

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
BRIAN L. SCHWALB

Public Advocacy Division
Antitrust and Nonprofit Enforcement Section



ASSURANCE OF VOLUNTARY COMPLIANCE AND SETTLEMENT
AGREEMENT

This Assurance of Voluntary Compliance and Settlement Agreement (“Assurance”) is entered into between the Office of the Attorney General for the District of Columbia (the “District”) and Andean Consulting Solutions International LLC (“Respondent”), in lieu of the District resolving Respondent’s allegedly unlawful conduct in court. The District and Respondent agree as follows:

I. THE PARTIES

1. The Attorney General for the District of Columbia is the chief legal officer for the District. The Attorney General is authorized to bring legal actions in the public interest, including actions under Section 1 of the Sherman Act, 15 U.S.C. § 1, and the District of Columbia’s Antitrust Act, D.C. Code §§ 28-4501, *et seq.*

2. Respondent is a limited liability corporation that engages and sells the services of contractors who perform foreign language interpretation, translation, transcription, and ASL interpretation for, or on behalf of, Respondent, for a large number of District agencies. Respondent has physical offices in the District of Columbia at 1025 Connecticut Avenue NW, Suite 1000, Washington DC 20036, and in Maryland at 16701 Melford Blvd, Suite 400, Bowie, MD 20715.

II. DEFINITIONS

3. “Agreement” refers to any agreement entered into by Respondent with any person

to perform any services, including language consulting services, foreign language interpretation, translation, transcription, or ASL interpretation services. An Agreement includes, but is not limited to, any contract in the form attached hereto as Exhibit A (“Template Contractor Agreement”).

3. “Non-Compete Provision” refers to any provision of a contract or agreement that purports to restrict the ability of an individual who is a party thereto to seek employment by, or perform work for, another person. A Non-Compete Provision includes, but is not limited to, Section 8 of the Template Contractor Agreement.

4. “No-Poach Provision” refers to any other provision of a contract or agreement that purports to restrict the ability of an individual who is a party thereto to hire or seek to hire any person. A No-Poach Provision includes, but is not limited to, Section 8 of the Template Contractor Agreement.

5. “Non-Solicitation Provision” refers to any other provision of a contract or agreement that purports to restrict the ability of an individual who is a party thereto to solicit any customer. A Non-Solicitation Provision includes, but is not limited to, Section 8 of the Template Contractor Agreement.

6. “Restrictive Covenants” refers to any Non-Compete, No-Poach, or Non-Solicitation Provision, collectively or individually. The term “Restrictive Covenants” as used herein specifically excludes any provision in any contract or agreement that restricts a person’s ability to use confidential, proprietary, and/or trade secret information belonging to another person or entity, including but not limited Section 7 (Covenants Regarding Confidentiality and Proprietary Information) of the Template Contractor Agreement.

7. “Party” shall be defined as a party to this Assurance.

8. “Effective Date” shall be defined as the last date upon which any Party executes

this Assurance.

II. THE DISTRICT'S ALLEGATIONS

9. Respondent is a major provider of language translation and language consulting services for both mayoral and independent District agencies. Respondent engages the services of translators and interpreters to provide language translation and related services to Respondent's clients.

10. On March 24, 2023, the District opened an investigation into Respondent's possible violation of Section 1 of the Sherman Act, 15 U.S.C. § 1 and the District's Antitrust Act, D.C. Code §§ 28-4501, *et seq.*, through its use of Restrictive Covenants.

11. The District alleges that Respondent's Agreements contain Restrictive Covenants that illegally restrict competition in the provision of language related services in the District, and harm both workers and Respondent's customers, including the District. The District's allegations are hereinafter referred to as the "Covered Conduct."

12. Certain of Respondent's Contractor Agreements contained the following Restrictive Covenants:

8. Covenants Against Solicitation. As per the requirement of the Company's customers, Contractor covenants and agrees that during Contractor's relationship and for a period of twenty-four (24) months after this [Contractor] Agreement terminates for any reason, Contractor will not, except as otherwise authorized by the Company under this Agreement, directly or indirectly, whether as a stockholder, member, partner, director, proprietor, officer, employee, investor, Contractor, independent contractor or otherwise, (A) solicit or provide consulting and/or language services, including but not limited to foreign language interpretation, translation, transcription, ASL interpretation, and/or consulting directly for any of the Company's customers, and/or or (B) solicit for a relationship or employ any of the Company's employees or independent contractors.

