



CH-3003 Bern, EDA

## to whom it may concern

Our reference: K.221.244-PMSC-CoC-RON  
Berne, 14.01.2010

### **Global Code of Conduct for Respect of Human Rights and International Humanitarian Law**

Dear Sir and Madam,

You will find attached a draft Global Code of Conduct. This code will be further developed through a series of workshops and consultations with industry, clients, governments and non-government organizations and other relevant stakeholders. Upon agreement on the content of the code by the industry, the Swiss government will aim for a multi-stakeholder conference, endorsing the code and setting out the agenda for its institutionalization and implementation, including the set up of the proposed International Accountability Mechanism.

This code in its current form is the product of an initiative launched by industry associations, corporations and individual business leaders with the assistance of the government of Switzerland and in consultation with the governments of the United Kingdom and the United States and other stakeholders and relevant experts.

This code aims to recognize that private services are often performed in circumstances where the rule of law has been essentially undermined and where governments may be unable to effectively enforce the law, including human rights law. The code will reinforce the firm belief of responsible corporations offering private security functions and military services that recognizing the human rights and humanitarian law responsibilities of a company towards all those affected by its business practices, including its personnel, its customers, suppliers, and shareholders, provides an important foundation for the responsible provision of private services and can promote the rule of law.

This code will be binding upon the corporations that endorse it. It will apply globally in all circumstances, whether or not there is a situation of armed conflict. The corporations endorsing this code will agree to certification, monitoring, and necessary remedial action by an International Accountability Mechanism, operating as an ombudsman and/or arbiter for this code.

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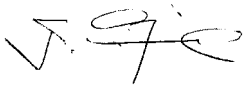
This code, including the International Accountability Mechanism, complements and does not, and is not intended to, replace the control exercised by competent state law-enforcement bodies. All business should be conducted in accordance with the laws, regulations and corporate standards of business conduct of the countries where they operate.

This code does not seek to cover every issue that may arise, but rather sets out key principles to guide all personnel, including employees and officers, of corporations performing private security services and all of their subcontractors.

I am gratefully looking forward to your comments and participation in upcoming workshops. I kindly ask you to submit your written comments via mail or email to Desk Officer Nils Rosemann: [nils.rosemann@eda.admin.ch](mailto:nils.rosemann@eda.admin.ch).

Yours sincerely,

Political Affairs Division IV, Human Security

A handwritten signature in black ink, appearing to read 'T. Greminger', with a stylized flourish at the end.

Ambassador Thomas Greminger  
Head of Political Affairs Division IV

**DRAFT for consultation as of 7 January 2010**

**Global Code of Conduct for Private Security Companies and Private Military  
Companies**

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This code is the product of an initiative launched by industry associations, corporations and individual business leaders in assistance by the government of Switzerland and in consultation with the governments of the United Kingdom and the United States, as well as with other governments participating in the Montreux Document process, and other stakeholders and relevant experts. Recognizing that private services are often performed in circumstances where the rule of law has been essentially undermined and where governments may be unable to effectively enforce the law, including human rights law. Corporations offering private security functions and military services believe that recognizing the human rights and humanitarian law responsibilities of a company towards all those affected by its business practices, including its personnel, its customers, suppliers, and shareholders, provides an important foundation for the responsible provision of private services and can promote the rule of law.

This code is binding upon the corporations that endorse it. It will apply globally to all circumstances, whether or not there is a situation of armed conflict. The corporations endorsing this code agree to certification, monitoring, and necessary remedial action by an International Accountability Mechanism, operating as an ombudsman and/or arbiter for this code.

This code, including the International Accountability Mechanism, complements and does not, and is not intended to, replace the control exercised by competent state law-enforcement bodies. All business should be conducted in accordance with the laws, regulations and corporate standards of business conduct of the countries where they operate.

This code does not seek to cover every issue that may arise, but rather sets out key principles to guide all personnel, including employees and officers, of corporations performing private security services and all of their subcontractors.

