

AGREEMENT

This AGREEMENT is made as of the date of the last signature affixed hereto, by and between VSNL America, Inc. (“VSNL America”) and Videsh Sanchar Nigam Limited (“VSNL”), on the one hand, and the Federal Bureau of Investigation (“FBI”), the U.S. Department of Justice (“DOJ”), and the U.S. Department of Homeland Security (“DHS”), on the other (referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

WHEREAS, U.S. communication systems are essential to the ability of the U.S. government to fulfill its responsibilities to the public to preserve the national security of the United States, to enforce the laws, and to maintain the safety of the public;

WHEREAS, the U.S. government has an obligation to the public to ensure that U.S. communications and related information are secure in order to protect the privacy of U.S. persons and to enforce the laws of the United States;

WHEREAS, it is critical to the well being of the nation and its citizens to maintain the viability, integrity, and security of the communications systems of the United States (*see e.g.*, Executive Order 13231, Critical Infrastructure Protection in the Information Age, and Presidential Homeland Security Directive / Hspd-7, Critical Infrastructure Identification, Prioritization, and Protection);

WHEREAS, protection of Classified, Controlled Unclassified, and Sensitive Information is also critical to U.S. national security;

WHEREAS, VSNL America has an obligation to protect from unauthorized disclosure the contents of wire and electronic communications;

WHEREAS, VSNL America plans to provide Internet Protocol-based Virtual Private Network and other communications and related services in the United States;

WHEREAS, VSNL America may provide or facilitate electronic communication services, remote computing services, and interactive computer services, all of which are subject to U.S. privacy and electronic surveillance laws;

WHEREAS, VSNL America will have direct physical or electronic access to a variety of customer and end-user information that is subject to U.S. privacy and electronic surveillance laws;

WHEREAS, VSNL America has filed with the Federal Communications Commission (“FCC”) an application (in FCC File No. ITC-214-20030728-00376) under Section 214 of the Communications Act of 1934, as amended, seeking authority to operate as an international telecommunications carrier to all international points;

WHEREAS, as disclosed to the FCC, VSNL America is a wholly-owned subsidiary of Videsh Sanchar Nigam Limited (“VSNL”), a foreign telecommunications carrier in which the Government of India holds an approximate 26 percent ownership interest;

WHEREAS, the FCC’s grant of the application in FCC File No. ITC-214-20030728-00376 may be made subject to conditions relating to national security, law enforcement, and public safety, and whereas VSNL America has agreed to enter into this Agreement with the FBI, the DOJ and the DHS to address issues raised by the FBI, the DOJ and the DHS, and to request that the FCC condition the authorization granted by the FCC on its compliance with this Agreement;

WHEREAS, representatives of VSNL and VSNL America have held discussions with U.S. Government officials. During those discussions, VSNL and VSNL America have represented that: (a) neither VSNL nor VSNL America has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL or VSNL America providing Domestic Communications through facilities located outside the United States; (b) neither VSNL nor VSNL America has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL or VSNL America providing Web hosting services in the United States, including but not limited to shared or dedicated Web or application server hosting, Web or application server collocation or management, or other similar services; and (c) neither VSNL nor VSNL America has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL or VSNL America providing Domestic Communications or Web hosting services in the United States through any Affiliate other than VSNL America or its subsidiaries, divisions, departments, or branches;

NOW THEREFORE, the Parties are entering into this Agreement to address national security, law enforcement and public safety concerns.

ARTICLE 1: DEFINITION OF TERMS

As used in this Agreement:

1.1 “Affiliate” means any entity that VSNL America or VSNL Controls.

1.2 “Call Associated Data” or “CAD” means any information related to a Domestic Communication or related to the sender or recipient of that Domestic Communication and includes without limitation subscriber identification, called party number, calling party number, start time, end time, call duration, feature invocation and deactivation, feature interaction, registration information, user location, diverted to number, conference party numbers, post-cut-through dialed digit extraction, in-band and out-of-band signaling, and party add, drop and hold.

1.3 “Classified Information” means any information that has been determined pursuant to Executive Order 12958, or any predecessor or successor order, or the Atomic

Energy Act of 1954, or any statute that succeeds or amends the Atomic Energy Act, to require protection against unauthorized disclosure.

1.4 “**Control**” and “**Controls**” means the power, direct or indirect, whether or not exercised, and whether or not exercised or exercisable through the ownership of a majority or a dominant minority of the total outstanding voting securities of an entity, or by proxy voting, contractual arrangements, or other means, to determine, direct, or decide matters affecting an entity; in particular, but without limitation, to determine, direct, take, reach, or cause decisions regarding:

- (a) the sale, lease, mortgage, pledge, or other transfer of any or all of the principal assets of the entity, whether or not in the ordinary course of business;
- (b) the dissolution of the entity;
- (c) the closing and/or relocation of the production or research and development facilities of the entity;
- (d) the termination or nonfulfillment of contracts of the entity;
- (e) the amendment of the articles of incorporation or constituent agreement of the entity with respect to the matters described in Section 1.4(a) through (d); or
- (f) VSNL America’s obligations under this Agreement.

1.5 “**Controlled Unclassified Information**” means unclassified information, the export of which is controlled by the International Traffic in Arms Regulations (ITAR), 22 C.F.R. Chapter I, Subchapter M, or the Export Administration Regulations (EAR), 15 C.F.R., Subtitle B, Chapter VII, Subchapter C.

1.6 “**De facto**” and “**de jure**” control have the meanings provided in 47 C.F.R. § 1.2110.

1.7 “**DHS**” means the U.S. Department of Homeland Security.

1.8 “**DOJ**” means the U.S. Department of Justice.

1.9 “**Domestic Communications**” means (a) Wire Communications or Electronic Communications (whether stored or not) from one U.S. location to another U.S. location and (b) the U.S. portion of a Wire Communication or Electronic Communication (whether stored or not) that originates or terminates in the United States.

