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Attachment 3b to FCC File No. 0372-EX-ST-2011

**Confidentiality request in accordance with the rules in CFR 47, Part 0.459(b)**

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**Background** The Applied Physics Laboratory operates under a wide collection of contracts with the United States Government, with the Navy, DoD, and NASA being primary customers. Typical deliverables to the government are For Official Use Only (FOUO) or classified. APL also conducts Independent Research and Development (IR&D) efforts to support government areas of interest in anticipation that the work will eventually support work under direct contract to the government.

In accordance with CFR 47 0.459, we request confidentiality in accordance with the nine points specified:

(1) Identification of the specific information for which confidential treatment is sought:

Long-term confidentiality is required, to the extent permitted by law, for all aspects of the test program described in Attachment 1, "Purpose of the STA", and Attachment 2 (the government endorsement), including equipment to be used, times at which transmissions will occur, and the identities of the direct and indirect government customers being served.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:

This activity is unrelated to any Commission Proceeding.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:

Some of the information related to the STA may be developed into intellectual property rights of the Applied Physics Laboratory (APL). Under terms of its government contracts, APL typically retains rights to this intellectual property (IP), and the rights to

protect it from further dissemination, while the government retains the right to use this IP on a royalty-free basis. However, the primary concern for long-term confidentiality herein is to prevent compromising the security of systems whose operational characteristics might be modified and/or determined based on the results of the tests conducted under this STA.

(4) Explanation of the degree to which the information concerns a service that is subject to competition:

The government customer, at some time, may use information from the tests as part of a competitive procurement, in which case the usual competition-sensitive requirements for confidentiality will apply.

(5) Explanation of how disclosure of the information could result in substantial competitive harm:

While the possibility exists that there may be competitive harm, the primary concern here is protection of information for security reasons. However, competitive harm could occur, for example, if technical details from the STA would lead a potential vendor to conclude that the government offeror for a procurement had a preferred solution in mind when choosing to whom to award a contract.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure:

The submitting party (APL) treats information such as that referred to herein as FOUO in accordance with its government contracts.

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:

The information contained herein is not available to the public, and has not been disclosed publically.

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure:

Until specifically approved for public release, material categorized as FOUO by APL with respect to its government-sponsored work is not subject to automatic release by APL at some time in the future.

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:

As stated, the requirements for long-term confidentiality are based on the possible applicability of the tests and results to government activities that must be protected from public disclosure for reasons of security.