any of its investigative law enforcement agencies, including state and local law enforcement agencies, as well as information, documents, and records obtained from the defendant.

The defendant is aware that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Should the Court impose the sentence proposed herein, the defendant agrees that it will waive the right to appeal the plea, conviction, and sentence (or the manner in which it was determined) on the grounds set forth in Title 18, United States Code, Section 3742. This Agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b).

The defendant is also aware that the United States Constitution and the laws of the United States afford the defendant the right to contest or "collaterally attack" its conviction or sentence after the conviction has become final. Knowing that, the defendant knowingly waives the right to contest or "collaterally attack" the defendant's plea, conviction, and sentence, provided that such sentence is consistent with the terms of this Agreement, by means of any post-conviction proceeding.

The defendant waives all defenses based on the statute of limitations with respect to any prosecution relating to the conduct described in the attached Statement of Facts that is not time barred on the date that this Agreement is signed in the event that: (a) the conviction is later vacated for any reason; (b) the defendant violates this Agreement; or (c) the plea is later withdrawn, provided that such prosecution is brought within one year of any such vacation of conviction, violation of the agreement, or withdrawal of the plea plus the remaining time period of the statute of limitations as of the date that this Agreement is signed. In addition, the defendant agrees that the statute of limitations as to any violation of U.S. federal law that occurs during the Term of the VimpelCom DPA will be tolled from the date upon which the violation occurs until the earlier of the date upon which the Offices are made aware of the violation or the duration of the Term of the VimpelCom DPA plus five years, and that this period shall be excluded from any calculation of time for purposes of the application of the statute of limitations. The Offices are free to take any position on appeal or any other post-judgment matter.

Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 limit the admissibility of statements made in the course of plea proceedings or plea discussions in both civil and criminal proceedings, if the guilty plea is later withdrawn. The defendant expressly warrants that it has discussed these rules with its counsel and understands them. Solely to the extent set forth below, the defendant voluntarily waives and gives up the rights enumerated in Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410. Specifically, the defendant understands and agrees that any statements that it makes in the course of its guilty plea or in connection with the Agreement are admissible against it for any purpose in any U.S. federal criminal proceeding if, even though the Department has fulfilled all of its obligations under this Agreement and the Court has imposed the agreed-upon sentence, the defendant nevertheless withdraws its guilty plea.

Defendant waives all defenses to the conduct charged in the Information based on venue, speedy trial under the United States Constitution and Speedy Trial Act, and any and all constitutional and non-jurisdictional defects.

## Penalty

The statutory maximum sentence that the Court can impose for a violation of Title 18, United States Code, Section 371, is a fine of \$500,000 or twice the gross gain or gross loss resulting from the offense, whichever is greatest, Title 18, United States Code 571(c)(3), (d); five years' probation, Title 18, United States Code 3561(c)(1); and a mandatory special assessment of \$400, Title 18, United States Code 3013(a)(2)(B).

a. The defendant hereby stipulates and agrees not to institute or participate in any proceeding to interfere with, alter, or bar enforcement of any fine, penalty, special assessment, or forfeiture order pursuant to the automatic stay or other provision of the United States Bankruptcy Code.

b. The defendant agrees that nothing in this Agreement is intended to release the defendant from any and all of the defendant's excise and income tax liabilities and reporting obligations for any and all income not properly reported and/or legally or illegally obtained or derived.

## Sentencing Factors

The parties agree that pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the Court must determine an advisory sentencing guideline range pursuant to the United States Sentencing Guidelines. The Court will then determine a reasonable sentence within the statutory range after considering the advisory sentencing guideline range and the factors listed in 18 U.S.C. § 3553(a). The parties' agreement herein to any guideline sentencing factors constitutes proof of those factors sufficient to satisfy the applicable burden of proof.

The Offices and the defendant agree that a faithful application of the United States Sentencing Guidelines (USSG) to determine the applicable fine range yields the following analysis:

- a. The 2015 USSG are applicable to this matter.
- b. Offense Level. Based upon USSG § 2C1.1, the total offense level is 48, calculated as follows:
- |   |          |
|---|----------|
| (a)(2) Base Offense Level                                       | 12       |
| (b)(1) Multiple Bribes  | +2       |
| (b)(2) Value of benefit received more than \$400,000,000        | +30      |
| (b)(3) Public official in a high-level decision-making position | +4       |
| <b>TOTAL</b>  | <hr/> 48 |

- c. Base Fine. Based upon USSG § 8C2.4(a)(2), the base fine is \$523,098,180 (as the pecuniary gain exceeds the fine indicated in the Offense Level Fine Table, namely \$72,500,000)
- d. Culpability Score. Based upon USSG § 8C2.5, the culpability score is 7, calculated as follows:
- |        |  |          |
|--------|--|----------|
| (a)    | Base Culpability Score   | 5        |
| (b)(2) | the organization had 1,000 or more employees and an individual within high-level personnel of the organization participated in, condoned, or was willfully ignorant of the offense | +4       |
| (g)    | The organization fully cooperated in the investigation and clearly demonstrated recognition and affirmative acceptance of responsibility for its criminal conduct                  | - 2      |
|        | <b>TOTAL</b>   | <u>7</u> |

Calculation of Fine Range:

Base Fine	\$523,098,180
Multipliers	1.40(min)/2.80(max)
Fine Range	\$732,337,452/ \$1,464,674,904

