



U.S. Department of Justice
Criminal Division
Fraud Section

December 15th, 2008

Scott W. Muller, Esq.
Angela T. Burgess, Esq.
Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017

RE: United States v. Siemens Bangladesh Limited Cr. No. 08-369-RJL

Dear Mr. Muller and Ms. Burgess:

1. This letter sets forth the full and complete plea offer to your client, Siemens Bangladesh Limited (referred to herein as "Siemens Bangladesh" or "defendant"). This offer is by the Criminal Division of the U.S. Department of Justice and the United States Attorney's Office for the District of Columbia (collectively referred to as the "Department") and is binding upon both. It does not bind any other state or local prosecuting, administrative, or regulatory authority. This agreement does not apply to any charges other than those specifically mentioned herein. However, the Department will bring this agreement and the cooperation of Siemens Bangladesh, its direct or indirect affiliates, subsidiaries, and parent corporations, to the attention of other prosecuting authorities or other agencies, if requested. Upon receipt, and execution by or on behalf of Siemens Bangladesh, the executed letter will itself become the plea agreement. The terms of the offer are as follows:

2. **Charges:** Pursuant to Fed. R. Crim. P. 11(c)(1)(C), Siemens Bangladesh agrees to waive its right to grand jury indictment and its right to challenge venue in the District Court for the District of Columbia and to plead guilty to a one-count information charging it with conspiracy to violate the Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, 15 U.S.C. §§ 78dd-1, et seq., all in violation of Title 18, United States Code, Section 371. It is understood that the guilty plea will be based on a factual admission of guilt to the offense charged and will be entered in accordance with Rule 11 of the Federal Rules of Criminal Procedure. An authorized representative of Siemens Bangladesh will admit that Siemens Bangladesh is in fact guilty. By virtue of corporate resolution dated 12-4-08, defendant has authorized this plea and has empowered the Chief Counsel Project Office Compliance Investigation and/or outside counsel, Davis Polk & Wardwell, to act on its behalf for purposes of this plea. Siemens Bangladesh agrees that it has the full legal right, power and authority to enter into and perform all of its obligations under this agreement and it agrees to abide by all terms and obligations of this agreement as described herein. The attached "Statement of the Offense" is a fair and accurate description of the facts the Department believes it can prove through admissible evidence regarding a relevant portion of defendant's actions and involvement in the offense. Siemens Bangladesh admits and accepts responsibility for the conduct described in the Statement of the Offense. Prior to the Rule 11 plea hearing, defendant, through counsel, will adopt and sign the Statement of the Offense as a written proffer of evidence by the United States.

3. **Potential penalties, assessments, and restitution:** The statutory maximum sentence that the Court can impose on an organization for a violation of Title 18, United States Code, Section 371 is a fine not exceeding \$500,000 (18 U.S.C. §3571(c)(3)) or twice the

pecuniary gain derived from the offense or twice the pecuniary loss suffered by a person other than defendant, unless imposition of a fine under this provision would unduly complicate or prolong the sentencing process (18 U.S.C. §3571(d)); five years' probation, 18 U.S.C. § 3561(c)(1); and a mandatory special assessment of \$400, 18 U.S.C. § 3013(a)(2)(B).

The parties agree that, in light of (a) the complexity of the overall dispositions with Siemens AG and several of its subsidiaries, and (b) the interrelationship among the charges and conduct underlying those dispositions, an application of the Alternative Fines Act, 18 U.S.C. 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 18 U.S.C. Section 3571(c)(3). The parties similarly agree that restitution is not required and that probation is not necessary in light of the monitorship provisions and undertakings in the related agreement of Siemens Aktiengesellschaft and in the Judgment being entered in the companion case of U.S. Securities and Exchange Commission v. Siemens Aktiengesellschaft, Civil Action No.

4. **Federal Sentencing Guidelines:** The parties agree that under U.S.S.G. § 8C3.1(b), the minimum guideline fine would be greater than the maximum fine authorized by statute. Accordingly, the guideline fine is \$500,000.