1.10 “**Domestic Communications Infrastructure**” means (a) transmission, switching, bridging and routing equipment (including software and upgrades) used by or on behalf of VSNL America to provide, process, direct, control, supervise or manage Domestic Communications; (b) facilities and equipment used by or on behalf of VSNL America that are physically located in the United States; and (c) facilities used by or on behalf of VSNL

America to control the equipment described in (a) and (b) above. Domestic Communications Infrastructure does not include equipment or facilities used by service providers other than VSNL or its Affiliates that are:

- (1) interconnecting communications providers; or
- (2) providers of services or content that are
 - (A) accessible using the communications services of VSNL America or its Affiliates, and
 - (B) available in substantially similar form and on commercially reasonable terms through communications services of companies other than VSNL America or its Affiliates.

The phrase “on behalf of” as used in this section does not include entities with which VSNL America or any of its Affiliates has contracted for peering, interconnection, roaming, long distance, or other similar arrangements on which the Parties may agree. Domestic Communications Infrastructure does not include equipment dedicated to the termination of international undersea cables, provided that such equipment is utilized solely to effectuate the operation of undersea transport network(s) outside of the United States and in no manner controls land-based transport network(s) or their associated systems in the United States.

1.11 **“Effective Date”** means the date on which the FCC grants the application in FCC File No. ITC-214-20030728-00376.

1.12 **“Electronic Communication”** has the meaning given it in 18 U.S.C. § 2510(12).

1.13 **“Electronic Surveillance”** means (a) the interception of wire, oral, or electronic communications as defined in 18 U.S.C. §§ 2510(1), (2), (4) and (12), respectively, and electronic surveillance as defined in 50 U.S.C. § 1801(f); (b) access to stored wire or electronic communications, as referred to in 18 U.S.C. § 2701 et seq.; (c) acquisition of dialing, routing, addressing, or signaling information through pen register or trap and trace devices or other devices or features capable of acquiring such information pursuant to law as defined in 18 U.S.C. § 3121 et seq. and 50 U.S.C. § 1841 et seq.; (d) acquisition of location-related information concerning a service subscriber or facility; (e) preservation of any of the above information pursuant to 18 U.S.C. § 2703(f); and (f) access to, or acquisition, interception, or preservation of, wire, oral, or electronic communications or information as described in (a) through (e) above and comparable State laws.

1.14 **“FBI”** means the Federal Bureau of Investigation.

1.15 **“Foreign”** where used in this Agreement, whether capitalized or lower case, means non-U.S.

1.16 “**Government Authority**” or “**Government Authorities**” means any government, or any governmental, administrative, or regulatory entity, authority, commission, board, agency, instrumentality, bureau or political subdivision and any court, tribunal, judicial or arbitral body.

1.17 “**Intercept**” or “**Intercepted**” has the meaning defined in 18 U.S.C. § 2510(4).

1.18 “**Lawful U.S. Process**” means lawful U.S. federal, state or local Electronic Surveillance or other court orders, processes, or authorizations issued under U.S. federal, state, or local law for physical search or seizure, production of tangible things, or access to or disclosure of Domestic Communications, Call Associated Data, Transactional Data or Subscriber Information.

1.19 “**Network Management Information**” means network management operations plans, processes and procedures; descriptions of the placement of Network Operating Center(s) and linkages (for service offload or administrative activities) to other domestic and international carriers, ISPs and other critical infrastructures; descriptions of networks and operations processes and procedures for management control and relation to the backbone infrastructure(s) including other service providers; description of any unique or proprietary control mechanisms as well as operating and administrative software; and network performance information.

1.20 “**Outsourcing Contract**” means a contract between VSNL America and an individual or entity to perform functions covered by this Agreement.

1.21 “**Party**” and “**Parties**” have the meanings given them in the Preamble.

1.22 “**Pro forma assignments**” or “**pro forma transfers of control**” are transfers that do not involve a substantial change in ownership or control as provided by Section 63.24 of the FCC's Rules (47 C.F.R. § 63.24).

1.23 “**Security Officer**” means the person designated pursuant to Section 3.10 of this Agreement.

1.24 “**Sensitive Information**” means information that is not Classified Information regarding (a) the persons or facilities that are the subjects of Lawful U.S. Process, (b) the identity of the government agency or agencies serving such Lawful U.S. Process, (c) the location or identity of the line, circuit, transmission path, or other facilities or equipment used to conduct Electronic Surveillance pursuant to Lawful U.S. Process, (d) the means of carrying out Electronic Surveillance pursuant to Lawful U.S. Process, (e) the type(s) of service, telephone number(s), records, communications, or facilities subjected to Lawful U.S. Process, and (f) other information that is not Classified Information designated in writing by an authorized official of a federal, state or local law enforcement agency or a U.S. intelligence agency as “Sensitive Information.” VSNL America may dispute pursuant to Article 4 whether information is Sensitive Information under this subparagraph. Such

information shall be treated as Sensitive Information unless and until the dispute is resolved in VSNL America's favor.

1.25 **“Subscriber Information”** means information relating to subscribers or customers of VSNL America of the type referred to and accessible subject to procedures specified in 18 U.S.C. § 2703(c) or (d) or 18 U.S.C. § 2709. Such information shall also be considered Subscriber Information when it is sought pursuant to the provisions of other Lawful U.S. Process.

1.26 **“Transactional Data”** means:

- (a)** “call identifying information,” as defined in 47 U.S.C. § 1001(2), including without limitation the telephone number or similar identifying designator associated with a Domestic Communication;
- (b)** any information possessed by VSNL America, or an entity acting on behalf of VSNL America, relating specifically to the identity and physical address of a customer or subscriber, or account payer, or the end-user of such customer or subscriber, or account payer, or associated with such person relating to all telephone numbers, domain names, IP addresses, Uniform Resource Locators (“URLs”), other identifying designators, types of services, length of service, fees, usage including billing records and connection logs, and the physical location of equipment, if known and if different from the location information provided under (d) below;
- (c)** the time, date, size, or volume of data transfers, duration, domain names, MAC or IP addresses (including source and destination), URL's, port numbers, packet sizes, protocols or services, special purpose flags, or other header information or identifying designators or characteristics associated with any Domestic Communication, including electronic mail headers showing From: and To: addresses; and
- (d)** as to any mode of transmission (including mobile transmissions), and to the extent permitted by U.S. laws, any information indicating as closely as possible the physical location to or from which a Domestic Communication is transmitted.

The term includes all records or other information of the type referred to and accessible subject to procedures specified in 18 U.S.C. § 2703(c)(1) and (d) but does not include the content of any communication. The phrase “on behalf of” as used in this section does not include entities with which VSNL America or any of its Affiliates has contracted for peering, interconnection, roaming, long distance, or other similar arrangements on which the Parties may agree.

