



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

EN

**PREPARATORY COMMISSION FOR THE
ESTABLISHMENT OF THE INTERNATIONAL
REGISTRY FOR MAC EQUIPMENT PURSUANT TO
THE MAC PROTOCOL**

***Registrar Working Group
First session (remote)
4 November 2020***

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Appendix 1
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October 2020

REQUEST FOR SEALED TENDER ST-3124

FOR THE INTERNATIONAL REGISTRY FOR AIRCRAFT OBJECTS

PRIVATE AND CONFIDENTIAL

Ref.: LEB 04-1

20 January 2004

**Request for Sealed Tender ST-3124
International Registry (IR)**

Dear Sir/Madam,

Please submit a sealed tender for the provision of an International Registry (IR).

The following are the attachments which form the sealed tender:

- Attachment I: Instructions to Tenderers (6 pages) and Annexes A, B and C (10+4+3 pages);
- Attachment II: Technical Specifications, Annexes A and B (9 + 13 pages);
- Attachment III: Tender Form (3 pages);
- Attachment IV: General Terms and Conditions (8 pages).

Not all of the articles in the attached General Conditions may be applicable to this procurement. Where necessary, they may be amended at the time of issue of the contract following negotiations with the successful tenderer.

Please acknowledge receipt of this Sealed Tender via the Web or e-mail and advise, by 25 February 2004, if you intend to submit a bid.

Yours very truly,

A. Pchelnikov
Chief, RP Procurement Section
Technical Co-operation Bureau

INSTRUCTIONS TO TENDERERS

1. Introduction

The International Civil Aviation Organization (ICAO), a specialized Agency of the United Nations with Headquarters (HQ) located at 999 University Street, Montreal, Quebec, Canada, H3C 5H7, intends to procure the International Registry on behalf of the Preparatory Commission for the International Registry, on a turn-key basis, in accordance with the Technical Specifications at Attachment II.

2. Background

- 2.1 The *Convention on International Interests in Mobile Equipment*, and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment*, signed at Cape Town on 16 November 2001 (hereinafter referred to as the Convention and the Protocol, respectively), contemplate the establishment of a notice-based, electronic International Registry, the basic features and implications of which are summarized in the attached specifications (Attachment II). Article 17(2)(i) of the Convention contemplates an efficiently operated noticed-based, electronic International Registry that will perform the functions assigned by the Convention, Protocol, and Regulations. Article 19(2) provides that registration is effective upon entry of required information into the International Registry database so as to be searchable. Article XX(1) and (4) of the Protocol requires unique search criteria for aircraft objects and that the International Registry be operated on a twenty-four hour basis. It is clear that state-of-the-art, computer-based technology is needed for the International Registry to fulfill its functions.

The draft Regulations for the International Registry are attached hereto under Annex A.

3. Key Concepts

- 3.1 Any tender to serve as Registrar shall:

- 1) identify the State where the bidder will locate the Registry;
- 2) describe any undertakings such State is prepared to make with respect to the establishment and operation of the Registry; and
- 3) provide assurances from such State with respect to its intended undertakings, including, if it is not a Contracting State of the Convention and the Protocol, its willingness to comply with all provisions of the Convention and the Protocol relating to the International Registry to the same extent as if it were a Contracting State, pending its ratification of the Protocol.

- 3.2 The Preparatory Commission for the International Registry, acting as Provisional Supervisory Authority, hereinafter referred to as the Preparatory Commission, is responsible for the establishment of the International Registry, that will register international interests in aircraft objects, and for the

selection and appointment of the Registrar. The Preparatory Commission is also responsible for making the first regulations dealing with the operation of the International Registry. The International Registry will be by way of reference to the ABasic Features of the International Registry@ and the ARequirements Document (RD) for the International Registry@ at Attachment II.

- 3.3 The Preparatory Commission contemplates entering into an agreement or contract with a State to fulfill the International Registry requirements. The International Registry does not necessarily have to be operated by a State entity.
- 3.4 Any formal agreement or contract resulting from this Request for Tender (RFT) shall be governed by the relevant ICAO rules.
- 3.5 The appointment of the Registrar shall be for a period of five (5) years after award of agreement or contract, pursuant to Article XVII (5) of the Protocol.
- 3.6 The entity with which the agreement or contract is placed will ensure that the International Registry is operational not later than twelve (12) months from the date that formal notice to proceed is provided by the Preparatory Commission.
- 3.7 The Preparatory Commission will enter into negotiations with the entity that has the highest ranked technical proposal. Negotiations will include applicable terms and conditions to be incorporated in any resultant agreement or contract. Cost/price will be discussed, including reimbursement as may be appropriate for start-up costs. The transaction fees to be established by the Regulations to be charged users of the International Registry shall also be discussed.

4. Basis of Tender

- 4.1 The Tender Document signed and witnessed by Officers authorized to act on behalf of the company invited for tendering should comprise at least the following:
 - a) Completed Attachment III (Tender Form) together with a detailed price break-down;
 - b) Compliance statement with the technical specifications with the relevant supporting technical or other documentation (Attachment II);
 - c) Compliance statement with the ICAO General Terms and Conditions (Attachment IV);
 - d) Curriculum Vitae of the key personnel to be assigned for the project development and implementation; and
 - e) Bid guarantee (Performance Bond).
- 4.2 The tender shall consist of two physically separate and detachable volumes, individually titled as follows:

4.2.1 VOLUME I - TECHNICAL PROPOSAL - Technical proposals are to be submitted as separate and complete sections for each of the Technical Evaluation Factors outlined in Technical Evaluation Plan (Annex B).

The technical proposal must address the following:

- a) The Requirements Document (Attachment II, Annex B) in detail;
- b) Responsible Entity and Locations of Facilities:
 - i) Articles 16 and 17 of the Convention refer to the International Registry, to the Supervisory Authority that establishes it and to the Registrar that ensures its efficient operation (collectively the international registration system). The Registrar will therefore play a critical role in the functional design and operation of the International Registry. Therefore, for purposes herein, a bidder may assume that it, if selected for Registrar, will play a significant role in developing the functional design and operation of the International Registry.
 - ii) Proposals shall describe the entity (e.g., government agency, contractor); its role (e.g., Registrar); responsibilities (e.g., develop software, hardware, specifications, provide site, etc.); and proposed location and facilities of the International Registry;
- c) Technical Capabilities and Capacities:
 - i) Technical Capabilities. Each tenderer shall address its possession of the unique technical capabilities required to perform along with its implementation approach in fulfilling the requirements contained in the Requirements Document (Attachment II, Annex B).
 - ii) Technical Capacities. Each tenderer shall address its possession of the unique technical capacities required to perform along with its implementation approach in fulfilling the requirements contained in the Requirements Document (Attachment II, Annex B);
- d) A Business Model. Ref. Requirements Document, paragraph 3, (Attachment II, Annex B); and
- e) Past Performance and Experience. Each tenderer shall identify all relevant past and present performance experience with designing, implementing and managing systems of similar complexity and magnitude and complete an attached Registration Form (Annex C). The information provided should demonstrate the bidder's ability to perform the proposed effort.

4.2.2 VOLUME II - COST/PRICE PROPOSAL

The cost/price proposal is to be submitted separately and will address estimated costs and prices as outlined in the Tender Form (Attachment III).

- 4.3 The tenderer shall furnish with the tender documents a bid guarantee (Performance Bond) in the form of a firm commitment acceptable to ICAO (certified cheque, money order, irrevocable letter of credit or Bank guarantee). The amount of the bid guarantee shall be U.S.\$ 50 000.

The bid guarantee will be returned to the unsuccessful tenderers within 30 days upon awarding the Contract and to the successful bidder upon satisfactory completion of the project.

Failure to furnish a bid guarantee in the proper form by the time set for opening the tenders shall be cause for rejection of the proposal.

5. Closing Date and Addressing

- 5.1 The closing date for technical and contractual enquiries is 17 March 2004. The enquiries should be submitted by facsimile (Canada: 514-954-6287) or by e-mail (hqprocurement@icao.int) and addressed to: International Civil Aviation Organization, Attn: Chief, Regular Programme Procurement Section.

The enquiries and ICAO's responses will be circulated to all invited tenderers by 26 March 2004.

- 5.2 The tender must be received by ICAO on 15 April 2004 by 16:00 local time. Five sets of hard copies and one electronic copy of the tender offer comprising the documentation indicated in paragraph 4 above must be sent in two separate sealed envelopes (Volume I and Volume II) and addressed to:
Office for Programmes Evaluation, Audit and Management Review (ST-3124)
International Civil Aviation Organization
999 University Street
Montreal, Quebec, Canada H3C 5H7

6. Information/Presentation Sessions

At the request of a tenderer, ICAO may organize an information session and/or site visit for all invited suppliers to answer any queries associated with the RFT and provide clarifications on technical and contractual aspects of the specifications/Terms of Reference and ICAO General Terms and Conditions. The date and location of the information session will be advised by ICAO to all tenderers in due course. The presentation of the tender proposal by a supplier can be arranged after the closing date of submissions and only at the request of ICAO.

7. Language

The tender submission, as well as all correspondence, shall be in **English**.

8. General Information

- a) The RFT does not contain any obligation of ICAO for purchasing of the specified services and/or equipment.
- b) Alterations, modifications, additions to and/or deletions from the specification/requirements of the RFT shall be considered if the tenderer **can justify his submission, e.g. on the grounds of better performance, reliability, serviceability, maintainability and/or reduction in cost with the goods and/or services remaining fit for the purpose of this procurement.**

- c) All revisions, amendments, changes and/or additions to a tender must be received in writing by the closing date specified for this tender. Non-solicited proposals, amendments, changes and/or additions to a financial part of the tender will not be accepted for consideration by ICAO after the closing date of submissions.
- d) Tenders may be withdrawn by written notice received at any time prior to and within three weeks after the closing date set forth herein. A tender may be withdrawn by an authorized representative of the tenderer who signed the submission of the tender to ICAO.
- e) **Data/information previously submitted, if any, will not be considered by ICAO; hence, any such data/information should not be relied upon or incorporated in the proposal by reference.**
- f) Tenderers shall be sufficiently detailed, specific and complete with the applicable supporting data or rationale to enable ICAO to make a thorough technical and financial evaluation of the proposal and to determine whether the specified requirements are met without further reference to the tenderer. It is the intention to carefully and objectively evaluate the proposed pricing compared to the service/equipment value offered. Therefore, the lowest price solution may not represent the best value to ICAO. Tenderers are invited to fully define the service and/or product offered in close consideration with value-for-money concept. The evaluation plan of submitted tenders is attached (Annex B).
- g) To facilitate the evaluation, tenders are to be written clearly and concisely, neatly organized, indexed (cross-indexed as appropriate), and assembled in a logical manner. The pages of each volume are to be numbered (consecutively) and dated. The technical proposal shall be limited to a total of 100 pages. Statements that the offeror understands, can, or will comply with all requirements of the Specifications, and statements paraphrasing the requirements or parts thereof, are considered insufficient. Phrases such as Astandard procedures will be employed,@ or Awell-known techniques will be used,@ etc., will be considered insufficient. Proposals shall contain a table of contents and a matrix indicating compliance statements for each technical requirement of the specification.
- h) ICAO reserves the right to delete, decrease, or increase the quantity of any of the items requested.
- i) Upon completion of the evaluation of tender and award of Contract, the unsuccessful bidders will be advised only that the contract has been awarded. In accordance with the Common Guidelines for the Procurement by Organizations, in the UN system, ICAO will not disclose:
 - i. information that may prejudice legitimate commercial interests of the parties or inhibit fair competition;
 - ii. information relating to the examination, evaluation and comparison of offers.
- j) Documentation submitted by tenderers will not be returned unless the tenderer expressly stated this request at the time of submission of his tender that tender documentation be returned. The return charges will be borne by the tenderer.