This Code of Conduct consists of three parts:

- I. Part I contains the global standards;
- II. Part II sets out the institutional structure for the international accountability mechanism (IAM); and
- III. Part III contains details of the oversight functions of the IAM.

## **PART I**

### **A. Purpose, Scope, Relevant Laws and Standards**

1. This Code of Conduct complements the existing obligations binding on companies and their personnel under the law and those regulations which apply where the company or its personnel are registered or operate.

## **B. General Obligations**

2. Companies will ensure their personnel respect the 10 rules contained on the 'contractor's card' contained in Annex I.
3. Companies will respect all relevant obligations and principles of international humanitarian and human rights law, as well as all other applicable national law such as criminal law, tax law, labour law, and specific regulations on private military or security services.
4. Companies will not enter into contracts that conflict with applicable criminal law or relevant local, regional and international human rights standards.
5. Companies will not commit, assist or improperly benefit from international crimes such as war crimes, crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage taking, or extrajudicial, summary or arbitrary executions.
6. Companies will refrain from any activity which supports, solicits, or encourages states or any other entities to abuse or violate human rights. They shall exercise due diligence to ensure that the goods and services they provide are not used to abuse human rights.

## **C. Specific Human Rights Obligations**

### **Use of Force and Firearms**

7. Personnel, in carrying out their contractual and moral obligations in accordance with law, will, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
8. Whenever the lawful use of force and firearms is unavoidable, individual contractors shall:
  - (a) Exercise restraint in such use and act in proportion to the seriousness of the threat and the legitimate objective to be achieved;
  - (b) Minimize damage and injury, and respect and preserve human life;
  - (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

- (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.
- 9. Personnel will not use force except when strictly necessary.. Such force must be proportionate and limited to the extent necessary to respond appropriately to the imminent threat of violence.
- 10. Intentional lethal force may only be used when strictly unavoidable in order to protect life.
- 11. Personnel that use a firearm will identify themselves as armed security services and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the armed contractor at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.
- 12. Where injury or death is caused by the use of force and firearms by personnel, they shall report the incident promptly to their superiors who will then report the incident on to the competent authorities.

### **Prohibition of Torture and Ill-treatment**

- 13. Companies and all their personnel will respect the right of all people to be free from torture, cruel treatment, and outrages upon personal dignity, in particular humiliating and degrading treatment.
- 14. No one may invoke superior orders, contractual obligations or exceptional circumstances such as a state of war or a threat of war, a threat to national or international security, internal political instability, or any other public emergency, as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

### **Detention**

- 15. Companies and their personnel will not take or hold any persons except when detaining following an attack or crime against the contractor or anyone under their protection pending the handover of such detained persons to the appropriate authorities at the earliest opportunity. Companies and their personnel may guard detainees when they have been specifically contracted to do so by the appropriate authorities.

## **Non-discrimination**

16. Companies and their personnel will not discriminate on grounds of race, colour, sex, language, religion, political opinion, social origin, social status, indigenous status, disability, sexual orientation, political or other opinion, or other status of the individual, unless such discrimination is reasonably related to the inherent requirements to perform their duty.

## **Freedom of Expression and Association**

17. Companies and their personnel will not violate the rights of individuals exercising the right to freedom of association and peaceful assembly, to engage in collective bargaining, or other related rights of employees as recognized by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.

## **Respect for Privacy and Property**

18. Companies and their personnel will respect the rights to privacy and property, and consider local cultural sensitivities, of all those affected by their business practices.

## **Superior Responsibility**

19. Directors and managers of companies are responsible for the conduct of their personnel and subcontractors at all tiers.

## **D. Specific Management Obligations Concerning Personnel**

### **Harassment**

20. Companies will set up internal personnel grievance structures in which any personnel who believes that he or she has been harassed or abused is able to raise the matter and have it addressed, ensuring that any allegations are investigated without delay, impartially and confidentially.