1.27 **“United States,” “US,” or “U.S.”** means the United States of America, including all of its States, districts, territories, possessions, commonwealths, and the special maritime and territorial jurisdiction of the United States.

1.28 **“VSNL”** means Videsh Sanchar Nigam Limited, a corporation organized under the laws of India.

1.29 **“VSNL America”** means VSNL America, Inc., a Delaware corporation.

1.30 **“Wire Communication”** has the meaning given it in 18 U.S.C. § 2510(1).

1.31 **Other Definitional Provisions.** Other capitalized terms used in this Agreement and not defined in this Article shall have the meanings assigned them elsewhere in this Agreement. The definitions in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Whenever the words “include,” “includes,” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation.”

ARTICLE 2: FACILITIES, INFORMATION STORAGE AND ACCESS

2.1 **Domestic Communications Infrastructure.** Except to the extent and under conditions concurred in by the FBI, the DOJ and the DHS in writing:

- (a) all Domestic Communications Infrastructure shall at all times be located in the United States and will be directed, controlled, supervised and managed by VSNL America; and
- (b) all Domestic Communications that are carried by or through, in whole or in part, the Domestic Communications Infrastructure shall pass through a facility under the control of VSNL America and physically located in the United States, from which Electronic Surveillance can be conducted pursuant to Lawful U.S. Process. VSNL America will provide technical or other assistance to facilitate such Electronic Surveillance.

2.2 **Compliance with Lawful U.S. Process.** VSNL America shall take all practicable steps to configure its Domestic Communications Infrastructure to be capable of complying, and VSNL America employees in the United States will have unconstrained authority to comply, in an effective, efficient, and unimpeded fashion, with:

- (a) Lawful U.S. Process;
- (b) the orders of the President in the exercise of his/her authority under § 706 of the Communications Act of 1934, as amended, (47 U.S.C. § 606), and under § 302(e) of the Aviation Act of 1958 (49 U.S.C. § 40107(b)) and Executive Order 11161 (as amended by Executive Order 11382); and
- (c) National Security and Emergency Preparedness rules, regulations and orders issued pursuant to the Communications Act of 1934, as amended (47 U.S.C. § 151 et seq.).

2.3 Information Storage and Access. VSNL America, effective upon execution of this Agreement by all the Parties, shall store exclusively in the United States the following:

- (a) stored Domestic Communications, if such communications are stored by or on behalf of VSNL America for any reason;
- (b) any Wire Communications or Electronic Communications (including any other type of wire, voice or electronic communication not covered by the definitions of Wire Communication or Electronic Communication) received by, intended to be received by, or stored in the account of a customer or subscriber of VSNL America, if such communications are stored by or on behalf of VSNL America for any reason;
- (c) Transactional Data and Call Associated Data relating to Domestic Communications, if such data are stored by or on behalf of VSNL America for any reason;
- (d) Subscriber Information, if such information is stored by or on behalf of VSNL America for any reason, concerning customers who are U.S.-domiciled, customers who hold themselves out as being U.S.-domiciled, and customers who make a Domestic Communication;
- (e) billing records of customers who are U.S.-domiciled, customers who hold themselves out as being U.S.-domiciled, and customers who make a Domestic Communication, for so long as such records are kept and at a minimum for so long as such records are required to be kept pursuant to applicable U.S. law or this Agreement; and
- (f) Network Management Information.

The phrase “on behalf of” as used in this section does not include entities with which VSNL America or any of its Affiliates has contracted for peering, interconnection, roaming, long distance, or other similar arrangements on which the Parties may agree.

2.4 Billing Records. VSNL America shall store for at least two years all billing records described in Section 2.3(e) above, and shall make such records available in the U.S. Nothing in this paragraph shall require VSNL America to store such records for longer than two years.

2.5 Storage Pursuant to 18 U.S.C. § 2703(f). Upon a request made pursuant to 18 U.S.C. § 2703(f) by a Government Authority within the United States to preserve any information in the possession, custody, or control of VSNL America that is listed in Section 2.3 above, VSNL America shall store such preserved records or other evidence in the United States.

2.6 Compliance with U.S. Law. Nothing in this Agreement shall excuse VSNL America from any obligation it may have to comply with U.S. legal requirements for the retention, preservation, or production of information, records or data. Similarly, in any action to enforce Lawful U.S. Process, VSNL America has not waived any legal right it might have to resist such process.

2.7 Routing of Domestic Communications. VSNL America shall not route Domestic Communications outside the United States.

2.8 CPNI. VSNL America shall comply, with respect to Domestic Communications, with all applicable FCC rules and regulations governing access to and storage of Customer Proprietary Network Information (“CPNI”), as defined in 47 U.S.C. § 222(h)(1).

2.9 Storage of Protected Information. The storage of Classified, Controlled Unclassified, and Sensitive Information by VSNL America or its contractors at any location outside of the United States is prohibited, unless the storage is at a U.S. military facility, a U.S. Embassy or Consulate or other location occupied by a U.S. Government Authority. The issuance of a license under the U.S. International Traffic in Arms Regulations (“ITAR”) or the U.S. Export Administration Regulations (“EAR”) shall satisfy this criterion with respect to Controlled Unclassified Information.

ARTICLE 3: SECURITY

3.1 Measures to Prevent Improper Use or Access. VSNL America shall take all reasonable measures to prevent the use of or access to the Domestic Communications Infrastructure to conduct Electronic Surveillance, or to obtain or disclose Domestic Communications, Classified Information, Sensitive Information, or Controlled Unclassified Information, in violation of any U.S. federal, state, or local laws or the terms of this Agreement. These measures shall include creating and complying with detailed technical, organizational, operational, and personnel controls, policies and written procedures, necessary implementation plans, and physical security measures.