- k) Unsuccessful tenders will be kept for 30 days following notification to the tenderers of non-success and then will be destroyed in their entirety.

9. Pricing

Prices, which shall be firm and final, should be stated in U.S. dollars and incorporated in the Tender Form (Attachment III).

10. Transfer of Tender

This tender document is not transferable, and the specifications, Terms of Reference or any other information contained herein may not be copied, exhibited, or furnished to others without prior written consent of ICAO.

However, recipients may request ICAO to invite tenderer=s alternate affiliation to bid on their behalf. In such case, written authorization should be requested from ICAO indicating reasons for transferring, name and background details on the alternate entity to bid. Upon issue of written transfer authorization by ICAO, the RFT shall be transmitted by the initial recipient to the recommended alternate tenderer and all subsequent correspondence will be established between ICAO and the new recipient.

11. Rejection and Return of Tender

ICAO reserves the right to reject any or part of a tender without disclosing information.

12. Cost of Tender

This request does not commit ICAO to pay for any costs, or loss, incurred in the preparation or submission of any tender or service proposal nor to procure or contract for any of the items described herein.

13. Order of Precedence

In the event of any inconsistency in this documentation and any other information material referred to herein, the inconsistency shall be resolved by giving precedence to the Specifications (Attachment II), or by requesting clarification from ICAO.

C END C

DRAFT REGULATIONS FOR THE INTERNATIONAL REGISTRY

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Section 1 AUTHORITY

1.1 These Regulations are issued by the Supervisory Authority pursuant to Article 17(2)(d) of the *Convention on International Interests in Mobile Equipment (AConvention@)* and Article XVIII of the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment (AProtocol@)*.

Section 2 DEFINITIONS

2.1 In these Regulations, capitalised terms shall have the meanings set out in the Convention and the Protocol. In addition, the following terms shall have the meanings set out below:

2.1.1 **Aauthorized representative@** means a person authorized to effect a registration of an International Interest, Prospective International Interest, Sale, Prospective Sale, or Assignment or Prospective Assignment of any of the foregoing in an agency, trust or other representative capacity.

2.1.2 **Aidentity@** means the name, address and electronic address of the person for whom the identifying information is sought.

2.1.3 **Aregistering party@** means any person entitled under the Convention, the Protocol and these Regulations to transmit information to the International Registry, including (i) any of the persons with a right or interest registerable under the Convention or Protocol and where permitted by Article VI of the Protocol, their authorised representatives, and (ii) a direct entry point.

2.2 The terms:

(a) **Aentry point@**, **Aauthorized entry point@** and **Adirect entry point@** have the meaning set out in Section 12.1;

(b) **Aregistry procedures@** has the meaning set out in Section 15.1; and

(c) **Apriority search@**, **Apriority search certificate@**, **Ainformational search@**, **Ainformational search certificate@**, **AContracting State search@** and **AContracting State search certificate@** have the meanings set out in Section 7.

Section 3 GENERAL PROVISIONS

3.1 The International Registry shall be accessible 24 hours a day, 7 days a week, except for maintenance, performed outside peak periods, or technical problems.

3.2 Technical support shall be provided to registering parties and persons conducting a search by a help desk of the International Registry, which shall be available 24 hours a day, 7 days a week via telephone and/or electronic mail.

Section 4 ACCESS TO THE INTERNATIONAL REGISTRY

4.1 No registering party may transmit information to, and no person may access the search facilities of, the International Registry unless such party or person has first complied with these Regulations and registry procedures.

Section 5 INFORMATION REQUIRED TO EFFECT REGISTRATION

5.1 Registration information required to effect a registration shall be furnished by means of a selection from electronic information provided by the International Registry. To the extent such information is not so provided, it shall be furnished by the registering party seeking to effect the registration.

5.2 Identity information shall not be deemed complete unless it provides each of the three elements contained in the definition of identity.

5.3 The information required to effect a registration of an International Interest, a Prospective International Interest, an International Interest acquired through subrogation, a notice of a National Interest or a Registerable Non-Consensual Right or Interest is:

- a) the identity and electronic signature of the registering party effecting the registration and a statement of the capacity in which that person is effecting the registration;
- b) the identity of the Creditor or its authorized representative, the subrogee, or the holder of a National Interest or a Non-Consensual Right or Interest, as the case may be;
- c) the identity of the Debtor or its authorized representative;
- d) the following information identifying the Aircraft Object:
 - i) manufacturer=s name;
 - ii) manufacturer=s generic model designation;
 - iii) type of Aircraft Object; and
 - iv) manufacturer=s serial number assigned to the Aircraft Object;
- e) in the case of an Airframe or Helicopter, the following information, if known:
 - i) the State of registry where the registering parties intend to register the Aircraft Object for nationality purposes, including the State of proposed registry if such State is not the current State of registry for that object; and
 - ii) the aircraft nationality and registration marks assigned pursuant to the Chicago Convention;
- f) the duration of the registration if the registration is to lapse prior to the filing of a discharge;

- g) in the case of an International Interest or a Prospective International Interest, the electronic consents of the Creditor and the Debtor, or the prospective Creditor or Debtor;
- h) in the case of an International Interest acquired through subrogation, the file number of the registration of that interest; and
- i) the names and electronic addresses of persons to which the Registrar is required to send information notices pursuant to Section 6.

5.4 The information required to effect a registration of a Contract of Sale or a Prospective Contract of Sale is:

- a) the information referred to in Section 5.3(a);
- b) the identity of the seller or prospective seller;
- c) the identity of the buyer or prospective buyer;
- d) the electronic consents of the seller and the buyer or prospective seller and prospective buyer;
- e) the information referred to in sections 5.3(d) and (e);
- f) in the case of a Prospective Sale, the duration of the registration if the registration is to lapse prior to the filing of a discharge; and
- g) the names and electronic addresses of persons to which the Registrar is requested to send information notices pursuant to Section 6.3.

5.5 The information required to effect the registration of an Assignment of an International Interest, a Prospective Assignment of an International Interest, the Assignment of a National Interest or the Assignment of a Registerable Non-Consensual Interest is:

- a) the information referred to in Section 5.3(a);
- b) the identity of the assignor or prospective assignor;
- c) the identity of the assignee or prospective assignee;
- d) the information referred to in sections 5.3(d) and (e);
- e) a description of the interest assigned;
- f) if the interest being assigned is a registered interest, the file number of the registration relating to that interest; and
- g) the electronic consents of the assignor and the assignee or prospective assignor or prospective assignee, as the case may be.

5.6 The information required to discharge a registration, other than a registration relating to a Sale is:

- a) the information referred to in Section 5.3(a);
- b) the identity of the Creditor, seller, or holder of a National Interest or Registerable Non-Consensual Right or Interest, as the case may be;
- c) the identity of the Debtor or prospective buyer;
- d) the information referred to in sections 5.3(d) and (e);
- e) the electronic consents of the Creditor, prospective Creditor, prospective buyer, or holder of a National Interest or Registerable Non-Consensual Right or Interest, as the case may be;
- f) the file number of the registration to be discharged; and
- g) the date the discharge is to be effective.

5.7 The information required to effect the registration of a subordination of an International Interest, a Prospective International Interest, a National Interest or a Registerable Non-Consensual Interest is:

- a) the information referred to in Section 5.3(a);
- b) the file number of the registration of the interest being subordinated;
- c) the file number of the registration of the interest benefiting from the subordination;
- d) if the interest benefiting from the subordination is not a registered interest, the identity of the holder of that interest;
- e) the information referred to in sections 5.3(d) and (e); and
- f) the electronic consent of the person whose interest is subordinated.

5.8 In Section 5.9, amendment means:

- a) a change in the identity of one or more of the persons identified in the registration;
- b) a transfer of all or part of a Debtor's or buyer's interest in an Aircraft Object;
- c) the addition or deletion of the name of a Debtor or buyer;
- d) if the registration to be amended is to expire after a period of time, an extension of the period of registration;
- e) the addition of or change in the aircraft nationality and registration marks assigned pursuant to the Chicago Convention;
- f) an addition or change to the information referred to in Section 5.3(e);

- g) an addition to, or change in the address of, the persons referred to in Section 5.3(i); and
- h) the deletion of a person referred to in Section 5.3(i).

5.9 The information required to amend a registration is:

- a) the information referred to in Section 5.3(a);
- b) the information referred to in Section 5.3(d);
- c) the file number of the registration to be amended;
- d) identification of the information to be amended and a statement of the information as amended; and
- e) in the case of:
 - (i) an amendment to the address or electronic address of one or more persons identified in the registration being amended, or an amendment of the type described in Section 5.8(g), the electronic consent of the person with respect to whom such information is being amended, and
 - (ii) all other amendments, the electronic consent of the persons identified in the registration to be amended.

5.10 The lack of information referred to in Section 5.3(e) does not invalidate a registration.

5.11 The consent requirements of this Section shall be deemed satisfied if registration is effected through a direct entry point.

Section 6 CONFIRMATION AND NOTICE OF REGISTRATION

6.1 In this section, the term Aregistration@ includes, where appropriate, an amendment, extension, or discharge of a registration.

6.2 The Registrar shall provide prompt electronic confirmation of a registration to persons referred to in sections 5.3(a), 5.3(b), 5.3(c) and 5.3(i), and:

- (a) in the case of a discharge of a registration, to persons referred to in Section 5.6;
- (b) in the case of a subordination or amendment of an interest referred to in Section 5.7, to persons referred to in sections 5.3(a), 5.3(b), 5.3(c) and 5.7(d); and
- (c) in the case of an amendment adding a Creditor or Debtor, to such person.

6.3 When a registration is effected with respect to an Aircraft Object, a notice of the registration shall be sent to persons referred to in sections 5.3(a), 5.3(b) and 5.3(c) and identified in any other registration relating to the object and to persons referred to in Section 5.3(i).

6.4 The notice referred to in Section 6.3 shall include registration information referred to in sections 5.3(b), 5.3(c), 5.3(d) and 5.3(i) and the file number of the registration.

6.5 A confirmation shall contain the information set forth in Article 22(a) of the Convention and shall constitute a priority search certificate.

Section 7 SEARCHES IN THE INTERNATIONAL REGISTRY

7.1 Any registration information referred to in sections 5.3(d) and 5.3(e) may be searched by means of a priority search or informational search. A Contracting State search may also be made. Any search may be made by any person, whether or not that person has a specific interest.

7.2 A *priority search* is a search for registration information made by using all three criteria specified in Article XX(1) of the Protocol as contemplated in articles 19(2) and (6) of the Convention.

7.3 An *informational search* is a search for registration information, other than a search under Section 7.2, including a search for information based on the aircraft nationality and registration marks. An informational search shall not constitute a search for purposes of articles 19(2) and (6) of the Convention and Article XX(1) of the Protocol.