**Sentencing Recommendation**

Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the Offices and the defendant agree that the following represents the appropriate disposition of the case:

a. Fine. The parties agree that, in light of (a) the complexity of the overall dispositions with Unitel and its parent company, VimpelCom Ltd., and (b) the interrelationship among the charges and conduct underlying those dispositions, an application of the Alternative Fines Act, Title 18, United States Code, Section 3571(d), to this case would unduly complicate or prolong the sentencing process, so that the maximum fine under the Sentencing Guidelines is \$500,000 as provided in Title 18, United States Code Section 3571(c)(3). The parties agree that, in light of the VimpelCom DPA, which requires VimpelCom to pay a total monetary penalty of \$460,326,398.40 as a result of the misconduct committed by both VimpelCom Ltd. and the defendant, as well as the factors cited in the VimpelCom DPA, no fine should be imposed on the defendant.



b. Organizational Probation. The parties agree that a term of organizational probation is not appropriate in this case, as the defendant's parent corporation, VimpelCom Ltd., has agreed to the retention of an independent corporate monitor pursuant to the VimpelCom DPA, who will monitor VimpelCom Ltd. and its subsidiaries, including the defendant.

c. Mandatory Special Assessment. The defendant shall pay to the Clerk of the Court for the United States District Court for the Southern District of New York within ten (10) business days of the time of sentencing the mandatory special assessment of \$400 per count.

d. Court Not Bound. This agreement is presented to the Court pursuant to Fed. R. Crim. P. 11(c)(1)(C). The defendant understands that, if the Court rejects this Agreement, the Court must: (a) inform the parties that the Court rejects the Agreement; (b) advise the defendant's counsel that the Court is not required to follow the Agreement and afford the defendant the opportunity to withdraw its plea; and (c) advise the defendant that if the plea is not withdrawn, the Court may dispose of the case less favorably toward the defendant than the Agreement contemplated. The defendant further understands that if the Court refuses to accept any provision of this Agreement, neither party shall be bound by the provisions of the Agreement. The defendant, however, also understands that if the Court accepts this Agreement, the Court is bound by the sentencing recommendation.

#### **Consolidation of Plea and Sentencing and Waiver of Presentence Investigation**

The parties agree, subject to the Court's approval, to waive the requirement for a presentence report, pursuant to Federal Rule of Criminal Procedure 32(c)(1)(A), based on a finding by the Court that the record contains information sufficient to enable the Court to meaningfully exercise its sentencing power. The parties, however, agree that in the event the Court orders the preparation of a presentence report prior to sentencing, such order will not affect the agreement set forth herein. Additionally, if the Court directs the preparation of a presentence report, the Offices will fully inform the preparer of the presentence report and the Court of the facts and law related to the defendant's case.

The parties further agree to request that the Court combine the entry of the guilty plea and sentencing into one proceeding. The parties, however, agree that in the event the Court orders that the entry of the guilty plea and sentencing hearing occur at separate proceedings, such an order will not affect the Agreement set forth herein.

#### **Breach of the Plea Agreement**

If the defendant breaches the terms of this Agreement, or commits any new U.S. federal criminal offense between signing this Agreement and sentencing, the Offices are relieved of their obligations under this Agreement, but the defendant may not withdraw its guilty plea. Whether the defendant has breached any provision of this Agreement shall be determined solely by the Offices.

In the event the Offices determine that the defendant has breached this Agreement, the Offices agree to provide the defendant with written notice of such breach prior to instituting any

prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, the defendant shall have the opportunity to respond to the Offices in writing to explain the nature and circumstances of such breach, as well as the actions the defendant has taken to address and remediate the situation, which explanation the Offices shall consider in determining whether to pursue prosecution of the defendant.

In the event of a breach of this Agreement by the defendant:

- a. Unitel shall be fully subject to criminal prosecution for any crimes, including perjury and obstruction of justice;
- b. the Offices will be free to use against Unitel, directly and indirectly, in any criminal or civil proceeding any of the information or materials provided by Unitel pursuant to this Agreement, as well as the admitted Statement of Facts contained herein; and
- c. should the Offices elect to pursue criminal charges or any civil action that was not filed as a result of this Agreement, then Unitel agrees that any applicable statute of limitations is tolled between the date of Unitel's signing of this Agreement and the expiration of the Term of the VimpelCom DPA plus one year, and Unitel waives all defenses based on the statute of limitations, venue, any claim of pre-indictment delay, or any speedy trial claim with respect to any such prosecution or action, except to the extent that such defenses existed as of the date of the signing of this Agreement.

#### Complete Agreement


This written Agreement constitutes the complete plea agreement between the parties. No promises or representations have been made by the United States except as set forth in writing in this Agreement. The defendant acknowledges that no threats have been made against the defendant and that the defendant is pleading guilty freely and voluntarily because the defendant is guilty. Any modification of this Agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

AGREED:

FOR UNITEL LLC:


Date: February 15, 2016

By:

  
\_\_\_\_\_  
Scott G. Dresser  
Group General Counsel  
VimpelCom Ltd., parent company of  
Unitel LLC

Date: February 16, 2016

By:

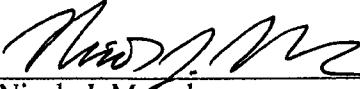
  
\_\_\_\_\_  
Mark Rochon  
John E. Davis  
Miller & Chevalier Chartered  
Counsel to Unitel LLC

**FOR THE DEPARTMENT OF JUSTICE:**

ANDREW WEISSMANN  
Chief, Fraud Section  
Criminal Division  
United States Department of Justice

Date: February 16, 2016

By:

  
\_\_\_\_\_  
Nicola J. Mazek  
Senior Litigation Counsel

Ephraim Wernick  
Trial Attorney

PREET BHARARA  
United States Attorney  
Southern District of New York

Date: \_\_\_\_\_

By:

\_\_\_\_\_  
Edward Imperatore  
Assistant United States Attorney