5. **Penalties and assessments:** Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the Department and defendant agree that the appropriate sentence in the case is that defendant will pay a fine to the United States in the amount of \$500,000 and a special assessment of \$400. This \$500,000 fine and the \$400 special assessment shall be paid to the Clerk of Court, United States District Court for the District of Columbia within ten (10) days of sentencing. Defendant

acknowledges that no tax deduction may be sought in connection with the payment of this \$500,000 penalty.

6. **Court is Not Bound:** Defendant understands that, if the Court rejects this agreement, the Court must: (a) inform the parties that the Court rejects the agreement, (b) advise defendant's counsel that the Court is not required to follow the agreement and afford defendant the opportunity to withdraw its plea, and (c) advise defendant that if the plea is not withdrawn, the Court may dispose of the case less favorably toward defendant than the Agreement contemplated. Defendant further understands that if the Court refuses to accept any provision of this plea agreement, neither party shall be bound by the provisions of the agreement.

7. **Waiver of Rights:** 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.

Defendant expressly warrants that it has discussed these rules with its counsel and understands them. Solely to the extent set forth below, defendant voluntarily waives and gives up the rights enumerated in Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410. Specifically, defendant understands and agrees that any statements that it makes in the course of its guilty plea or in connection with this plea 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, Siemens Bangladesh nevertheless withdraws its guilty plea.

The parties further agree, with the permission of the Court, to waive the requirement for a pre-sentence 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 pre-sentence report prior to sentencing, such order will not affect the agreement set forth herein.

The parties further agree to ask the Court's permission to combine the entry of the plea and sentencing into one proceeding. However, the parties 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.

If the Court orders a pre-sentence investigation report or a separate sentencing date, the parties agree to waive the time requirements for disclosure of and objections to the pre-sentence investigation report under Fed. R. Crim. P. 32(e), so as to accommodate a sentencing hearing prior to the date that would otherwise apply. At the time of the plea hearing, the parties will suggest mutually agreeable and convenient dates for (a) any objections to the pre-sentence report, and (b) consideration by the Court of the pre-sentence report and the parties sentencing submissions.

8. **Press Releases:** Defendant agrees that if Siemens AG or any of its direct or indirect affiliates or subsidiaries issues a press release in connection with this agreement, defendant shall first consult the Department to determine whether (a) the text of the release is true and accurate with respect to matters between the Department and defendant; and (b) the Department has no objection to the release. Statements at any press conference concerning this matter shall be consistent with this press release.

9. **Continuing Cooperation:** Siemens Bangladesh shall: (a) plead guilty as set forth in this agreement; (b) abide by all sentencing stipulations contained in this agreement; (c) appear, through its duly appointed representatives, as ordered for all court appearances and obey

any other ongoing court order in this matter; (d) commit no further crimes; (e) be truthful at all times with the Court; and (f) pay the applicable fine and special assessment.

10. **Department Concessions:** In exchange for defendant's guilty plea, the guilty pleas to be taken by Siemens AG, Siemens S.A. (Argentina), and Siemens S.A. (Venezuela), and the complete fulfillment of all of defendant's obligations under this agreement, the Department agrees not to use any information related to the conduct described in the accompanying Information and Statement of the Offense, or any other conduct disclosed to the Department prior to the date of this agreement, against defendant or any of its present or former subsidiaries or affiliates in any criminal case except in a prosecution for perjury or obstruction of justice, in a prosecution for making a false statement after the date of this agreement, or in a prosecution or other proceeding relating to any crime of violence. In addition, the Department agrees that it will not bring any criminal charge against defendant, or any of its present or former subsidiaries or affiliates for conduct that (a) arises from or relates in any way to the conduct of defendant or its present and former employees, consultants and agents alleged in the accompanying Information and Statement of the Offense or the Informations and Statements of the Offense accompanying the pleas of Siemens AG, Siemens S.A. (Argentina), and Siemens S.A. (Venezuela) or any similar conduct that took place prior to the date of this agreement, or (b) that arises from or relates in any way to information disclosed by defendant to the Department prior to the date of this agreement. This paragraph does not provide any protection against prosecution for any corrupt payments, false accounting, or circumvention of internal controls, if any, made in the future by defendant, or any of its officers, directors, employees, agents or consultants, whether or not disclosed by defendant pursuant to the terms of this agreement. This agreement will not close or preclude the investigation or prosecution of any natural persons, including any current or

former officers, directors, employees, stockholders, consultants or agents of defendant, of its present or future direct or indirect affiliates, or of its present or future subsidiaries who may have been involved in any of the matters set forth in the accompanying Statement of the Offense or in any other matters.