3.2 Visitation Policy. No later than thirty (30) days after the Effective Date, VSNL America shall adopt and implement a visitation policy. The policy shall apply to all visits by non-U.S. persons to Domestic Communications Infrastructure, except for Routine Business Visits, as defined in Section 3.3. The visitation policy shall require that:

- (a) The Security Officer shall review and either approve or deny on security or related grounds any requests for visits by non-U.S. persons to any Domestic Communications Infrastructure (provided that, with respect to carrier hotels and other shared facilities, the policy will apply solely to that portion of the facility controlled by VSNL America).
- (b) A written request for approval of a visit must be submitted to the Security Officer no less than seven (7) days prior to the date of the proposed visit. If a written request cannot be provided within seven (7) days before the proposed visit because of an unforeseen exigency, the request may be communicated via telephone to the Security Officer and confirmed in writing.
- (c) Every request shall set forth the purpose and justification for the visit in sufficient detail to enable the Security Officer to make an informed decision concerning the appropriateness of the visit. The Security Officer may refuse to accept any request due to lack of information. Each visit must be reviewed even for persons approved for prior visits. For multiple visits for the same purpose, the Security Officer may approve such visits by the same person or persons for a period not to exceed 60 days.

- (d) After evaluating a request, the Security Officer shall, as soon as practicable, either approve or disapprove the request, pending the submission of additional information from the requester. The Security Officer shall inform the requester of the decision at least one (1) day prior to the requester's proposed visit. The Security Officer's decision shall also be confirmed in writing as soon as practicable.
- (e) The Security Officer shall keep a record of all visit requests, including the decision to approve or disapprove, and of all consummated visits, including the name, address, business affiliation, and dates of birth of the visitor(s) and the VSNL or VSNL America personnel involved. In addition, a chronological file of all documents associated with such visits shall be maintained by VSNL America for at least two (2) years from the date of the visits.
- (f) All visitors shall be escorted at all times by a VSNL America employee, and visits shall be subject to conditions determined by the Security Officer that are commensurate with the place and purpose of the visit.

3.3 Routine Business Visits. Notwithstanding Section 3.2, Routine Business Visits, as defined below, may occur without prior approval by the Security Officer. "Routine Business Visits": (1) are made in connection with the regular day-to-day business operations of VSNL America; (2) do not involve the transfer or receipt of any information regarding the security of the facilities; and (3) pertain only to the commercial aspects of VSNL America business. Records of such visits shall be maintained by VSNL America for at least two (2) years from the date of the visits. Routine Business Visits may include:

- (1) visits for the purpose of discussing or reviewing commercial subjects such as company performance and business plans, budgets, inventory, accounts receivable, accounting and financial controls;
- (2) visits by customers or commercial suppliers regarding, for example, solicitation of orders, price quotes, or the provision of products or services; and
- (3) visits concerning fiscal, financial, or legal matters.

The visitation policy established under Section 3.2 may elaborate on the types of visits that qualify as Routine Business Visits.

3.4 Access by Foreign Government Authorities. VSNL America shall not, directly or indirectly, disclose or permit disclosure of, or provide access to Domestic Communications, Call Associated Data, Transactional Data, or Subscriber Information stored by or on behalf of VSNL America in the United States to any person if the purpose of such access is to respond to the legal process or the request of or on behalf of a foreign government, identified representative, component or subdivision thereof without the express written

consent of the DOJ or the authorization of a court of competent jurisdiction in the United States. Any such requests or submission of legal process shall be reported to the DOJ as soon as possible and in no event later than five (5) business days after such request or legal process is received by and known to the Security Officer. VSNL America shall take reasonable measures to ensure that the Security Officer will promptly learn of all such requests or submission of legal process.

3.5 Disclosure to Foreign Government Authorities. VSNL America shall not, directly or indirectly, disclose or permit disclosure of, or provide access to:

- (a) Classified, Sensitive, or Controlled Unclassified Information; or
- (b) Subscriber Information, Transactional Data, Call Associated Data, or a copy of any Wire or Electronic Communications, intercepted or acquired pursuant to Lawful U.S. Process

to any foreign government, identified representative, component or subdivision thereof without satisfying all applicable U.S. federal, state and local legal requirements, and obtaining the express written consent of the DOJ or the authorization of a court of competent jurisdiction in the United States, provided that the provision of Controlled Unclassified Information shall be permitted in accordance with the terms of a license received under the ITAR or EAR, as applicable. Any requests or any legal process submitted by a foreign government, an identified representative, a component or subdivision thereof to VSNL America for the communications, data or information identified in this Section 3.5 that is maintained by VSNL America shall be referred to the DOJ as soon as possible and in no event later than five (5) business days after such request or legal process, unless the disclosure of the request or legal process would be in violation of an order of a court of competent jurisdiction within the United States. VSNL America shall take reasonable measures to ensure that the Security Officer will promptly learn of all such requests or submission of legal process described in this Section 3.5.

3.6 Notification of Access or Disclosure Requests from Foreign Non-Governmental Entities. Within three (3) months after receiving legal process or requests from foreign non-governmental entities for access to or disclosure of Domestic Communications, VSNL America shall notify the DOJ in writing of such legal process or requests, unless such disclosure would be in violation of an order of a court of competent jurisdiction within the United States.

3.7 Security of Lawful U.S. Process. VSNL America shall protect the confidentiality and security of all Lawful U.S. Process served upon it and the confidentiality and security of Classified, Sensitive, and Controlled Unclassified Information in accordance with U.S. federal and state law or regulation and this Agreement. Information concerning Lawful U.S. Process, Classified Information, Sensitive Information, or Controlled Unclassified Information shall be under the custody and control of the Security Officer.

3.8 Points of Contact. Within five (5) business days after the Effective Date, VSNL America shall designate in writing to the FBI, the DOJ, and the DHS, one or more nominees already holding U.S. security clearances or which VSNL has a reasonable basis to believe is eligible to receive U.S. security clearances to serve as points of contact within the

United States with the authority and responsibility for accepting and overseeing the carrying out of Lawful U.S. Process on behalf of VSNL America. VSNL America shall provide in writing, in accordance with Section 5.13 of this Agreement, to the FBI, the DOJ and the DHS the name and contact information for each point of contact. The points of contact shall be assigned to VSNL America's security office(s) in the United States, shall be available twenty-four (24) hours per day, seven (7) days per week, and shall be responsible for accepting service and maintaining the security of Classified, Sensitive, and Controlled Unclassified Information and any Lawful U.S. Process in accordance with the requirements of U.S. law and this Agreement. The points of contact shall undergo the screening process defined in Section 3.14 of this Agreement. If there is any change in the designated points of contact, VSNL America shall notify the FBI, the DOJ and the DHS immediately in writing, providing updated identifying and contact information. Persons serving as points of contact shall be resident U.S. citizens who hold or are eligible to receive U.S. security clearances (which may include interim clearances), as outlined in Executive Order 12968. VSNL America shall comply with any request by a Government Authority in the United States that a background check and/or security clearance process be completed for a designated point of contact.