For purposes of this paragraph the term "customers" means all persons to whom the Company has sold any product or service whether or not for compensation and any potential customer of the Company who has been directly solicited by the Company.

Exhibit A, Section 8.

13. The District alleges that the Restrictive Covenants in Respondent's Agreements are so broad that they are per se unreasonable, that they have no procompetitive justification, and that any putative procompetitive justification could be (or is already) achieved through less restrictive means.

14. Respondent denies the District's allegations in full. Nothing contained in this Assurance is or may be construed to be an admission by Respondent of any violation of law or regulation, any other matter of fact or law, or any liability or wrongdoing. Respondent agrees to enter into this Assurance in order to move forward cooperatively with the District and to resolve the District's allegations after an investigation that has lasted more than year at significant cost to Respondent.

IV. APPLICATION

15. The provisions of this Assurance shall apply to Respondent, its principals, its officers, its directors, and all persons or entities that it controls or has the ability to control, including without limitation, employees, agents, successors, assignees, affiliates, merged or acquired entities, or wholly owned subsidiaries, and all other persons acting in concert with or on behalf of Respondent now and in the future.

16. Nothing in this Assurance may be construed as addressing or otherwise resolving any claim(s) that any individual may have individually or as a class against Respondent, including any claim(s) they may have regarding the facts at issue here.

17. Nothing in this Assurance may be construed to alter or amend the District's right to seek relief in court, without providing notice to Respondent, should the District become aware of any violations of this Assurance by Respondent. In addition, this Assurance may be admitted into evidence in any legal proceeding brought by the District against Respondent to enforce

Section 1 of the Sherman Act, 15 U.S.C. § 1, the District's Antitrust Act, D.C. Code §§ 28-4501, *et seq.*, and its Non-Compete Ban, D.C. Code § 32-581.02, but shall not be construed as an admission of liability or wrongdoing by Respondent in any such action.

18. The District has agreed to the terms of this Assurance based in part on the representations made to the District by Respondent. Respondent represents and warrants that it has not made any representations to the District that are inaccurate or misleading. If any material representations by Respondent are later found to be inaccurate or misleading, this Assurance is voidable by the District in its sole discretion.

19. For purposes of construing this Assurance, this Assurance shall be deemed to have been drafted by all Parties to this Assurance and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

III. INJUNCTIVE TERMS

20. Elimination of Restrictive Covenants.

- a. As of the Effective Date, Respondent will not enforce, or otherwise consider operative or construe as enforceable, in whole or in part, any Restrictive Covenant in any existing Agreement with any current or former employees or independent contractors who work or worked in the District.
- b. As of the Effective Date, Respondent will not enter into any new Agreement that contains any Restrictive Covenants with any current or former employees or independent contractors who work or worked in the District.
- c. Respondent will only renew or extend an Agreement if such Agreement does not contain any Restrictive Covenants, with respect to Agreements with any current or former employees or independent contractors who work or worked in the District.

21. **Notice of Assurance of Voluntary Compliance.**

- a. Within twenty (20) days of the Effective Date, Respondent shall deliver the following written notice by certified mail to any person subject to an Agreement with Respondent that contains Restrictive Covenants that performed work for Respondent in the District:
- i. “[Insert full name of the person who is subject to an Agreement with Respondent],
 - ii. Andean Consulting Solutions International LLC (“ACSI”) would like to notify You that You are permitted to seek employment or perform work for any person, hire or seek to hire any person, or solicit any customer of ACSI.
 - iii. Per the terms of ACSI’s Assurance of Voluntary with Compliance and Settlement Agreement with the Office of the Attorney General for the District of Columbia, effective as of [insert Effective Date], any provision in any contract or other type of agreement between You and ACSI that purports to restrict Your ability to seek employment or perform work for any person, hire or seek to hire any person, or solicit any customer of ACSI, is not enforceable.”
- b. Within thirty (30) days of the Effective Date, Respondent shall provide the District proof of delivery of the notice(s) required under this Paragraph.