7.4 All searches and certificates shall be made by electronic means.

7.5 A *priority search certificate* is a certificate issued in response to a priority search. A priority search certificate shall:

- a) set out the information required by Article 22(2)(a) or (b) of the Convention, as applicable; and
- b) if Article 22(2)(a) of the Convention applies, list the registered information in both (i) chronological order and (ii) a manner which indicates the transactional history of each International Interest, Prospective International Interest, Prospective Sale, Notice of National Interest and Registerable Non-Consensual Right or Interest.

7.6 An *informational search certificate* is a certificate issued in response to an informational search. An informational search certificate shall indicate, in chronological order, all registrations against the criteria specified in the request.

7.7 A Contracting State search@ is a search for all declarations and withdrawals of declarations and categories of Non-Consensual Rights or Interests of the Contracting State specified in the search. A Contracting State search certificate@ is a certificate issued in response to a Contracting State search. A Contracting State search certificate shall indicate, in chronological order, all declarations and withdrawals thereof by the specified Contracting State.

7.8 Upon request, a printed copy of a search certificate shall be provided by the Registrar.

Section 8 OPERATIONAL COMPLAINTS

8.1 Any person may submit a complaint to the Registrar concerning the operation of the International Registry. If not satisfactorily addressed by the Registrar, that complaint may be further submitted by that person to the Supervisory Authority pursuant to registry procedures.

8.2 A matter concerns the operation of the International Registry when the matter relates to general procedures and policies of the International Registry and does not involve specific adjudication by the Supervisory Authority.

8.3 A person making a complaint shall substantiate its assertions.

8.4 The Supervisory Authority shall promptly consider complaints and where, on the basis of that consideration, it determines changes in the procedures or policies are appropriate, it shall so instruct the Registrar.

Section 9 CONFIDENTIALITY

9.1 All information in the International Registry other than that referred to in sections 7.5, 7.6 and 7.7 shall be confidential except that the Registrar shall disclose such information (i) to the Supervisory Authority on the latter's request [or (ii) where otherwise required by law].

Section 10 STATISTICS

10.1 The Registrar shall maintain updated registration statistics and shall publish them in an annual report. This report shall be electronically accessible to any person.

10.2 The registration statistics under Section 10.1 shall consist of (i) transactional volumes and revenues, subdivided, in each case, by registration type and geographic distribution, and (ii) other compilations of non-confidential information (as specified in Section 9) requested by the Supervisory Authority.

Section 11 RELATIONS WITH THE SUPERVISORY AUTHORITY

11.1 The Registrar shall prepare an annual report, including statistical data referred to in Section 10, and shall submit it to the Supervisory Authority. The annual report may include recommendations for changes in these Regulations or in registry procedures.

Section 12 RELATIONS WITH THE ENTRY POINTS

12.1 A Contracting State may designate an entry point (**Aentry point@**) under Article XIX(1) of the Protocol:

- a) authorising registering parties, other than entities referred to in paragraph (b) of this section, to transmit information required for registration to the International Registry (**Aauthorising entry point@**); or
- b) through which information required for registration shall or may be directly transmitted to the International Registry (**Adirect entry point@**).

12.2 A Contracting State may only designate an entry point in respect of airframes and helicopters for which it is or is intended to be the State of registry. That designation shall be deemed a declaration permitted under the Protocol.

12.3 The Registrar shall maintain a current list of Contracting States with designated entry points, indicating which are direct entry points.

12.4 The Registrar shall establish general co-ordination procedures applicable to the relationship between the International Registry and entry points, and after consultations with each entry point, procedures applicable to that entry point.

12.5 The Registrar shall establish electronic procedures designed to preclude registrations which are not made:

- (i) through direct entry points where use of such points is mandatory; or
- (ii) in accordance with procedures required by authorizing entry points.

12.6 A registration effected in violation of the terms of a designation under Section 12.1 is invalid.

Section 13 FEES

13.1 The Registrar shall collect a fee prior to undertaking services relating to the International Registry.

13.2 Fees, including fees arising from operations channelled through entry points, must be paid to the Registrar prior to the requested operation.

13.3 Fees shall be collected according to a schedule, which shall state the amount of fees payable for each service, issued by the Supervisory Authority.

13.4 Fees shall be established by the Supervisory Authority, as required by the Convention and Protocol, in accordance with ICAO recommended consultative procedures.

Section 14 INSURANCE

14.1 The amount of insurance or financial guarantee required under Article 28 of the Convention and Article XX(5) of the Protocol shall be established by the Supervisory Authority in accordance with ICAO recommended consultative procedures.

Section 15 REGISTRY PROCEDURES

15.1 The Registrar shall adopt procedures (**Aregistry procedures@**) addressing items required by these Regulations or otherwise relating to the operation of the International Registry which, when approved by the Supervisory Authority, shall be generally applicable.

15.2 The Registrar may from time-to-time amend the registry procedures, as permitted by the Supervisory Authority.

Section 16 FINAL PROVISIONS

16.1 Requests for amendments to these Regulations may be submitted to the Supervisory Authority, which shall consider such amendments in accordance with ICAO recommended consultative procedures.

16.2 The present Regulations shall take effect on the date the Protocol enters into force...

16.3 These Regulations and all registry procedures shall be electronically available to the public except as otherwise required by the Supervisory Authority for confidentiality.

16.4 Publication (to be determined, see Article 17 paragraph 2(d) of the Convention).

C END C

EVALUATION PLAN

FOR THE

INTERNATIONAL REGISTRY

1. OVERVIEW

1.1 This Evaluation Procedures will be used by Evaluation Team members in the evaluation of all technical and cost/price proposals received in response to the Request for Tender (RFT) for the International Registry .

1.2 Evaluation Team

1.2.1 An Evaluation Team (ET) will be comprised of individuals possessing both knowledge and expertise in the area in which they will perform their evaluation (i.e., technical or cost/price). No ET member shall have a conflict of interest, objectively assessed, and, without limiting the foregoing, each ET member shall declare that no such conflict exists.

1.2.2 Advisors may be appointed to provide expert guidance to the ET and subteams in specialized areas.

1.2.3 Because of the sensitive nature of information provided in each offeror's proposal, ET members shall safeguard the proposals to insure confidentiality.

1.2.4 The ET members will be located at the same physical location during the evaluation process.

1.3 Proposals submitted in response to the RFT will be evaluated for the purpose of assisting the selection authority, to establish which offer constitutes the overall best value.

1.4 Summary results of the ET evaluations will be memorialized in the form of a written report. That report will provide a recommendation as to which offer represents the overall best value.

1.5 Overall best value means that an award may be made to an offeror other than the responsible offeror submitting the lowest cost/price proposal. As a result, best value determinations envision trade-offs between non-cost/price (hereafter collectively referred to as Atechnical@) factors and cost/price factors. In this instance, technical factors are considered to be more important than cost/price.

2. THE EVALUATION PROCESS

2.1 The ET evaluators will make a careful written evaluation of the significant strengths, weaknesses, deficiencies, ambiguities, and risks found in each proposal. Such documentation must be made concurrent with the evaluation of each proposal and be made a part of the ET=s written report. All evaluations, working papers, worksheets, etc., shall be signed and dated by ET evaluators.

2.2 The terms strength, weakness, deficiency, ambiguity, and risk are defined as follows:

2.2.1 **Strength.** A **strength** is an element of an offeror=s proposal that brings added value beyond that of a minimum requirement set out in the RFT (further reference to RFT is intended to include the Requirements Document (RD)).

2.2.2 **Weakness.** A **weakness** is an element of an offeror=s proposal that, while meeting the minimum requirements of the RFT, is presented in such a manner as to afford the offeror a less than desirable competitive position.

2.2.3 **Deficiency.** A **deficiency** is a failure to address a substantial requirement of the RFT which, unless corrected, would render the proposal unacceptable.

2.2.4 Ambiguity. An **ambiguity** refers to a relevant proposal statement that is incomplete or otherwise so vague that its intended meaning is unclear and, consequently, complete evaluation of the proposal would not be possible without obtaining a clarification.

2.2.5 Risk. **Risk** represents a potential danger to successful performance of the requirement.

2.3 Each technical proposal submitted will be evaluated taking into consideration the following four (4) technical factors.

2.3.1 **Factor 1: Technical requirements.** Each proposal must demonstrate the offeror's knowledge and understanding of the technical requirements of the International Registry programme as set out in the RD. Technical requirements involve: Technical Requirements, Operational Requirements, and System Requirements, identified in the RD at paragraphs 5, 6 and 7.

2.3.1.1 Subfactor 1-1: Technical Requirements - It is critical that the system developed by the offeror represent the latest state-of-the-art technology, e.g. scalable, web-based, 97 percent availability, data integrity, and data recovery. (Reference paragraph 5 of the RD).

2.3.1.2 Subfactor 1-2: Operational Requirements - It is critical that system developed by the offeror consider the usability of the system, e.g. users, integrity of the system, online help, reports, and other special requirements such as search certificate or electronic signatures. (Reference paragraph 6 of the RD).

2.3.1.3 Subfactor 1-3: System Requirements - It is critical that the system developers consider latest technology to give optimal performance in developing the system, e.g. telecommunications, database structure, security, system failover, maintenance, system performance, Graphical User Interface (GUI) standards, and interfaces. (Reference paragraph 7 of the RD).

2.3.2 **Factor 2: Technical Capabilities & Capacity.** Each proposal must address the offeror's unique capabilities and capacity necessary to functionally design and implement the International Registry programme contemplated by the RD.

2.3.2.1 Subfactor 2-1: Technical Capabilities - It is critical that the offeror addresses the capabilities (i.e., unique abilities, skills, competencies, etc.) it will bring to performance of the requirement, e.g., employees with special knowledge, skills and competencies having experience to oversee this type of project.

2.3.2.2 Subfactor 2-2: Technical Capacity - It is critical that the offeror addresses its capacity to accommodate a modern International Registry programme of the size, magnitude and complexity of that contemplated by the RD, e.g., the offeror has equipment that has the capacity to meet the requirements considering the size of data and state-of-the-art equipment that will enable the system to meet future requirements; offeror has a workforce or ability to provide a workforce necessary to fulfill the requirements of the International Registry .

2.3.3 **Factor 3: Business Model.** Each proposal must present a Business Model as referenced in Paragraph 3 of the RD. The proposal should address the financing approach necessary to implement an International Registry programme.

2.3.3.1 Subfactor 3-1: Business Model - It is critical that the offeror set out, in detail, a business model that achieves an efficient, reliable and secure electronic registration system. The business model must describe all steps from the requirements analysis (and the assumptions made therein) through delivery and

implementation of the system. It is critical that the business model comprehensively address risk assessment and management of the system.

2.3.3.2 Subfactor 3-2: Financing Approach - It is critical that the offeror set out a financing approach necessary to implement the International Registry. The offeror's financing approach must address expectations for cost recovery to include any reimbursement as may be appropriate for start-up costs as well as the need, if any, for establishment of transaction fees to be charged users of the International Registry. Funding or partial funding of the International Registry by a Government shall be regarded as a neutral element in the cost/price evaluation.

2.3.4 **Factor 4: Past Performance and Experience.** Each proposal should identify all relevant past and present performance and experience involving implementing efforts similar to those anticipated with the International Registry.

2.3.4.1 Subfactor 4-1: Past Performance - It is critical that the offeror demonstrate/possess relevant past performance in the successful development of web-based electronic systems similar to the system described using the latest technology available. Past performance may be shown by references to past performance provided by persons who may associate with the offeror to provide contract services.