3.9 Information Security Plan. VSNL America shall develop, document, implement, and maintain an information security plan to:

- (a) ensure that the disclosure of or access to Classified, Sensitive, or Controlled Unclassified Information is limited to those who have the appropriate security clearances and authority;**
- (b) take appropriate measures to prevent unauthorized access to data or to the section(s), if any, of the facilities that might contain Classified, Sensitive, or Controlled Unclassified Information;**
- (c) assign U.S. citizens to positions for which screening is contemplated pursuant to Section 3.14;**
- (d) upon written request from the DOJ, the FBI or the DHS, provide the name, social security number and date of birth of each person who regularly handles or deals with Sensitive Information;**
- (e) require that personnel handling Classified Information shall have been granted appropriate security clearances pursuant to Executive Order 12968;**
- (f) provide that the points of contact described in Section 3.8 shall have sufficient authority over any of VSNL America's employees who may handle Classified, Sensitive, or Controlled Unclassified Information to maintain the confidentiality and security of such information in accordance with applicable U.S. legal authorities and the terms of this Agreement;**
- (g) maintain appropriately secure facilities (e.g., offices) within the United States for the handling and storage of any Classified, Sensitive or Controlled unclassified Information;**
- (h) establish a formal incident response capability with reference to OMB Circular A-130 and NIST Special Publications 800-18, 800-47 and 800-61; and**

- (i) identify the types of positions that require screening pursuant to Section 3.14, the required rigor of such screening by type of position, and the criteria by which VSNL America will accept or reject screened persons (“Screened Personnel”).

3.10 Security Officer Responsibilities and Duties. Within 14 calendar days after the Effective Date, VSNL America shall designate, from among the points of contact selected pursuant to Section 3.8, a Security Officer within the United States with the primary responsibility for carrying out VSNL America’s obligations under Articles 2, 3 and 5 of this Agreement.

3.11 Nondisclosure of Protected Data. The Security Officer shall not directly or indirectly disclose information concerning Lawful U.S. Process, Classified Information, Sensitive Information, or Controlled Unclassified Information to any third party, or officer, director, shareholder, employee, agent, or contractor of VSNL or VSNL America, including those who serve in a supervisory, managerial or officer role with respect to the Security Officer, unless disclosure has been approved by prior written consent obtained from the FBI, the DOJ or the DHS, or there is an official need for disclosure of the information in order to fulfill an obligation consistent with the purpose for which the information is collected or maintained, provided that the disclosure of Controlled Unclassified Information not related to the subject matter of this Agreement need only be consistent with the ITAR or EAR, as applicable.

3.12 Notice of Obligations. VSNL America shall instruct appropriate officials, employees, contractors, and agents as to VSNL America’s obligations under this Agreement, including the individuals’ duty to report any violation of this Agreement and the reporting requirements in Sections 5.2, 5.5, and 5.8 of this Agreement, and shall issue periodic reminders to them of such obligations.

3.13 Access to Classified, Controlled Unclassified, or Sensitive Information. Nothing contained in this Agreement shall limit or affect the authority of a U.S. Government Authority to deny, limit or revoke VSNL America’s access to Classified, Controlled Unclassified, and Sensitive Information under that Government Authority’s jurisdiction.

3.14 Screening of Personnel. VSNL America shall implement a thorough screening process through the Security Officer or a reputable third party to ensure that (1) all security personnel, (2) all personnel whose positions involve access to the Domestic Communications Infrastructure that enables those persons to monitor the content of Wire or Electronic Communications (including in electronic storage) or to access Network Management Information, Transactional Data, Call Associated Data, or Subscriber Information, and (3) all personnel who have access to Sensitive Information, meet personnel screening requirements commensurate with the risk posed to national security by their access to facilities, equipment, or information subject to this Agreement.

- (a) VSNL America shall consult with the DOJ, the FBI, and the DHS on the screening procedures required under this Section. The DOJ, the FBI and the DHS shall take into consideration VSNL America’s current and proposed

screening procedures in its determination of the required screening procedures, which shall be consistent with the guidance to U.S. government agencies under Executive Order 10450. VSNL America agrees to provide a list of positions subject to screening under this Section to the DOJ, the FBI, and the DHS. The Parties shall categorize the positions according to the risk posed to national security by the level of access to facilities, equipment, and information subject to this Agreement and shall agree upon the level of screening necessary to satisfy this Section for each access level. Upon request, VSNL America shall provide to the investigation services of the DOJ, the FBI, and the DHS, or in the alternative, to the investigation service of the United States Office of Personnel Management (“OPM”), all the information it collects in its screening process of each candidate. Candidates for these positions shall be informed, and shall consent, that the information collected during the screening process may be provided to the U.S. government. Current and newly hired personnel subject to screening will be required to sign a non-disclosure agreement approved in advance by the DOJ, the FBI, and the DHS.

- (b) If the DOJ, the FBI, or the DHS so desires, it may on its own, or through OPM’s investigation service, conduct further background checks for screened personnel. VSNL America will cooperate with any such further background checks.
- (c) Individuals who are rejected by VSNL America or by the DOJ, the FBI, or the DHS under the screening requirements of this Section will not be hired, or, if they have begun their employment, will be immediately removed from their positions, or otherwise have their duties immediately modified so that they are no longer performing a function that would require screening under this Section. Written notification of rejection by the DOJ, the FBI or the DHS shall be provided to VSNL America within a reasonable time, no longer than thirty (30) days after receipt of such rejection, in accordance with Section 5.13. VSNL America will notify the DOJ, the FBI, and the DHS of the transfer, departure, or job modification of any individual rejected as a result of the screening conducted pursuant to this Section within seven (7) days of such transfer, departure, or modification, and shall provide the DOJ, the FBI, and the DHS with the name, date of birth and social security number of the individual.
- (d) VSNL America shall provide training to instruct screened personnel as to their obligations under the Agreement, the maintenance of their trustworthiness determination after screening, and any other requirements otherwise agreed upon. VSNL America shall monitor on a regular basis the status of screened personnel, and shall remove screened personnel who no longer meet the requirements set forth for screened personnel.