22. **Posting of Notice at Offices.**

- a. Within twenty (20) days of the Effective Date and for a period of three years thereafter, Respondent shall cause the following notice to be posted prominently in each of its physical offices:
- i. “As of [Effective Date], Andean Consulting Solutions International LLC (“ACSI”) has entered into an agreement with the District of Columbia under which ACSI has agreed not to enforce any provision in any agreement under which ACSI’s

contractors or employees agree not to solicit or compete to provide translation services for ACSI's customers or hire ACSI employees or contractors. As such, there are no restrictions on your ability to hire, seek employment, or perform work for any other person, as a condition of your contractual relationship with ACSI, provided that you do not use confidential, proprietary, and/or trade secret information of ACSI in violation of other provisions that may exist in your agreement with ACSI.”

- ii. “If you believe that ACSI has imposed any of these restrictions on you, asked you to agree not to compete with ACSI, not to hire its employees, or not to solicit its customers, please inform the Office of the Attorney General for the District of Columbia (‘OAG’) at (202) 727-3400 or antitrust@dc.gov. Please note that OAG is not your attorney and cannot advise you of your legal rights. If you have questions about your legal rights, please consult your own attorney.”

- b. Within forty-five (45) days of the Effective Date, Respondent shall provide a written statement to the District confirming that the notices described in Paragraph 22 have been published as provided by this Assurance at Respondent’s physical offices.

V. COSTS AND PENALTIES

- 23. Within thirty (30) days of the Effective Date, Respondent shall pay the District \$5,000. Payment shall be made via ACH or wire transfer to the District of Columbia using the following information:

Customer Name: District of Columbia

Account Name: Third Party Receipts Account

Bank Name: Citibank, N.A., 111 Wall Street, New York, NY 10043

Routing No.: 021000089

SWIFT: CITIUS33

Account No.: 30918939

Branch: 930

In the event the District's payment information changes, the District will notify Respondent and furnish the necessary details to facilitate payment using the updated information.

VII. RELEASE

24. In exchange for the performance of Respondent's obligations under this Assurance, and upon payment of all amounts due under this Assurance, the District hereby releases Respondent from any and all claims arising out of the Covered Conduct as described in this Assurance that the Attorney General could have asserted under Section 1 of the Sherman Act, 15 U.S.C. § 1, the District of Columbia's Antitrust Act, D.C. Code §§ 28-4501, *et seq.*, and the District of Columbia's Non-Compete Clarification Amendment Act of 2022, D.C. Code §§32-581.01, *et seq.* with respect to the "Covered Conduct."

VIII. ADDITIONAL TERMS

25. This Assurance shall be considered effective and fully executed on the last date upon which any party executes the Assurance. This Assurance may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature. Copies of signature pages transmitted electronically shall have the same effect as originals of those signature pages.

26. Respondent agrees to waive confidentiality under D.C. Code § 28-4505(k) with respect to the Attorney General's investigation of Respondent's conduct, including, but not limited to, this Assurance and any description of any documents or data produced by Respondent to the Attorney General during the course of the investigation; however, Respondent does not waive confidentiality under D.C. Code § 28-4505(k) with respect to the documents or data

themselves.

FOR THE DISTRICT OF COLUMBIA:

BRIAN L. SCHWALB
Attorney General for the District of Columbia

Adam Gitlin

Adam Gitlin
Chief, Antitrust and Nonprofit Enforcement Section

Date: 09/13/2024

Estefania Torres Paez
Assistant Attorney General, Antitrust and Nonprofit Enforcement

Office of the Attorney General
400 6th St., NW, 10th Floor
Washington, D.C. 20001

Counsel for the District of Columbia

FOR ANDEAN CONSULTING SOLUTIONS INTERNATIONAL LLC:

Andrés Echeverri

Name Andres Echeverri
Title President and CEO

Date: 08/29/24

Respondent Signatory