2.3.4.2 Subfactor 4-2: Experience - It is critical that the offeror's key personnel and any contract personnel possess the capability and experience in the development of web-based systems, knowledge of telecommunication protocols, system security, system failover, and integration.

2.3.5 A distinction must be made between past performance and experience. Past performance represents how well an offeror accomplished the effort. Experience means an offeror has done it. Of additional importance is that past performance and experience must be current and relevant as well as comparable in scope and magnitude to that described in the Performance Work Statement (PWS).

2.4 The following items shall be addressed in order, during the evaluation process.

2.4.1 Clarifications of Ambiguities. As the initial evaluation is conducted, offers will be reviewed for the purpose of identifying any ambiguities that need clarification before actual initial detailed evaluation begins. Statements in various parts of the proposal, or a description of statement(s) that cannot be understood shall be identified so that any clarifying information can be obtained in a written form from offerors.

2.4.2 The evaluation is performed for the purpose of rating each proposal, and identifying weaknesses and deficiencies for possible identification to the offerors should discussions become necessary. In addition, significant strengths should be identified in the ET report. The recommendations of the evaluation report shall identify the names of the tenderers in order of priority to be submitted to the Preparatory Commission.

2.4.3 After the evaluation process has been completed and recommendations on the preferable tenderers in order of priority have been made, a final evaluation report and the short-listed proposals shall be submitted to the Preparatory Commission for approval.

C END C



SUPPLIER PROFILE – GOODS (SPG) AND/OR SERVICES (SPS)

FOR ICAO USE ONLY

SUPPLIER CODE:

FOR POTENTIAL SUPPLIERS TO
THE INTERNATIONAL CIVIL AVIATION ORGANIZATION
HEADQUARTERS

1. NAME OF COMPANY:

(ACRONYM, IF APPLICABLE):

2. ADDRESS:

CITY:

COUNTRY:

3. YEAR COMPANY ESTABLISHED:

4. TELEPHONE NO.:

5. FAX:

6. E-MAIL:

7. WWW SITE :

8. CONTACT :

TITLE :

9. GROSS ANNUAL TURNOVER (US \$):

10. NUMBER OF FULL TIME EMPLOYEES:

PROFESSIONAL STAFF:

NON-PROFESSIONAL STAFF:

11. TYPE OF BUSINESS:

STATE/GOVERNMENT OWNED PRIVATE COMPANY

PUBLIC CORPORATION PARTNERSHIP FIRM JOINT VENTURE/ASSOCIATION

12. LIST THE GOODS AND/OR SERVICES OFFERED BY YOUR COMPANY. (MARK THE GOODS AND/OR TYPES OF SERVICES ON THE ATTACHED.)

13. WORKING LANGUAGES: ENGLISH FRENCH SPANISH OTHER:-----

14. NAME: -----
(BLOCK LETTERS)

TITLE: -----
(BLOCK LETTERS)

SIGNATURE: -----

DATE: -----

FOR ICAO USE ONLY

EVALUATED BY:

SIGNATURE AND DATE:

(BLOCK LETTERS)

ACCEPTABLE: -----

INFORMATION CONCERNING REGISTRATION

A. GENERAL

The purpose of the Supplier Profile – Goods (SPG) and/or Services (SPS) form is to collect company data on potential suppliers to be incorporated in ICAO's roster and, if acceptable, subsequently to be invited to quote on service or goods requirements for ICAO Headquarters. Supporting documentation describing the services and/or goods provided by the supplier must accompany the registration form. Confirmation on inclusion in ICAO Headquarters Roster will be provided once the submitted information has been evaluated and the services or goods offered are found acceptable.

B. INSTRUCTIONS FOR COMPLETION

The form should be written in uppercase and completed clearly and accurately ensuring that all questions are answered. The numbers below correspond to items numbers on the registration form.

1. Write full name of company.
2. Provide full street, mailing address (including P.O. Box, if any) and postal code.
3. Indicate year in which the company was established.
4. Include complete telephone number with correct country and area codes.
5. Indicate complete fax number including correct country and area codes.
6. Indicate complete E-Mail address.
7. Indicate World Wide Web Site.
8. Indicate person and title to whom correspondence and requests for tender are to be addressed.
9. Provide the gross annual turnover for the past full accounting year in US dollars.
10. Show the number of employees under each category.
11. Indicate which type of organization your company is.
12. List the goods and/or services offered by your company.
13. Indicate the languages in which professional personnel can work without interpretation.
14. The form should be signed by the person completing the form and the name and title should be printed along with the date.

Note: This form is to be renewed every five years. Failure to forward an updated form is subject to exclusion from the ICAO roster.

**TECHNICAL SPECIFICATIONS FOR
THE INTERNATIONAL REGISTRY SYSTEM**

- A) BASIC FEATURES OF THE INTERNATIONAL REGISTRY CONTEMPLATED BY THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AS MODIFIED BY THE AIRCRAFT EQUIPMENT PROTOCOL

- A) REQUIREMENTS DOCUMENT (RD) FOR THE INTERNATIONAL REGISTRY

Basic Features
of the International Registry
contemplated by the Convention
on International Interests in Mobile Equipment
as modified by the Aircraft Equipment Protocol

This document sets out the basic features of the International Registry contemplated by the *Convention on International Interests in Mobile Equipment* (“Convention”)¹, as modified by the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment* hereinafter refer to as the Convention and the Protocol respectively.

It does not address the particulars contained in the Requirements Document (RD), most notably the technological parameters contained therein. Rather, this document is intended to clarify basic conceptual matters impacting the system’s essential purpose and architecture.

Part I summarizes the basic characteristics of the International Registry. Part II describes the salient features of the Convention and the Protocol relating to the International Registry. Drawing upon Parts I and II, Part III addresses select operational aspects impacting the International Registry’s design.

Part I Summary of Basic Characteristics of the International Registry

1. The International Registry will be organized by aircraft object, not debtor. With respect to ratification instruments and their associated declarations, it will be organized by Contracting State.

Notes: Registrations² and searches will be made, and their results issued, with reference to the manufacturer’s serial numbers of aircraft objects. The Convention and the Protocol secondarily contemplates the publicity of ratification instruments, including declarations by Contracting States, via the International Registry. These will be organized and searchable by reference to Contracting States.

2. The International Registry will be wholly electronic.

Notes: Registrations and searches will be made solely by electronic means³.

3. The International Registry will serve the sole function of establishing priorities among competing, valid claims. The act of registration neither presupposes nor is an aspect of that essential validity.

Notes: The act of registration establishes first-in-time priority, should the interest notified in the registration exist, or, in the case of prospective interests, be created⁴. Registration does not presuppose a validly existing underlying interest. Nor does registration constitute a step in the process of creating an interest. It simply provides an objective rule-of-decision in the case of competing, valid claims.

¹ See ICAO Doc 9793

² Unless specified otherwise, references herein to “registrations” include amendments, extensions and discharges. Cf. Convention, Art. 16(3).

³ The standard means of providing registration confirmations and search results will be electronic.

⁴ The criteria for valid creation is set out in the texts (e.g., Convention, Arts.7 (international interests) and 32 (assignments) and Protocol, Art. V (contracts of sale), as supplemented by applicable law, to the extent required by Convention Art. 5.

4. Priority will be established on a first-in-time basis. First-in-time refers to when an interest is searchable in the International Registry.

Notes: This rule permits searching parties to rely on search results, thus enhancing the overall utility of the International Registry system. Registrants, theoretically burdened by this rule, can self-protect by searching for their own registrations prior to advancing funds or relinquishing possession, as the case may be. An advanced electronic system, coupled with the ability to register prospective interests, each contemplated by the Convention and the Protocol, permits such registrant self-protection.

5. The International Registry will be a minimalist, noticed-based system.

Notes: The absolute minimum information needed to put all searchers on notice of the asserted or contemplated existence of interests will be permitted and required: (i) names, (ii) contact details, (iii) type of registration (e.g., “international interest” or “contract of sale”) and duration, and (iv) asset description⁵. Documents may not be registered.

6. The Registrar’s role will be administrative, not interventionist, with risk management addressed through system design.

Notes: The Registrar will not assess the accuracy of submitted information or the authority of a registrant to act. However, the system will be designed with a view towards (i) minimizing the risks of unauthorized registrations bearing in mind the minimalist nature of the system, and (ii) preventing registrations which are manifestly implausible or which otherwise do not contain the required information.

7. The Supervisory Authority will supervise the Registrar and the operation of the International Registry in accordance with the basic principles of the Convention and the Protocol as summarized herein.

Notes: The Supervisory Authority, after consultations, promulgates regulations. Upon request, it may provide the Registrar with guidance. Finally, it will establish procedures for dealing with complaints. The foregoing, however, is understood in a broader context. The Supervisory Authority is to ensure that an efficient noticed-based registration system exists.

8. Contracting States may designate (exclusive or non-exclusive) entry points for transmission of registration information for select aircraft objects, and such entry points are not part of the International Registry as such.

Notes: In effect, such entry points or their designees are users, like any others, with one additional characteristic: Contracting States designating such entry points may impose conditions to be satisfied prior to transmission of such registration information to the International Registry. An entry point designation shall not, however, restrict the ability of parties to directly search the International Registry. The liability, if any, of entry point operators for their errors and omissions, is determined by applicable national law, not the Convention and the Protocol.

Part II Salient Features of the Convention and the Protocol relating to the International Registry

⁵ See *infra* note 51 for points relating to noting the nationality registration of select aircraft objects.

1. Various interests⁶ in aircraft objects,⁷ are prioritized⁸ on a first-in-time registration basis,⁹ by virtue of the Convention and the Protocol's basic priority rules.¹⁰ These rules are objective and not dependent on a registrant's lack of knowledge of other interests. Parties searching the International Registry can rely on the results. The only other rights or interests that may affect such priority are certain non-consensual ones,¹¹ declared by a Contracting State¹² as preferential and so publicized in the International Registry.¹³

⁶ International interests (security agreements, title reservation agreements and leases) and related subrogations, subordinations and assignments, together with non-consensual rights and interests, notices of national interests, and contracts of sale. See Convention, Art. 16(1) and the Protocol, Arts. III and V.

⁷ Aircraft engines, airframes and helicopters meeting the minimum specifications contained in the Protocol, Art. I (b), (e) and (l), respectively.

⁸ If an interest was not validly created in accordance with the Convention and applicable law, see supra note 6 and accompanying text, it cannot be the subject of a priority dispute. For example, if the debtor lacked title or did not have the company power to enter into the transaction, it would not have the "power to dispose" of the object, as required by Convention, Art.7(b). Thus, the fact that a creditor's international interest was registered would have no legal significance.

⁹ This includes "prospective" interests - intended future interests (see Convention, Art. 1(x)-(z)) - which do not exist at the time of registration. For example, if a prospective international interest is registered and subsequently becomes an international interest, its priority is determined from the date of initial registration. See Convention, Art. 18(3). To ensure fairness in this regard, a debtor can require a creditor to discharge a prospective interest any time prior to that creditor's giving or committing to give value. See Convention, Art. 25(2).

¹⁰ See Convention, Art 29 and the Protocol, Art. XIV. In addition, registration of international interests and contracts of sale prior to the commencement of insolvency proceedings ensures that they will be effective in such proceedings. See Convention, Art.30 and the Protocol, Art. III.

¹¹ See Convention Art. 1(s) (any right "conferred by law" to secure an obligation). A decision was made not to attempt to internationally harmonize priority rules in this sensitive area, thus avoiding the parallel problems encountered in several other international treaties.