- (e) VSNL America shall maintain records relating to the status of screened personnel, and shall provide these records, upon request, to the DOJ, the FBI, or the DHS.

ARTICLE 4: DISPUTES

4.1 Informal Resolution. The Parties shall use their best efforts to resolve any disagreements that may arise under this Agreement. Disagreements shall be addressed, in the first instance, at the staff level by the Parties' designated representatives. Any disagreement that has not been resolved at that level shall be submitted promptly to the General Counsel of VSNL America, the General Counsel of the FBI, the Deputy Attorney General of the DOJ, and the General Counsel of the DHS or their respective designees, unless the FBI, the DOJ or the DHS believes that important national interests can be protected, or VSNL America believes that paramount commercial interests can be resolved, only by resorting to the measures set forth in Section 4.2. If, after meeting with higher authorized officials, any of the Parties determines that further negotiation would be fruitless, then that Party may resort to the remedies set forth in Section 4.2. If resolution of a disagreement requires access to Classified Information, the Parties shall designate a person or persons possessing the appropriate security clearances for the purpose of resolving that disagreement.

4.2 Enforcement of Agreement. Subject to Section 4.1 of this Agreement, if any of the Parties believes that any other party has breached or is about to breach this Agreement, that Party may bring an action against the other Party for appropriate judicial relief. Nothing in this Agreement shall limit or affect the right of a U.S. Government Agency to:

- (a) require that the Party or Parties believed to have breached, or about to breach, this Agreement cure such breach within thirty (30) days, or whatever shorter time period is appropriate under the circumstances, upon receiving written notice of such breach; or
- (b) request that the FCC modify, condition, revoke, cancel, or render null and void any license, permit, or other authorization granted or given by the FCC to VSNL America, or request that the FCC impose any other appropriate sanction, including but not limited to a forfeiture or other monetary penalty, against VSNL America; or
- (c) seek civil sanctions for any violation by VSNL America or an Affiliate of any U.S. law or regulation or term of this Agreement; or
- (d) pursue criminal sanctions against VSNL America, or any director, officer, employee, representative, or agent of VSNL America, or against any other person or entity, for violations of the criminal laws of the United States; or
- (e) seek suspension or debarment of VSNL America from eligibility for contracting with the U.S. Government.

4.3 Irreparable Injury. VSNL, for itself and for VSNL America, agrees that the United States would suffer irreparable injury if for any reason VSNL or VSNL America failed to

perform any of its material obligations under this Agreement, and that monetary relief would not be an adequate remedy. Accordingly, VSNL, for itself and for VSNL America, agrees that, in seeking to enforce this Agreement, the FBI, the DOJ and the DHS shall be entitled, in addition to any other remedy available at law or equity, to specific performance and injunctive or other equitable relief.

4.4 Waiver. The availability of any civil remedy under this Agreement shall not prejudice the exercise of any other civil remedy under this Agreement or under any provision of law, nor shall any action taken by a Party in the exercise of any remedy be considered a waiver by that Party of any other rights or remedies. The failure of any Party to insist on strict performance of any of the provisions of this Agreement, or to exercise any right they grant, shall not be construed as a relinquishment or future waiver; rather, the provision or right shall continue in full force. No waiver by any Party of any provision or right shall be valid unless it is in writing and signed by the Party.

4.5 Waiver of Immunity. VSNL, for itself and for VSNL America, agrees that, to the extent that it or any of its property (including FCC licenses and authorizations and intangible property) is or becomes entitled at any time to any immunity on the ground of sovereignty or otherwise based upon a status as an agency or instrumentality of government from any legal action, suit or proceeding or from setoff or counterclaim relating to this Agreement, from the jurisdiction of any competent court or the FCC, from service of process, from attachment prior to judgment, from attachment in aid of execution of a judgment, from execution pursuant to a judgment or arbitral award, or from any other legal process in any jurisdiction, it, for itself and VSNL America and its property expressly, irrevocably and unconditionally waives, and agrees not to plead or claim, any such immunity with respect to matters arising with respect to this Agreement or the obligations herein (including any obligation for the payment of money) in any proceeding brought by a U.S. federal, state or local Government Authority. VSNL agrees that the waiver in this provision is irrevocable and is not subject to withdrawal in any jurisdiction or under any statute, including the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602 *et seq.* The foregoing waiver shall constitute a present waiver of immunity at any time any action is initiated by a U.S. federal, state or local Government Authority against VSNL or VSNL America with respect to compliance with this Agreement.

4.6 Forum Selection. It is agreed by and between the Parties that a civil action among the Parties for judicial relief with respect to any dispute or matter whatsoever arising under, in connection with, or incident to, this Agreement shall be brought, if at all, in the United States District Court for the District of Columbia.

4.7 Effectiveness of Article 4. This Article 4, and the obligations imposed and rights conferred herein, shall become effective upon the execution of this Agreement by all the Parties.

ARTICLE 5: AUDITING, REPORTING, NOTICE AND LIMITS

5.1 Filings re *de jure* or *de facto* control of VSNL America. If VSNL America makes any filing with the FCC or any other Government Authority relating to the *de facto* or *de jure* control of VSNL America except for filings with the FCC for assignments or transfers

of control that are *pro forma*, VSNL America shall promptly provide to the FBI, the DOJ and the DHS written notice and copies of such filing. This Section 5.1 shall become effective upon execution of this Agreement by all the Parties.

5.2 Control of VSNL America. If any member of the senior management of VSNL or VSNL America (including senior officers and members of the Board of Directors) acquires any information that reasonably indicates that any single foreign entity or individual, other than the Government of India, has or will likely obtain an ownership interest (direct or indirect) in VSNL America above 10 percent, as determined in accordance with 47 C.F.R. § 63.09, or if any foreign entity or individual, singly or in combination with other foreign entities or individuals, has or will likely otherwise gain either (1) Control or (2) *de facto* or *de jure* control of VSNL America, then such senior manager shall promptly cause VSNL America through its Security Officer to notify the FBI, the DOJ and the DHS in writing within ten (10) calendar days. Notice under this Section 5.2 shall, at a minimum:

- (a) Identify the entity or individual(s) (specifying the name, addresses and telephone numbers of the entity);
- (b) Identify the beneficial owners of the increased or prospective increased interest in VSNL America by the entity or individual(s) (specifying the name, addresses and telephone numbers of each beneficial owner); and
- (c) Quantify the amount of ownership interest that the entity or individual(s) has or will likely obtain in VSNL America and, if applicable, the basis for their prospective Control of VSNL America.