11. **Full Disclosure/Reservation of Rights:** In the event the Court directs the preparation of a pre-sentence report, the Department will fully inform the preparer of the pre-sentence report and the Court of the facts and law related to defendant's case. Except as set forth in this agreement, the parties reserve all other rights to make sentencing recommendations and to respond to motions and arguments by the opposition.

12. **Waiver of Appeal Rights:** Defendant knowingly, intelligently, and voluntarily waives its right to appeal the conviction in this case. Defendant similarly knowingly, intelligently, and voluntarily waives its right to appeal the sentence imposed by the Court, provided such sentence is consistent with the terms of this agreement. Defendant waives all defenses based on the statute of limitations and venue with respect to any prosecution that is not time-barred on the date this agreement is signed in the event that: (a) the conviction is later vacated for any reason; (b) defendant violates this agreement; or (c) the plea is later withdrawn. The Department is free to take any position on appeal or any other post-judgment matter.

13. **Breach of Agreement:** Defendant agrees that if it fails to comply with any of the provisions of this plea agreement, makes false or misleading statements before the Court, commits any further crimes, or attempts to withdraw the plea after sentencing and even though the Department has fulfilled all of its obligations under this agreement and the Court has imposed the agreed-upon sentence, the Department will have the right to characterize such conduct as a breach of this plea agreement. In the event of such a breach, (a) the Department

will be free from its obligations under the agreement and may take whatever position it believes appropriate as to the sentence (for example, should defendant commit any conduct after the date of this agreement – examples of which include but are not limited to, obstruction of justice and false statements to law enforcement agents, the probation office, or the Court – the Department is free under this agreement to seek an increase in the sentence based on that post-agreement conduct); (b) defendant will not have the right to withdraw the guilty plea; (c) defendant shall be fully subject to criminal prosecution for any other crimes which it has committed or might commit, if any, including perjury and obstruction of justice; and (d) the Department will be free to use against defendant, directly and indirectly, in any criminal or civil proceeding any of the information or materials provided by it pursuant to this agreement, as well as the admitted Statement of the Offense.

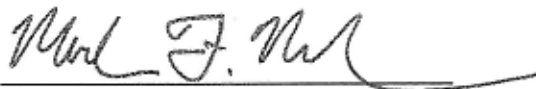
In the event of such breach, any such prosecutions of defendant not time-barred by the applicable statute of limitations on the date of the signing of this agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the running of the applicable statute of limitations in the interval between now and the commencement of such prosecutions. Defendant knowingly and voluntarily agrees to waive any and all defenses based on the statute of limitations for any prosecutions commenced pursuant to the provisions of this paragraph.

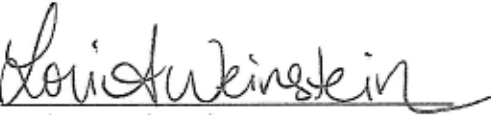
14. **Complete Agreement:** No agreements, promises, understandings, or representations have been made by the parties or their counsel other than those contained in writing herein. Nor will any such agreements, promises, understandings, or representations be made unless committed to writing and signed by defendant, defendant's counsel, an attorney for

the U.S. Department of Justice, Criminal Division, Fraud Section, and an Assistant United States Attorney for the District of Columbia.

If the foregoing terms and conditions are satisfactory, Siemens Bangladesh may indicate its assent by signing the agreement in the space indicated below and returning the original once it has been signed by Siemens Bangladesh and its counsel.

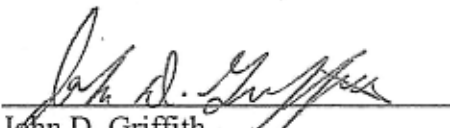
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