¹² Yet, States must declare which nationally preferred non-consensual rights and interests have priority without registration and are to retain that preference. They are bound by that declaration, and may only amend it prospectively. However, States may make a general and/or prospective declaration. See Convention, Art. 39.

¹³ See *id.* Art. 23. More broadly, it is contemplated that the International Registry would publicize the contents of all ratification instruments (received from the depositary), including the various declarations contained therein. See Protocol, Art. XXXVII(2)(c).

2. Registration status is obtained by electronic entry into an International Registry,¹⁴ operated by a Registrar appointed¹⁵ and supervised by a Supervisory Authority¹⁶ (that, in turn, periodically reports to Contracting States). Supervisory activities include the issuance of binding operational regulations, the establishment of complaint procedures, and the ability to provide requested guidance.¹⁷

3. In view of time differences and the need to avoid preferred regions, the International Registry will be operated on a twenty-four (24) hours a day, seven (7) days a week basis.¹⁸

4. As the Convention and the Protocol concerns itself with interests in specified aircraft objects, not general airline financing, registrations and searches are made against such objects, not the debtor's name. The criterion for an object is the manufacturer's serial number, supplemented (as necessary) in the regulations to ensure uniqueness.¹⁹

5. First-in-time denotes the time when a registration is "searchable," meaning when it is stored in durable form, may be electronically accessed at the International Registry, and is assigned a sequentially ordered file number.²⁰

6. The Convention specifies who is legally entitled to submit registrations.²¹ In other words, if a party lacking that legal entitlement submits a registration, while it may appear on a search result, it would have no legal effect. Whether the submitting party is so entitled is justiciable: if in dispute, the matter - which may be legal, factual or both - will be settled by a court with jurisdiction under the Convention.²² It will not be determined by the *ex ante* (time of registration) intervention²³ of the operator or supervisor of the International Registry.

¹⁴ Created on the legal authority of the Convention and the Protocol, and its contemplated establishment by the Supervisory Authority. See Convention, Arts. 1(p), 16(1) and 17(2)(a).

¹⁵ The texts contemplate an initial five (5) year appointment with the possibility of re-appointments. See Protocol, Art. XVII(5).

¹⁶ See Convention, Art 17(1) and Protocol, Art. XVII(1) (designation of Supervisory Authority). ICAO has agreed in principle to act as Supervisory Authority.

¹⁷ See Convention, Art. 17(2) (responsibilities of Supervisory Authority). Intentionally omitted from these supervisory functions is the power to require or permit the Registrar to change any data relating to a registration.

¹⁸ See Protocol, Art. XX(4) (and contrast the standard business hours of designated "entry points").

¹⁹ See Convention, Art. 19(6) and Protocol, Art. XX(1).

²⁰ See Convention, Art. 19(3). The effect of this provision is to permit searching parties to rely on their search results. Undisclosed submitted entries will not constitute "registered interests" for priority purposes.

²¹ The detailed provisions are contained in the Convention, Art. 20 and the Protocol, Art. III. The general rule - applicable to international interests and contracts of sale, including prospective interests and assignments - is that either transaction party may register with the written consent of the other. Subordinations, subrogations and discharges are made by the party divesting itself of rights. Non-consensual rights and interests and notices of national interests are registrable by the holder thereof.

²² A claim that a registration was made by a party lacking the legal entitlement to do so would be a "claim brought under this Convention" for purposes of the jurisdiction provisions. See Convention, Art. 42.

²³ See, e.g., Convention, Art. 18(2) (no "evidence" that a "consent to registration" is required as a condition to effecting a registration).

7. The implications of the preceding point - that in a limited-purpose, efficient electronic registry, there will be no human vetting - extend to other legal and factual questions. These include whether (i) the Convention and the Protocol applies at all,²⁴ (ii) a party has the rights that it purports to dispose,²⁵ and (iii) the submissions were made by a party with internal power to act.²⁶ Courts will settle these matters, in the case of dispute. Such matters will not be addressed by the Registrar as part of its administrative function.

8. Accordingly, the conditions to registration, namely, the items to be satisfied prior to registration, are minimal.²⁷ Compliance with the electronic application form,²⁸ together with a payment of the required fee,²⁹ is all that is required. Registrations that do not satisfy the foregoing conditions will be electronically rejected.

9. A different approach has been taken where a Contracting State declares that registrations may or must be submitted through a designated entry point in its territory.³⁰ It may do for select aircraft objects³¹ with a required nexus to that State.³² (No such declaration is permitted for searches of the International Registry, which may be made by any person, from any location, for any purpose.) Where such a declaration is made, the Contracting State may require that national conditions be satisfied prior to transmission of the registration information by the entry point to the International Registry.³³

10. Registrations will remain effective until the earlier of (i) their discharge, and (ii) the expiry of the period specified in the registration.³⁴ Discharge is the responsibility of the beneficiary of a

²⁴ Whether an object meets the definition of an “aircraft object” (e.g., size requirements), see *supra* note 10 and accompanying text, and whether one of the Convention and the Protocol’s connecting factors has been satisfied (debtor being “situated” in a Contracting State, or, where relevant, actual or contemplated nationality registration therein). *See* Convention, Arts. 3 and 4 and the Protocol, Art. IV(1).

²⁵ Whether, for example, the debtor has title to the object. If not, an international interest would not be constituted. *See* Convention, Art.7(b).

²⁶ Whether, for example, the debtor had received its required internal company or corporate approvals. If not, an international interest would not be constituted. *See id.*

²⁷ This concept (often couched in terms of “efficiency”) has been at the center of all developmental work on the proposed International Registry. Its remains a principal objective in finalizing the system. *See* paras. 2.3 and 3 of the Requirements Document.

²⁸ Limited, additional information (i.e., the initial registration file details) will be required on electronic forms for discharge and amendment.

²⁹ A cost-recovery fee schedule will be set by the Supervisory Authority. *See* Convention, Art. 17(2)(h) and Protocol, Art. XX(3). Payment mechanism (debit arrangements and/or accounts) are matters of system design and/or of operational regulations.

³⁰ Permitted by the Convention, Art. 18(5) and the Protocol, Art. XIX. Such entities are not part of the International Registry, in particular for purposes of liability, insurance requirements and fee arrangements. More broadly, the operators of the designated entry points are not subject to oversight and supervision by the Supervisory Authority (but, like any user, would need to comply with applicable use-related regulations).

³¹ As they lack nationality, aircraft engines are not subject to such a designation.

³² *See id.* (establishing a nexus of nationality registration in, or interests arising under, the laws of that Contracting State).

³³ *See supra* note 8 and accompanying text.

³⁴ *See* Convention, Art. 21.

registration,³⁵ where the underlying obligations have been fully performed.³⁶ In the case of discharge - and amendment technological systems will be put in place to minimize the risk of unauthorized action by requiring a matching of the electronic signature of the initial registrant and that of the amending or discharging party.

11. The Supervisory Authority will do all things necessary to ensure that an efficient notice-based registration system exists.³⁷ It will own all proprietary rights in the data and archives of the International Registry,³⁸ have international legal personality,³⁹ and enjoy appropriate immunity from legal or administrative processes.⁴⁰

12. The Registrar will ensure efficient operation of the International Registry, and perform the functions assigned to it by the Convention and the Protocol⁴¹ and the regulations.⁴² It will be liable for compensatory damages for losses suffered by its error or omission or a malfunction of the International Registry.⁴³ The Registrar shall procure full insurance or financial guarantee covering its liability.⁴⁴

13. Courts of the place of the Registrar's centre of administration⁴⁵ have limited but exclusive⁴⁶ jurisdiction over the Registrar. It is limited to (i) matters relating to the Registrar's liability,

³⁵ This creditor responsibility is without prejudice to a debtor's right to seek an in personam order against the creditor by a court with general jurisdiction under the Convention and the Protocol or, in the circumstances and by the court specified in Convention, Art. 44, relating to an order directly binding on the Registrar.

³⁶ See Convention, Arts. 20(3) (discharge by the favored party) and 25 (requiring discharge by the party entitled to do so in specified circumstances).

³⁷ See Convention, Art. 17(2)(i). This standard is simultaneously broad and confined. It is broad in the sense of providing the Supervisory Authority with plenary powers, subject to its obligation to periodically report to Contracting States. Yet it is confined. That power must be exercised in service of a International Registry system with certain characteristics: efficiency, electronics and notice-based priorities.

³⁸ See Convention, Art. 17(4). Questions relating to rights in the hardware and software will be addressed in the process of establishing the International Registry.

³⁹ See Convention, Art. 27(1). That provision implicitly acknowledges that a potential Supervisory Authority, for example, ICAO, may already have international legal personality. Where that is the case, it will be acting under the Convention and the Protocol with that status.

⁴⁰ See Convention, Art.27(2).

⁴¹ Expressly including the issuance of search results, see Convention, Art.22, which shall constitute prima facie proof of their contents. See Convention, Art. 24.

⁴² See Convention, Art. 17(5).

⁴³ The broad allocation of responsibility is designed to establish user confidence in the system, particularly in the start-up phase. See Convention, Art. 28(1).

⁴⁴ See Convention, Art. 28(4) and Protocol, Art. XX(5).

⁴⁵ See Convention, Art. 44(1). This is a functional rather than formal standard (e.g. the statutory seat or place of incorporation), selected in light of the practicalities of the subject litigation.

⁴⁶ In this context, exclusive jurisdiction is required to avoid the prospect of inconsistent orders from different national courts, each purporting to bind the Registrar in connection with its treaty-based, international responsibilities. See Convention, Art. 44(4).

(ii) requiring discharges of registrations where parties required to so discharge no longer exist or cannot be found, and (iii) situations where a person fails to comply with an order of a court having jurisdiction under the Convention and the Protocol.⁴⁷ Unless waived by the Supervisory Authority, assets and materials of the International Registry will be immune from seizure or other legal or administrative process.

Part III Select Operational Aspects impacting the design of the International Registry

1. In view of the importance of search results, descriptive, synoptic search certificates will be issued chronologically summarizing all registrations, amendments and discharges⁴⁸ with respect to the searched aircraft object.

2. The system will be designed to ensure chronological processing,⁴⁹ and, correspondingly, sequential numbering of registrations. Precise timing information will be electronically contained in registrations and searches.

3. The contemplated wholly electronic, notice-based International Registry system produces significant efficiencies, including lower registry operating and insurance costs. The feasibility of multiple electronic signatures/consents will be explored, and, in any event, appropriate access and tracing procedures will be employed. State-of-the-art preservation and back-up systems, error-correction techniques, and security precautions will be utilized.⁵⁰

4. There is no need for extraneous information in registrations, given the limited function of the International Registry (notification and priority). The operational objectives of the International Registry will thus be achieved by requiring only⁵¹ the (i) names, (ii) contact details, (iii) type of registration (e.g., “international interest” or “contract of sale”) and duration, and (iv) specific description of the object (manufacturer's serial number and manufacturer name and model).

5. Electronic forms will be standardized and formalized, and all registrations, searches and certifications will be made using such forms.

6. Particularly during the start-up phase, there will be the need for an assistance desk to address pressing procedural or technical queries.⁵²

⁴⁷ See Convention, Art. 44(1)-(3). The limited nature of this jurisdiction reflects the basic philosophy of having courts with jurisdiction under the convention issue in personam orders against transaction parties (requiring them to take actions with respect to the International Registry), rather than having courts issue orders binding upon the registry. The residual jurisdiction noted in Art. 44 addresses only the identified problems in that regime.