5.3 Joint Ventures. In the event that VSNL America enters into joint ventures or other arrangements under which the joint venture or another entity may provide Domestic Communications:

- (a) If VSNL or VSNL America has the power or authority to exercise *de facto* or *de jure* control over such entity, then VSNL America will require the entity to fully comply with the terms of this Agreement.
- (b) To the extent VSNL or VSNL America does not have *de facto* or *de jure* control over such joint venture or entity, the provisions of Section 5.4, Outsourcing Contracts, shall apply as if the joint venture or other arrangement was an Outsourcing Contract.

5.4 Outsourcing Contracts. VSNL America shall not enter into an Outsourcing Contract that affords the contractor access to Sensitive Information. In any Outsourcing Contract, VSNL America shall take reasonable steps to ensure that the contractor complies with the applicable terms of this Agreement. Such steps shall include the following:

- (a) VSNL America shall include written provisions in the Outsourcing Contract that require the contractor to comply with all applicable terms of this Agreement or shall take other reasonable, good-faith measures to ensure that the contractor is aware of, agrees to, and is bound to comply with all such terms.
- (b) If the contractor may perform any of the contracted-for services outside the United States, or is identified after reasonable inquiry by VSNL America as either

Controlled by one or more foreign persons or combination of foreign persons under common Control, or as having ten (10) percent or more of its voting equity held, directly or indirectly, by one or more foreign persons or combination of foreign persons under common Control, then:

- (i) no later than 30 days before the Outsourcing Contract becomes effective, VSNL America shall notify the DHS in writing, identifying the name of the entity, describing the functions covered by this Agreement, and attaching a complete copy of the Outsourcing Contract; and**
- (ii) DHS will have 30 days from receipt of the notice to review and provide VSNL America with any objection to the Outsourcing Contract, which shall be based on national security, law enforcement, or public safety grounds. If DHS objects in accordance with this section, VSNL America shall not proceed with execution or performance of the Outsourcing Contract.**
- (c) Neither VSNL nor VSNL America shall induce the contractor to violate its obligations to VSNL America related to this Agreement or to take any action that, if taken by VSNL America, would violate this Agreement.**
- (d) If VSNL or VSNL America receives information that reasonably indicates that the contractor or any of its employees or agents has taken an action that, had it been taken by VSNL America, would violate a provision of this Agreement, or has violated its obligations to VSNL America related to this Agreement, VSNL America (1) will notify the DHS, the FBI, and the DOJ promptly, and (2) in consultation and cooperation with the DHS, the FBI, and the DOJ, will take reasonable steps necessary to rectify promptly the situation, including terminating the Outsourcing Contract (with or without notice and opportunity for cure) or initiating and pursuing litigation or other remedies at law and equity.**
- (e) Neither an Outsourcing Contract nor any provision of this Section 5.4 does nor shall it be construed to relieve VSNL or VSNL America of any of its obligations under this Agreement.**

5.5 Notice of Foreign Influence. If any member of the senior management of VSNL or VSNL America (including senior officers and members of the Board of Directors) acquires any information that reasonably indicates that any foreign government, any foreign government-controlled entity, or any foreign entity:

- (a) plans to participate or has participated in any aspect of the day-to-day management of VSNL America in such a way that interferes with or impedes the performance by VSNL America of its duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by VSNL America of its rights under the Agreement, or foreseeably concerns the obligations of VSNL America under this Agreement, or**
- (b) plans to exercise or has exercised, as a direct or indirect shareholder of VSNL America or its subsidiaries, any Control of VSNL America in such a way that interferes with or impedes the performance by VSNL America of its duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by VSNL America of its rights under the terms of**

this Agreement, or foreseeably concerns VSNL America's obligations under this Agreement,

then such senior manager shall promptly notify the Security Officer who shall, in turn, promptly notify the FBI, the DOJ and the DHS in writing of the timing and the nature of the foreign government's or entity's plans or actions.

5.6 Non-retaliation. VSNL America shall, by duly authorized action of its Board of Directors, adopt and distribute an official corporate policy that strictly prohibits VSNL America from discriminating or taking any adverse action against any officer, director, employee, contractor, or agent because he or she has in good faith initiated or attempted to initiate a notice or report under Sections 5.2, 5.5, or 5.8 of this Agreement, or has notified or attempted to notify the Security Officer to report information that he or she believes in good faith is required to be reported to the DOJ, the FBI, and the DHS by the Security Officer under Sections 5.2, 5.5, or 5.8 of this Agreement. Such corporate policy shall set forth in a clear and prominent manner the contact information for the Security Officer to whom such contacts may be made directly. Any violation by VSNL America of any material term of such corporate policy shall constitute a breach of this Agreement.

5.7 Security Audit. VSNL America shall conduct annual audits to assess its compliance with the terms of this Agreement, and shall furnish the DOJ, the FBI, and the DHS with a report in accordance with Section 5.11 of this Agreement. After the execution of this Agreement and at least three months prior to commencing an audit, VSNL America shall provide the DOJ, the FBI, and the DHS with the terms of the audits defining their scope and purpose. The DOJ, the FBI, and the DHS shall have the right to review and approve these terms. VSNL and VSNL America shall ensure that the auditor has full and unimpeded corporate authority to conduct the audits without restriction or limitation by any officer, director, employee, contractor or agent of VSNL or VSNL America. The terms defining the scope and purpose of the audits shall include, at a minimum, authority for the auditor to review and analyze: (1) VSNL America policies and procedures designed to implement this Agreement; (2) all relevant information related to the configuration of the VSNL America network; (3) all minutes of meetings held or actions taken by the VSNL or VSNL America Board of Directors or Committees of the Board in accordance with this agreement; and (4) all Security Officer logs and records including records related to facility visits, personnel screening data, and any reports submitted in accordance with Section 5.8 of this Agreement. In addition, such terms shall include authority for the auditor to conduct a reasonable number of: (1) unannounced inspections of the VSNL America facilities each year, (2) random testings of network firewalls, access points and other systems for potential vulnerabilities, and (3) confidential interviews of VSNL and VSNL America officers, directors, employees, contractors or agents concerning compliance with this Agreement. Upon request, VSNL America shall provide the DOJ, FBI, or the DHS with access to facilities, information, and personnel consistent with Sections 5.9 and 5.10 below in the event that the DOJ, FBI, or the DHS wishes to conduct its own annual audit of VSNL America's compliance with this Agreement.