### **Sexual Abuse and Trafficking**

21. In the scope of their activities, companies and their personnel will take appropriate measures to protect all persons from gender-based

violence, particularly rape, any sexual abuse, and other forms of violence in situations of armed conflict.

22. Companies will not engage in, nor allow their personnel to engage in, the act of trafficking in persons. Companies will remain vigilant for instances of trafficking in persons and, where discovered, will report such instances to relevant authorities.

### **Prohibition of the worst forms of child labour**

23. Companies will respect the rights of children (anyone under 18) to be protected from the worst forms of child labour, including:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs ;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

24. Companies will not employ or contract with children (persons under 18) to perform armed services or to operate in a harmful environment.

### **Prohibition of slavery and forced labour**

25. Companies will under no circumstances use forced or compulsory labour or assist in, or benefit from, any other entity's use of such labour, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of persons, debt bondage and serfdom and forced recruitment for use in armed conflict.
26. Companies will not withhold passports or other travel documents, nor take any action that would prevent personnel from leaving his or her employment with that company or to leave the state of employment.

## **Safe and healthy work environment**

27. Companies will strive to provide a safe and healthy working environment. Considering the high levels of risk often inherent to business operations in conflict or post-conflict situations companies will ensure that reasonable precautions are taken to protect relevant staff in high risk or life-threatening operations. This will include:
- (a) conducting a full operational risk assessment,
  - (b) hostile environment training,
  - (c) providing adequate protective equipment, appropriate weapons and ammunition, medical support and insurance, adopting policies which support a safe and healthy working environment within the company, such as policies which address stress and trauma, deter workplace violence, misconduct, alcohol and drug abuse, sexual harassment and other improper behaviour.

## **Selection and Vetting of Personnel**

28. Companies will exercise due diligence in the selection, vetting and ongoing performance review of their personnel. Companies will only employ individuals with the requisite qualifications as set out in the contract and the relevant national laws and industry practices.
29. Companies will conduct comprehensive inquiries within applicable law regarding the extent to which any of its personnel, particularly those who are required to carry weapons as part of their duty, have a reliably attested record of not having been involved in serious crime or have not been dishonourably discharged from armed or security forces.
30. Companies will not hire or continue to employ individuals whom they know to have a reliably attested record of human rights abuses, war crime or acts of terrorism. Nor will companies hire or continue to employ individuals whom they know to have convictions related to violence, fraud, sexual abuse, organised crime, bribery or corruption.
31. Except where prohibited by law, companies will require all applicants to authorise access to prior employment records as a condition for employment, including records relating to posts held with the military, police or private services.
32. Companies will assess the continued ability of personnel to perform their duties in accordance with this Code and periodic reviews will be entered into the personnel's employment and service records.

33. Companies will keep employment and service records and reports on any personnel who are dismissed or disciplined for violations of this Code or any other behaviour related to the use of force. Such records should be made available to the International Accountability Mechanism on request.

### **Company Policies and Personnel Contracts**

34. Companies will ensure that their policies and other relevant personnel reference materials such as personnel contracts include appropriate references to this code of conduct and all appropriate labour rights and safeguards. Contract terms and conditions, including labour rights and protections, will be clearly communicated in a written form to all personnel in a format and language that is accessible to them.
35. Payment of different wages to different nationalities must be based on merit and national economic differential, and cannot be based on grounds of race, gender or ethnicity.