⁴⁸ Whether or not the discharged registration is archived. This approach will permit a complete *history* of registered interests in the object, which may prove useful in the case of subsequent disputes.

⁴⁹ In line with Convention, Art. 18(4).

⁵⁰ The minimum requirements for these items are set out in the paras. 5-7 of the Requirements Document.

⁵¹ While there is no legal reason to include nationality registration information on the registration form, as the Convention and the Protocol establishes priority on the basis of registrations by manufacturer's serial number, in line with the text's definition of aircraft objects, certain practical advantages may be obtained from the inclusion of this information even if only for information and research purposes. However, since such information need not be updated, it may become inaccurate.

⁵² See para. 5.6 of the Requirements Document.

7. Should more than one language be employed by the International Registry, pluri-lingual electronic forms, with standardized translations, are required.

— END —

**Requirements Document
(RD)**

for the

International Registry

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1. OVERVIEW

1.1 This is the baseline Requirements Document (RD) for the International Registry .

2. GENERAL DESCRIPTION OF THE INTERNATIONAL REGISTRY REQUIREMENTS (ALSO SEE ATTACHMENT II AANNEX A@ TO THE REQUEST FOR TENDER ENTITLED ABASIC FEATURES OF THE INTERNATIONAL REGISTRY@)

2.1 Convention and Protocol

2.1.1 To facilitate asset-based financing of mobile equipment, particularly aircraft equipment, States have adopted the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment* (hereinafter referred to as the Convention and the Protocol, respectively), including certain large airframes, engines, and helicopters. The Convention and the Protocol contemplate the establishment and operation of a modern, electronic International Registry which will enable lenders, conditional sellers, lessors and others to register their interests electronically. These interests shall then be immediately searchable electronically from anywhere.

2.2 The Preparatory Commission, the Supervisory Authority and the Registrar

2.2.1 The Preparatory Commission has responsibility for the establishment of the International Registry and appointment of the Registrar, the Supervisory Authority has responsibility for the reappointment and dismissal of the Registrar, and the Registrar has responsibility for the operation and maintenance of the International Registry.

2.3 Additional Characteristics

2.3.1 It is anticipated that the International Registry will register thousands of interests in aircraft objects annually. Registrations will contain only minimal information, such as names and addresses of parties, unique description of object, and type of transaction, e.g., security agreement, title reservation, agreement, or leasing agreement. It will be a notice-based, electronic system. The International Registry should be able to accommodate a multiple number of simultaneous entries and reviews. It is extremely important that interests be entered quickly and accurately, and that they be searchable immediately worldwide.

3. OBJECTIVES AND BUSINESS MODEL

3.1 The objectives are to provide an efficient, reliable and secure electronic registration system as contemplated by the Convention and the Protocol. States submitting proposals shall set out in detail their business model and methods to achieve these objectives, which shall describe all steps from the requirements analysis (and the assumptions made therein) through the delivery and implementation. Without limiting the foregoing, such proposal shall comprehensively address risk assessment and management as well as the financing of the system and expectations for cost recovery.¹

¹ Key terms with respect to cost recovery may include: Cost Recovery Mechanism, Forecast Period, Initial Funding Costs, Operating Funding Costs, Registry Costs, Registry Cost Assumptions, and Registry Use Assumptions.

4. TESTING AND IMPLEMENTATION SCHEDULE

4.1 The test phase shall be conducted no more than 6 months after contract award/notice to proceed to ensure that the International Registry will meet the requirements. Completion of the test phase shall be no more than 8 months after contract award/notice to proceed. Full implementation and commissioning² of the International Registry will be completed following a successful completion of the test phase no more than 12 months after contract award/notice to proceed.

5. TECHNICAL REQUIREMENTS

5.1 Languages of the International Registry³

5.2 The following assumptions shall be made in consideration of the language(s) of the International Registry :

- a) functions will relate to input, output, and customer services;
- b) it will be a one-language system, based on the Latin alphabet; or
- c) the system will support multiple languages, based on the Latin alphabet; or
- d) the system will support the six official languages of the International Civil Aviation Organization (ICAO), namely Arabic, Chinese, English, French, Russian and Spanish.

5.3 The International Registry shall require the implementation of a scaleable, i.e., would provide easy modification without the necessity of redesigning the entire system, Internet or Intranet architecture allowing for powerful servers dedicated to managing disk drives, printers, or network traffic, etc. This involves the construction or lease of a centralized, highly available client/server data center.

² Commissioning is likely to involve issuance of a document by the Preparatory Commission, which certifies the International Registry and authorizes the continuing performance of tasks related to the operation of the International Registry. It is understood that commissioning of the International Registry may take up to 3 months after implementation. However, the International Registry must be implemented and operational within 12 months after Contract Award/Notice to Proceed.

³ Offerors are invited to comment generally about technical and cost factors related to developing a system based on multiple languages and multiple alphabets.

5.4 The International Registry will be required to be available 97 per cent (which is the industry standard) of the 7-day work-week for full users to accommodate operational facilities in all time zones. The 3 per cent non-availability contemplates maintenance, power outages, hardware problems, etc. Maintenance shall not be performed during peak periods (what constitutes peak periods will be defined at a later time) and will not be so extensive as to interfere with the accomplishment of maintenance.

5.5 The International Registry shall ensure that data is not manipulated, unauthorized registrations are not added and the data is not altered.

5.6 The minimum requirements for technical support will be to provide a help desk to users 24 hours, 7 days a week via telephone and/or electronic mail. Support will be provided for any problems due to technical difficulties including but not limited to telecommunication failures, software problems, etc.

5.7 The International Registry shall have contingency and data recovery plans that ensure the integrity and restoration of the system. This plan would include, but not be limited to the following:

5.7.1 A document tracking capability for documents entered by users.⁴

5.7.2 A tracking capability to ensure an historical record of information and to allow point-in-time reporting of all data manipulation activities performed by each user, including date and time stamps, user identification, Internet Protocol (IP) addresses and dynamic Internet addresses on every record.

5.7.3 The International Registry shall maintain current and historical tables. In the case of a system failure, the International Registry shall be required to restore records to the point-in-time the system failed.

5.7.4 The International Registry shall have the capability to restore, in accordance with the Regulations one or more records, e.g., accidental release of an interest.

5.7.5 The records shall be stored on electronic media in a secure area at a separate location from the hardware and archived in reasonable time intervals for the International Registry.

5.8 Historical records shall be stored in the database. Any records deleted from the database, e.g., interests, which have been released, shall be archived indefinitely.

5.9 The sizing information/requirements identified in Table 1 are approximate.

Table 1⁵

⁴ The term users, as mentioned throughout the Requirements Document, shall mean either those who register international interests or those conducting searches within the International Registry.

⁵ The estimates in this chart are very tentative and wholly unofficial. They are based on a range of assumptions, including

Transactions⁶	Airframes	Aircraft Engines	Helicopters	Totals⁷
Totals (over a twenty year period)	174,000 filings 196,000 searches 131,000 certificates issued	400,000 filings 450,000 searches 302,000 certificates issued	55,000 filings 61,000 searches 42,000 certificates issued	629,000 filings 707,000 searches 475,000 certificates
Totals Per Year (assuming proportionate distribution of total)	8,700 filings 9,800 searches 6,550 certificates issued	20,000 filings 22,500 searches 15,100 certificates issued	2,750 filings 3,050 searches 2,100 certificates issued	31,450 filings 35,350 searches 23,750 certificates

6. OPERATIONAL REQUIREMENTS

6.1 The users of the system will be:

- a) the general public including, in particular, airlines and financial institutions and their legal counsel; and
- b) civil aviation authorities to the extent declared by States under the Protocol.

6.2 The International Registry shall provide:

6.2.1 A web site for the single point of entry. The system must accommodate Internet browsers released within the past two years.

6.2.2 Users= ability to review accuracy of data entry before the record is saved to the database.

6.2.3 A means to share information between processes, edit data upon entry, and reject, record, report bad data and prevent it from being stored in the database.

6.2.4 A method to issue a search certificate for each registration, providing for on-line display and printing by user.

6.2.5 A means for ensuring data cannot be altered once stored in the database.

6.2.6 A mechanism for registry personnel to correct errors.

ratification of the Convention and the Protocol by States, which take the largest percentages of aircraft equipment deliveries. Other important assumptions address the duration of transactions and the applicable financing practices.

⁶ Transactions consist of secured debt financing, financial leases, operating leases, assignments or sales of interests in the foregoing transactions, contracts of sale and voluntary restatements of existing transactions.

⁷ Proposals should consider the effect of increases in total transactions each year. For example, consider a ten per cent increase each year for ten years.

- 6.2.7 A provision for multiple screens for data entry related to registration of a single interest.
- 6.2.8 The capability to archive records automatically in the database for registrations that are no longer valid in accordance with established criteria (to be determined).
- 6.2.9 Currency of the fees to be in >x= country=s currency.
- 6.2.10 Entry of information by users connected to an electronic signature having the following characteristics:
- a) Uniqueness and non-repudiation of signature;
 - b) Irrefutability of signature⁸;
 - c) Linkage of signature to document;
 - d) Inalterability of document; and
 - e) Capable of accommodating two electronic signatures (e.g., debtor and creditor).
- 6.2.11 *Ad hoc* reporting capabilities.
- 6.2.12 User=s ability to download and/or query information, e.g., via file transfers, spreadsheets, for use with other software packages and automated systems.
- 6.2.13 The capability for printing information, e.g., reports, documents, certificates, etc.
- 6.2.14 An on-line help function to provide documentation for a particular data element on the screen.
- 6.2.15 On-line users= assistance to explain the capability of the International Registry, including search and indexing capabilities.
- 6.2.16 Training for all users, including but not limited to, web-based tutorial training developed by the system=s developer, which will guide the user through the process of entering and viewing transactions.
- 6.2.17 Validations on a secure system of the user=s credit card or direct debit information prior to registration of an interest in an aircraft object.
- 6.2.18 A method for collecting fees for viewing, if any.

7. SYSTEM REQUIREMENTS

⁸ e.g. biometrics. Bidder should consider and explain the relationship between higher levels of irrefutability and cost.

7.1 The following are the minimum system requirements. The developer may add to these requirements by enhancements to the system.

7.2 **Environment**

7.2.1 **Telecommunications**

7.2.1.1 The International Registry shall provide:

- a) Accessibility using a current Standard Telecommunications Protocol, e.g., Transmission Control Protocol/Internet Protocol (TCP/IP), and the World Wide Web. The Protocol defines a common set of rules and signals that enables computers on the network to communicate.
- b) Version-level compatibility between the server operating system (OS), the server Relational Database Management System (RDBMS), and the software.
- c) Fault-tolerance, i.e., the ability of a system to respond to an unexpected hardware or software failure.
- d) A web-based system, with multi-tiered architecture, having the flexibility to optimize performance and reduce resource bottlenecks. For example, these components may include:
 - i) The presentation processing logic layer (the application code that interacts with a device, e.g., end user=s terminal).
 - ii) The business processing logic layer (the application code that uses the input data to perform business tasks).
 - iii) The data manipulation logic layer (the application code that manipulates data within the application).
 - iv) The database management system processing layer (the actual processing of the database data that is performed by the database management system (DBMS)).

7.2.2 **Workstation**

7.2.2.1 The International Registry shall provide users= access through common Internet browser products, released within the past two years. The Internet browser must be capable of employing data encryption, with the ability to access an Internet or Intranet web site.

7.2.2.2 The International Registry shall be compatible with a workstation or resources found in a typical office automation setting and an upward compatible processor to allow software to run not only on the computer for which it was designed, but also on newer, larger, and more powerful models without converting the data.

7.2.3 Database

7.2.3.1 The International Registry shall provide:

- a) Standard data access methods to ensure adequate system and data availability for users.
- b) Data integrity and processing consistency by defining system level validation rules and business logic at the server database.
- c) Capabilities to perform hot backups to ensure high system availability while supporting up-to-the-minute database recovery.
- d) Enhanced configuration management support through a centralized implementation of business logic.
- e) Flexible access by users needing data access through other commercial-off-the-shelf software packages, e.g., downloads to manipulate data on a spreadsheet.
- f) Automated tools to assist in analyzing the data in respect to system performance.

7.2.4 Security

7.2.4.1 The International Registry's security shall provide:

- a) Firewalls to prevent unauthorized access to or from private networks. For greater security, data will be encrypted.
- b) Access to authorized users only.
- c) An automatic feature to logoff users because of inactivity.
- d) Limitations of access to appropriate system components, i.e., administrative database functions, data entry, views, or reporting of users based on roles, privileges, and access availability.
- e) Limitation of access for users to the operating system. Access will be only available through the presentation layer.
- f) Software encryption processing that occurs between the client application layer and the software server. All transactions for registration will utilize data encryption while in transmission.
- g) An on-line method to create and automatically assign user identifications and passwords.

- h) The International Registry shall include automated tools to record pertinent data in respect of the security and to provide assistance in analyzing this data.

7.2.4.2 Physical access security shall be required to the central service site.

7.2.5 Maintenance

7.2.5.1 Maintenance will include, but not be limited to hardware, software or telecommunication problems. All maintenance problems are expected to be resolved in a timely manner to ensure system availability in accordance with 5.4. If problems cannot be resolved immediately, users must be notified that the problem is being addressed and the approximate time it will take to resolve it.

7.2.6 Connect Times

7.2.6.1 Connect times shall allow for time outs that tolerate time for States who take more time to download web pages.

7.2.6.2 The International Registry shall provide for Intranet⁹ connect times for an entire action regardless of the number of users, as follows:

- a) Direct Connect - less than or equal to 5 seconds (e.g. T1).
- b) Remote Dial-Up - less than or equal to 20 seconds (e.g. ISDN or modem).

7.3 Application Infrastructure

7.3.1 Data

7.3.1.1 As will be set out in Regulations, the data elements to be accommodated and maintained in the database may include:

- a) Names of parties (two or more)
- b) Addresses of parties
- c) Description of object by manufacturer=s make, model, and serial number
- d) Date of transaction
- e) Types of transaction, e.g., security agreement, lease, conditional sale, etc.
- f) Fees collected (describes the fee and amount in Ax@ country=s currency)

⁹ Internet connect time standards will not be imposed on the International Registry.

g) Date/time stamps, user identifications, and IP addresses

h) Other information¹⁰

7.3.1.2 The International Registry shall provide:

a) The flexibility to add new data fields to support changes in the system processes and regulatory requirements without excessive data modification.

b) Unlimited capacity for new data elements in the database.

c) Configuration management for software releases.

7.3.2 Edits

7.3.2.1 The database shall have editing capability to display guidance when incorrect data is entered using list boxes, text boxes, check boxes or other GUI standards, to ensure compliance with Regulations, e.g., collection of fees, eligibility of aircraft objects, etc.

7.3.2.2 The International Registry shall ensure no interest may be registered until the fee has been paid. The amount of the fee will be determined at a later time.

7.3.2.3 The International Registry shall validate new data to ensure accuracy and consistency with existing data. For example, inconsistency of new data may prevent its entry into the system, such as inconsistency of assignment information with original interest.

7.3.3 Applications

7.3.3.1 The International Registry shall reliably support on-line transaction processing (OLTP), transaction-based access where the computer responds immediately to user requests, including rollbacks and commits, i.e., rollback is the process of restoring protected resources to the state at the last commit point and commit is the process that causes the changes to the protected resources to become permanent. Data entry locking shall occur at the row level and provide other users and processes read access to Ain-transaction@ data.

7.3.4 Interfaces

7.3.4.1 The International Registry shall provide the capability for reasonable state-of-the-art interfacing to heterogeneous (unlike) systems and databases.

7.3.4.2 The International Registry shall provide the capability of high-speed data interfaces with the Chicago, Geneva, Non-Geneva Personal Property Registries databases and other databases, if desired.

¹⁰ Consideration may be given to permitting parties to provide the Chicago Convention registration number when making filings with respect to airframes and helicopters. That information would be for information-purposes only, as the Convention and the Protocol employs a system which distinguishes between airframes and aircraft engines, and contemplates their respective manufacturers serial numbers as the sole identification criterion for registration.

7.3.5 Reporting

7.3.5.1 The International Registry shall be capable of generating statistical and ad hoc reports, e.g. statistical reports on peak periods or selected transactions processed in a particular period.

7.3.6 Support

7.3.6.1 As part of the user=s logon process, a configuration management function shall be included that allows for automatic distribution of software enhancements from servers to client workstations.

80 TECHNOLOGY ENHANCEMENTS

8.1 Technology enhancements are contemplated and encouraged in order for the International Registry to remain current with advancing technology.

90 TECHNICAL TERMS

9.1	DBMS	Database Management System
9.2	GUI	Graphical User Interface
9.3	IP	Internet Protocol
9.4	ISDN	Integrated Services Digital Network
9.5	KBPS	Kilobytes per second
9.6	OLTP	On-Line Transaction Processing
9.7	OS	Operating System
9.8	RDBMS	Relational Database Management System
9.9	TCP/IP	Transmission Control Protocol/Internet Protocol
9.10	T1	Fixed bandwidth service to provide point-to-point links at a constant transmission rate of 1.544Mbps.

Glossary related to funding and cost matters :

Cost Recovery Mechanism - mechanism for recovery of International Registry costs through user fees, as adjusted from time-to-time.

Forecast Period - length of time over which International Registry costs will be recovered through user fees.

Initial Funding Costs - costs to create the International Registry.

Operating Funding Costs - expenses relating to the ongoing operational and supervision of the International Registry.

International Registry Costs - Initial Funding Costs plus Operational Funding Costs.

International Registry Cost Assumptions - assumptions relating to International Registry costs used in setting, and, as appropriate, adjusting fee schedules.

International Registry Use Assumptions - assumptions relating to the use of the International Registry in setting, and, as appropriate, adjusting fee schedules.

C END C

TENDER FORM - ST-3124
Provision of International Registry

A Tenderer

Name of Corporation (Firm)

Address

Authorized person to sign the Tender on behalf of:

Name and title: _____

Telephone: _____

Facsimile: _____

E-mail: _____

B Tender Price

The Tenderer warrants that the prices and terms set forth in this Tender are as low and as favourable as those offered to the Tenderer's most preferred customer for similar equipment and/or services under comparable conditions.

The firm fixed Tender price, in U.S. dollars, for the provision of International Registry, in accordance with Attachment II (Specifications) is as per the Pricing Schedule below.

a) Start up costs.

Function related:

- | | | |
|-----|-------------------------------|----------|
| (1) | Hardware design | \$ _____ |
| (2) | Hardware assembly | \$ _____ |
| (3) | Software design | \$ _____ |
| (4) | Software creation | \$ _____ |
| (5) | Communication system design | \$ _____ |
| (6) | Communication system creation | \$ _____ |
| (7) | Security system design | \$ _____ |

- | | | |
|-----|--------------------------|----------|
| (8) | Security system creation | \$ _____ |
| (9) | Real time backup system | \$ _____ |

Site and Facility Related (options):

- | | | |
|------|--|----------|
| (10) | Site acquisition cost (already owned, by purchase or by lease) | \$ _____ |
| (11) | Site preparation | \$ _____ |
| (12) | Site construction | \$ _____ |
| (13) | Furniture and equipment | \$ _____ |

Miscellaneous:

- | | | |
|------|----------------|----------|
| (14) | Permits | \$ _____ |
| (15) | Insurance | \$ _____ |
| (16) | Legal expenses | \$ _____ |
| (17) | Other | \$ _____ |

Total: \$ _____

b) Yearly Operating Cost of International Registry.

- | | | |
|------|--|----------|
| (1) | Personal (wages and benefits for Registry operations) | \$ _____ |
| (2) | Hardware replacement, update and maintenance (including personnel) | \$ _____ |
| (3) | Software replacement, update and Maintenance (including personnel) | \$ _____ |
| (4) | Building maintenance and building janitorial (including personnel) | \$ _____ |
| (5) | Building security (including personnel) | \$ _____ |
| (6) | Rent (see 5.a.(9) above) | \$ _____ |
| (7) | Utilities | \$ _____ |
| (8) | Insurance | \$ _____ |
| (9) | Taxes | \$ _____ |
| (10) | Permit Renewals | \$ _____ |
| (11) | Legal expenses | \$ _____ |
| (12) | Other | \$ _____ |

Total: \$ _____

C Validity

The Tender prices are valid for 12 months from the date of submission of the tender.

D Implementation Schedule

Please indicate the total implementation time and attach the detailed schedule, including major milestones.

E Terms and Conditions

Please confirm your acceptance of ICAO's Terms and Conditions as per Attachment IV.

F Signatures

Name and Title

Signature

Date

Place

Witness: Name and Title

Signature

Date

Place



ICAO TERMS AND CONDITIONS EQUIPMENT AND SERVICES

1. ABBREVIATIONS AND DEFINITIONS

In these conditions:

- a) “ICAO” means: - the International Civil Aviation Organization with Headquarters at 999 University Street, Montreal, Quebec, Canada, H3C 5H7.
- b) “Contractor’s Appointed Representative” means: - An officer notified to ICAO as being authorized to act on behalf of the contractor.
- c) “ICAO’s Appointed Representative” means: - An officer notified to the contractor by the ICAO management as being authorized to act on behalf of ICAO.
- d) “Turn-key” means: - A type of Contract where the Contractor is responsible for the design, production, delivery and installation of fully operational equipment/system(s) in accordance with the terms of the Contract.
- e) “Contract/Purchase Order” means: - The words contract and purchase order shall be interchangeable and shall refer to the contract/purchase order together with all attachments.
- f) “Day” means: - Unless otherwise specified, a calendar day.

2. STATUS OF ICAO

- 2.1 Neither the Contractor nor its personnel shall be considered as an employee or an agent of ICAO.
- 2.2 Unless otherwise provided for in this Contract, ICAO shall not be liable for claims of any kind arising in connection with the performance of this Contract.

3. LANGUAGE OF CORRESPONDENCE

- 3.1 All reports, correspondence and other information shall be in English.

4. CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES

- 4.1 The Contractor shall be responsible for the professional and technical competence of its employees and will select for work under this Contract reliable individuals who will perform effectively in the implementation of the Contract, respect the local customs and conform to a high standard of moral and ethical conduct.
- 4.2 The Contractor and its employees shall confirm to all applicable laws, regulations and ordinances.