### **Training of Personnel**

36. Companies will ensure that all personnel receive initial, recurrent and thorough professional training and are regularly evaluated to ensure they meet not only appropriate physical and mental fitness standards to perform their contracted duties, but also are fully aware of all appropriate international and national laws and standards, including international human rights and responsibilities of private security companies with regard to humanitarian law. Training programs shall be designed with a view to facilitating uniformity and standardisation of training requirements, and shall cover the elements contained in Annex II. Companies will maintain records of attendance and test results from all professional training sessions.
37. Companies will ensure that human rights concerns are incorporated into all personnel training so that it is clear that all activities must respect human rights.
38. Personnel who are to carry firearms will be entitled to do so only on completion of specialized training with regard to the type and model of weapon they will carry. Personnel should not operate in high threat or dangerous environments until they have successfully completed specialized training. This specialized training may be based on other relevant standards, but shall be based as a minimum on this Code of Conduct and the UN Basic Principles on the Use of Force and

Firearms by Law Enforcement Officials (1990), and national laws or regulations in effect in the area duties will be performed.

### **Transparency and cooperation with public law enforcement agencies**

39. Companies will, to the extent consistent with force protection requirements and the safety of the assigned mission, ensure that their personnel be individually identifiable whenever they are carrying out activities in discharge of their contractual responsibilities. Companies will operate with integrity, honesty and fairness. Companies will fully cooperate with national and international authorities exercising proper jurisdiction, in particular with regard to national and international investigations of violations of criminal law, human rights standards or international humanitarian law.

### **Internal Personnel Disciplinary Procedures**

40. In addition to cooperating with official investigations companies will carry out effective and legitimate internal investigations with regard to allegations of violations of this code or any other unlawful or abusive behaviour. Companies will take appropriate disciplinary action, including termination of employment in case of credible evidence of such violations or unlawful or abusive behaviour. Companies will keep personnel records about any such allegations, findings or disciplinary measures taken. Except where prohibited by law, such records should be made available to the International Accountability Mechanism (IAM) where the IAM so requests.

### **Internal Grievance Procedures**

41. Companies will establish effective internal personnel grievance procedures to hear claims by company personnel, including with regard to violations of labour and other human rights. Such effective internal grievance procedures must be fair, transparent, accessible, and offer effective remedies and recommendations when violations are found.

### **Third-Party Grievance Procedures**

42. Companies will establish effective internal third-party grievance procedures which are fair, transparent, and accessible to the affected population. Before operating in an area, the company should identify

appropriate external stakeholders and adapt its third-party grievance mechanism to the particular situation and needs of those stakeholders. Such grievance procedures should be developed so as to provide effective remedies which include reparations and ways of identifying systemic problems within the company.

### **Whistleblower policy**

43. Companies will establish procedures for reporting allegations of improper and illegal conduct, including such acts or omissions that would violate this Code of Conduct. These procedures should encourage personnel with reason to believe that a violation of this Code has occurred or is about to occur to report the matter to their superiors and, where necessary, to other appropriate authorities. Companies will ensure that whistleblowers who report wrongdoings are provided protection as appropriate under the circumstances, such as shielding them from inappropriate disciplinary steps, and that matters raised are examined and acted upon without undue delay. No provision in this code should be interpreted as replacing any contractual requirements for reporting misconduct.

### **Corruption**

44. Companies and their personnel will not promise, offer, or give to a public official, directly or indirectly, any undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

### **Inclusion of this Code of Conduct in Contractual Arrangements**

45. Whenever possible, compliance with this Code shall be made an integral part of contractual agreements, including those with clients, personnel, and subcontractors. Nonetheless, companies will be held accountable for their adherence to this Code, even when the code is not included in a contractual agreement. Companies will ensure that all subcontractors comply with the standards set out in this Code of Conduct.

## **Rules for the Use of Force**

46. Companies shall operate under rules for the use of force (RUF) consistent with the civilian status of private security company personnel. RUF shall be reviewed and approved by the controlling legal authority for the area the private security company is operating in and the party contracting with the private security company. Rules of Engagement (ROE) are directives delineating the circumstances and limitations for military forces to initiate or continue combat engagement with other forces. Companies shall not use ROE unless they have been incorporated into the armed forces of a state as described in the Montreux Document.