5. TITLE AND RISK OF LOSS

- 5.1 Title and risk of loss and damage to the equipment upon delivery and where applicable, installation of the equipment at the specified site shall stay with the Contractor.
- 5.2 Any costs of insurance against risk of loss and damage shall be the sole responsibility of the Contractor.

6. WORKMEN'S COMPENSATION AND OTHER INSURANCE

- 6.1 The Contractor shall provide and thereafter maintain appropriate workman's compensation and liability insurance, with respect to employment under this Contract.
- 6.2 The Contractor shall comply with the national labour laws providing for benefits covering injury or death in the course of employment.

7. INDEMNIFICATION

- 7.1 The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, the ICAO, its officials, agents, servants and employees, from and against all suits, claims, demands and liability of any nature or kind, including their costs and expenses, arising out of the acts or omissions of the Contractor or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend to claims and liability in the nature of workmen's compensation claims, product liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants, or sub-contractors. The obligations under this Clause do not lapse upon termination of this Contract.

8. ENCUMBRANCES/LIENS

8.1 The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file in any public office or on file with ICAO against any monies due or to become due for any work done or material furnished under this Contract, or by reason of any other claim or demand against the Contractor.

9. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION/PUBLIC DISCLOSURE

9.1 All technical, financial or other documentation and data compiled by or received by the Contractor under this Contract shall be treated as confidential, and shall be delivered only to the ICAO authorized officials upon completion of work under this Contract.

9.2 The Contractor shall not communicate at any time to any other person or external authority to ICAO, any information known to it by reason of its association with ICAO which has not been made public except with the authorization of ICAO; nor shall the Contractor at any time use such information for private advantage. These obligations do not lapse upon termination of the Contract.

9.3 Unless authorized in writing by ICAO, the Contractor shall not disclose the particulars of the Contract, advertise or make otherwise public the fact that it is performing, or has performed, services for ICAO, or use the name, emblem, or official seal of ICAO, or any abbreviation of the name of ICAO for advertising or for any other purpose.

10. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS

10.1 ICAO and the Contractor shall be entitled to all intellectual property and other proprietary rights including but not limited to copyrights, patents, and trademarks, with regard to documents, software or equipment and other materials which are produced or prepared, or collected in consequence of or in the course of the execution of the Contract. At ICAO's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights for the benefit of ICAO in compliance with the requirements of the applicable law.

10.2 It is the Contractor's responsibility to ensure that no intellectual property and other proprietary rights, including but not limited to copyrights, patents, and trademarks are violated and to defend at its own expense any suit or proceedings based on any claim of an infringement, provided that the Contractor is notified promptly in writing and is given full and complete authority, information and assistance for the defence of same. Should any equipment purchased under this Contract be held to constitute infringement and its use is enjoined, the Contractor shall modify the equipment so that it is not infringing yet performs the task specified by ICAO, or remove such equipment or systems from operation.

11. OFFICIALS NOT TO BENEFIT

11.1 The Contractor warrants that no official of ICAO has been or shall be admitted by the Contractor to any direct or indirect benefit arising from this Contract or the award thereof.

12. SOURCE OF INSTRUCTIONS

12.1 The Contractor shall neither seek nor accept instructions from any authority external to ICAO in connection with the performance of the work under this Contract. The Contractor shall refrain from any action which may adversely affect and shall fulfil its commitments with fullest regard for the interest of ICAO.

13. ASSIGNMENT

13.1 The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof or of any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of ICAO.

14. CONTRACT AMENDMENTS

14.1 This Contract including the attachments may, by agreement between the parties, be amended from time to time.

14.2 Contract amendments shall be effective only when executed and delivered on behalf of ICAO and the Contractor, by persons duly authorized in writing to do so.

15. DIRECTION OF CONTRACT AND INTERPRETATION OF SPECIFICATIONS

15.1 The Contractor shall perform the work in accordance with the decisions and directions of ICAO given under this Article and any further consequential decisions and directions given by ICAO in the performance of this Contract. Upon notification by ICAO of the details of any failure by the Contractor to meet its obligations, the Contractor shall take corrective action as soon as possible but in any event within two (2) weeks. Such directions shall be given in writing. If verbal instructions must be given, such shall be confirmed in writing within seven (7) days. In case of any decisions and/or directions of ICAO in the performance of the Contract constituting a deviation, change or amendment to the original terms of reference and which may give rise to additional expenses, the Contractor may submit to ICAO for its consideration a statement detailing the cost consequences of such deviation, change or amendment. Any such deviation, change or amendment in order to be effective shall be executed by way of the Contract amendment in accordance with Article 14.2.

15.2 ICAO reserves the right of adjudication should any question arise at any time regarding the interpretation of any provision of the specifications, terms of reference and any other documentation incorporated in this Contract.

15.3 Failure to rectify a breach of an obligation under this Contract after three (3) notifications in writing may result in suspension of any remaining part of the Contract.

15.4 ICAO may order the Contractor in writing to suspend all or any part of the work for a period of time deemed appropriate by ICAO. In this case, the Contract shall be amended in accordance with Article 14.2 and the Contractor may submit to ICAO for its consideration a statement detailing the reasonable costs of such amendment.

16. REGULATORY REQUIREMENTS

16.1 It shall be the Contractor's responsibility to ensure that it is fully in compliance with all applicable laws, enactments, rules, regulations, patents and procedures of their industry which have been established by any regulatory body with jurisdiction over any aspect of the scope of works of the Contract.

17. LICENCES

17.1 If any licence or permit is required for the performance of the contract, the Contractor shall obtain any such licence or permit.

18. DAMAGES

18.1 Subject to the provisions of Article 19 (*Force Majeure*) hereof and without prejudice to any action which ICAO is empowered to take pursuant to the provision of any Article of this Contract or by law, if the Contractor fails to effect delivery and operability of the equipment and services, in accordance with the Contract, then the Contractor shall become liable to pay to ICAO liquidated damages in this Contract's currency at the rate of 1% of the price of this Contract in respect of each week the said delivery of the equipment and services is delayed, provided that payments in respect of liquidated damages to ICAO shall be limited to an amount **not exceeding 10%** of the total price of this Contract.

18.5 ICAO reserves the right to recover its damages by means of set-off of the Performance Bond.

19. FORCE MAJEURE

19.1 *Force Majeure* as used herein shall mean acts of God, laws or regulations, industrial disturbances, acts of the public enemy, civil disturbances, explosions and any other similar cause of equivalent force not caused by nor within the control of either party and which neither party is able to overcome. As soon as possible after the occurrence of any cause constituting *force majeure*, the Contractor shall give notice and full particulars in writing to ICAO of such *force majeure* if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. In this event, the following provisions shall apply:

- a) The obligations and responsibilities of the Contractor under this Contract shall be suspended to the extent of its inability to perform them and for as long as such inability continues.
- b) The term of this Contract shall be extended for a period equal to the period of suspension taking into account however, any special conditions which may cause the time for

completion of the work to be different from the period of suspension;

- c) If the Contractor is rendered permanently unable, wholly or in part, by reason of *force majeure* to perform its obligations and meet its responsibilities under this Contract, ICAO shall have the right to terminate this Contract on the same terms and conditions as are provided for in Article 20 (Termination);
- d) For the purpose of the preceding subsection, ICAO may consider the Contractor permanently unable to perform in case of any period of suspension in excess of ninety (90) days. Any such period of ninety (90) days or less shall be deemed temporary inability to perform.

20. TERMINATION

- 20.1 ICAO may terminate this Contract for cause or default in whole or in part at any time, upon giving written notice to the Contractor. The termination notice shall be sent by certified mail, return receipt requested. Upon receipt of notice of termination, the Contractor shall take immediate steps to bring the work and services to a close in a prompt and orderly manner, shall reduce expenses to a minimum and shall not undertake any forward commitment from the date of receipt of notice of termination.

21. BANKRUPTCY

- 21.1 Should bankruptcy or winding-up procedures be initiated against the Contractor, or should the Contractor be adjudged bankrupt, or should the Contractor make a general assignment for the benefit of its creditors, or should a receiver be appointed on account of the Contractor's insolvency, ICAO may, without prejudice to any other right or remedy it may have under the terms of this Contract, terminate this Contract forthwith by giving the Contractor written notice of such termination in accordance with the provisions of Article 20.
- 21.2 The Contractor must advise ICAO within 24 hours of the occurrence of any event described in this Article.

22. CHANGE IN OWNERSHIP

- 22.1 The Contractor shall inform ICAO as early as possible of any change or anticipated change in the status of the Contractor or its ownership that may affect its ability to render the services mentioned herein, as soon as such information is known to the Contractor.

23. SETTLEMENT OF DISPUTES

23.1 Amicable Settlement: Negotiations and Conciliation

The parties shall use their best efforts to settle amicably through negotiation any dispute, controversy or claim arising out of, or relating to, this Contract or the breach, termination or invalidity thereof. If the parties cannot reach such amicable settlement through negotiations, the matter shall first be referred to conciliation, by a request by either party for conciliation procedures. The conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then prevailing, or according to such other procedure as may be agreed between the parties, within a time period of ninety (90) days.

23.2 Arbitration

Any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or invalidity thereof, unless settled amicably under the preceding paragraph of this Article within ninety (90) days after receipt by one party of the other party's request for conciliation, shall be referred by either party to arbitration in accordance with the UNCITRAL Arbitration Rules then prevailing. The parties agree that the arbitration be conducted by an arbitral tribunal consisting of a sole arbitrator. If the parties cannot agree on a sole arbitrator within sixty (60) days, the appointment of the arbitrator shall be made in accordance with Article 6 of the UNCITRAL Arbitration Rules. The place of arbitration shall be Montreal, Quebec, Canada, and it shall be conducted in the English language.

24. APPLICABLE LAW

24.1 This Contract shall be governed by the laws of the Province of Quebec, Canada.

25. NOTICES

25.1 Any notices given by the parties to the Contract shall be sent in writing addressed as follows:

ICAO To: Director, Technical Co-operation Bureau
Attn. Chief, Regular Programme Procurement Section
International Civil Aviation Organization
999 University Street
Montreal, Quebec, Canada H3C 5H7

Contractor To: As notified to ICAO by the Contractor at the time of order acceptance or to such other address as either party may designate by notice given as required under this Article.

25.2 Notices hereunder shall be effective when received.

26. ICAO PRIVILEGES AND IMMUNITIES

26.1 Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any

immunity from suit or legal process or any privilege, exemption or other immunity enjoyed or which may be enjoyed by ICAO, its officers and staff, either pursuant to the Convention on the *Privileges and Immunities of the Specialized Agencies* or other conventions, agreements, laws or decrees of an international character.

27. COMPLETE NATURE OF AGREEMENT

27.1 This Contract constitutes the complete and exclusive statement of the Contract between the parties and supersedes all proposals or all other communications, verbal and/or written arrangements or agreements between the parties relating to the subject matter of this Contract unless this Contract is changed, amended or modified in accordance with Article 14 of this Contract.

28. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF ICAO

28.1 Unless authorized in writing by ICAO, the Contractor shall not advertise or otherwise make public the fact that it is performing, or has performed services for ICAO, or use the name, emblem or official seal of ICAO or any abbreviation of the name of ICAO for advertising purposes or for any other purpose.

29. PARTIAL INVALIDITY

29.1 If any provision of this Contract is or becomes invalid, illegal or unenforceable by force of law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

30. COMING INTO FORCE

30.1 The coming into force of the Contract shall take place at the time of signature of the Contract by the parties concerned.

- END -