## **Arms**

47. Companies and their personnel shall acquire and maintain all necessary authorizations for the possession and use of any arms and ammunition. Company policies for management of arms and ammunitions, should include:

- (a) safe storage
- (b) strict controls over their issue
- (c) detailed records regarding to whom and when weapons are issued
- (d) strict identification and accounting of all ammunition, including after such ammunition has been discharged (whether for training or in the course of performing duties)
- (e) proper disposal procedures

48. Companies and their personnel must neither possess nor use weapons or ammunition which are illegal under any relevant international or national law. Companies and their personnel shall not engage in any illegal arms transfers and shall conduct any arms transactions in accordance with applicable laws and UN arms embargoes. Arms and ammunition should not be altered in any way that contravenes relevant national or international law.

## **Insurance**

49. Companies must obtain and maintain professional indemnity insurance, appropriate to the level of risk they face. Elements to be included in such insurance are contained in Annex III.

## **Annex I - Contractor's Rules**

### **The Contractor's Rules**

1. Do not use force or firearms except when strictly necessary and as a last resort. All use of force should be proportionate to the threat and appropriate to the situation.
2. Lethal force may only be used when strictly unavoidable in order to protect yourself from imminent threats to your life or to protect the lives of others.
3. All persons must be treated humanely and with respect for their dignity and privacy.
4. Non-violent demonstrations cannot be met with force or firearms.
5. Do not engage in acts of vengeance.
6. Do not commit any unjustified act that could result in physical, sexual or psychological harm or suffering to members of the local population.
7. Respect other people's property. Do not take unauthorized souvenirs.
8. Do not accept or offer bribes.
9. Report any breach of these rules.
10. Reliance on superior orders does not constitute a defence to breach of the contractor's rules.

## **Annex II - Training**

Training curricula in accordance with the standards and policies contained in this Code should be developed for each of the distinct services offered by different companies including:

- guarding and protection of persons, property and objects;
- maintenance and operations of weapons;
- prisoner detention;
- mission execution support [strategic, logistical on and off-site], and
- advice to or training of local forces and security personnel.

Training of personnel shall include:

- Briefing on the culture, religion, history, gender sensitivities of the territorial state where they are to train and/or operate
- Briefing on the operational context (e.g., armed conflict, fragile state, etc.) of the territorial state in which they are to train and/or operate
- Training on Basic Principles on the Use of Force and Firearms and any Rules for the Use of Force appropriate to the operational context of the territorial state in which they are to operate in.
- If authorized to carry weapons, appropriate training for use of the particular weapon they are carrying, as well as the applicable national and international law governing the use of such a weapon
- Ethics and anti-corruption
- Human rights standards, including their insertion into standard operating procedures (SOPs)
- International Humanitarian Law
- Procedures for de-escalation of threats
- Alternatives to the use of force and firearms
- Handling complaints by the civilian population, in particular by transmitting them to the appropriate authorities.
- First Aid Training

Training programs shall be designed with a view to facilitating uniformity and standardisation of training requirements, and shall meet appropriate and recognized international standards. Third party certification of training programs or specified components of training programs may be made a requirement for corporate certification by the IAM.

### **Annex III –Insurance Requirements**

To be determined

### **Elements to be developed for future Parts II and III, addressing the International Accountability Mechanism and its oversight functions**

An International Accountability Mechanism (IAM) shall be established in order to provide independent oversight of and accountability for the Code. In addition, the IAM will contribute to the “living” character of the Code, by encouraging increasing adhesion to the Code by companies offering private security services, as well as to incorporate good practices and lessons learned.

Such an International Accountability Mechanism will provide:

- Independent Third Party Oversight, including certification, of compliance with the Code
- Effective Accountability for violations the Code through sanctions and remedies that are rights compatible
- Maintenance of the register of companies signatory to the Code as well as their status with regard to the compatibility of company conduct with the Code.
- Advocacy and training
- Registration and evaluation of third party complaints
- Development of policies related to the Code
- Legal advice and opinions on issues related to compliance with the code and relevant laws and standards.