5.8 Reporting of Incidents. VSNL America shall report to the FBI, the DOJ, and the DHS any information acquired by VSNL America or any of its officers, directors, employees, contractors or agents that reasonably indicates:

- (a) a breach of this Agreement;
- (b) access to or disclosure of Domestic Communications, or the conduct of Electronic Surveillance, in violation of federal, state or local law or regulation;
- (c) access to or disclosure of CPNI or Subscriber Information in violation of federal, state or local law or regulation (except for violations of FCC regulations relating to improper commercial use of CPNI); or
- (d) improper access to or disclosure of Classified, Sensitive, or Controlled Unclassified Information.

This report shall be made in writing by the Security Officer to the DOJ, the FBI, and the DHS no later than ten (10) calendar days after VSNL America acquires information indicating a matter described in this Section. VSNL America shall lawfully cooperate in investigating the matters described in this Section. VSNL America need not report information where disclosure of such information would be in violation of an order of a court of competent jurisdiction in the United States.

5.9 Access to Information and Facilities. The DOJ, the FBI, or the DHS may visit any part of VSNL America's Domestic Communications Infrastructure and security offices to conduct on-site reviews concerning the implementation of the terms of this Agreement and may at any time require unimpeded access to information concerning technical, physical, management, or other security measures needed by the DOJ, the FBI, or the DHS to verify compliance with the terms of this Agreement.

5.10 Access to Personnel. Upon reasonable notice from the DOJ, the FBI, or the DHS, VSNL America shall make available for interview any officers or employees of VSNL America and any contractors located in the United States, who are in a position to provide information to verify compliance with the terms of this Agreement.

5.11 Annual Report. On or before the last business day of January of each year after the Effective Date, the Chief Executive Officer or a designated senior corporate officer of VSNL America shall submit to the DOJ, the FBI, and the DHS a report assessing VSNL America's compliance with the terms of this Agreement for the preceding calendar year. The report shall include:

- (a) a copy of all security audit reports compiled following an audit conducted pursuant to Section 5.7 of this Agreement;
- (b) a copy of the policies and procedures adopted to comply with this Agreement;

- (c) a summary of changes, if any, to the policies and procedures, and the reasons for those changes;
- (d) a summary of any known acts of material noncompliance with the terms of this Agreement, whether inadvertent or intentional, with full disclosure of what steps have been or will be taken to prevent such acts from occurring in the future; and
- (e) identification of any other issues that will or could affect the effectiveness of or compliance with this Agreement.

VSNL America shall make available to the Security Officer in a timely fashion all information necessary to prepare the report required by this Section.

5.12 Information and Reports Concerning Network Architecture. If requested by the DHS, the FBI, or the DOJ, VSNL America shall provide to the DHS, the FBI, and the DOJ the following information regarding the interconnections and control of the Domestic Communications Infrastructure:

- (a) A description of the plans, processes and procedures, relating to network management operations, that prevent the Domestic Communications Infrastructure from being accessed or controlled from outside the United States.
- (b) A description of the placement of the Network Operations Center and interconnection (for service offload or administrative activities) to other domestic and international carriers, ISPs and critical U.S. financial, energy, and transportation infrastructures.
- (c) A description of VSNL America's networks and operations processes, procedures for management control and relation to the backbone infrastructures of other service providers.
- (d) A description of any unique or proprietary control mechanisms of VSNL America as well as VSNL America's operating and administrative software.
- (e) A report of Network Management Information that includes an assurance that network performance satisfies FCC rules and reporting requirements.

Once a report has been made under this Section 5.12, VSNL America shall promptly report any material changes, upgrades or modifications to the items described in (a)-(e) above, including the installation of critical equipment and software. For the purposes of this section, critical equipment and software shall include: routers, switches, gateways, network security appliances, network management/test equipment, operating systems and network and security software (including new versions, patches, upgrades, and replacement software), and other hardware, software, or systems performing similar

functions. Monitors, desktop computers, desktop computer applications, disk drives, power supplies, printers, racks and the like are not “critical equipment or software” unless they perform functions similar to those of the items described in (a)-(e) above. Similarly, “material” shall refer to those changes, modifications and upgrades that alter network operating characteristics or architecture, and does not apply to spare parts replacement, the one-for-one swapping of identical equipment or the related re-loading of system software or backups; provided, however, that network security configuration and capabilities remain unchanged.

5.13 Notices. Effective upon execution of this Agreement by all the Parties, all notices and other communications relating to this Agreement, such as a proposed modification, shall be in writing and shall be deemed given as of the date of receipt and shall be (a) delivered personally, or (b) sent by facsimile, or (except as noted below) (c) sent by documented overnight courier service, or (d) sent by registered or certified mail, postage prepaid, addressed to the Parties’ designated representatives at the addresses shown below, or to such other representatives at such others’ addresses as the Parties may designate in accordance with this Section:

**Department of Justice
Assistant Attorney General
Criminal Division
Main Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Federal Bureau of Investigation
General Counsel
935 Pennsylvania Avenue, NW
Washington, DC 20535**

**With a copy to:
Federal Bureau of Investigation
The Assistant Director
National Security Division
935 Pennsylvania Avenue, NW
Washington, DC 20535
Department of Homeland Security
Washington, D.C. 20528
Attn: Assistant Secretary for Infrastructure Protection
Mr. Satish Ranade
Executive Director (Legal) and Company Secretary
Videsh Sanchar Nigam Limited
Videsh Sanchar Bhavan
M.G. Road
Mumbai, India 400 001**

**With a copy to:
Robert J. Aamoth, Esq.**

Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
(202) 955-9676 (telephone number)
(202) 955-9792 (fax number)
raamoth@kelleydrye.com

Mr. Satish Ranade
President, VSNL America, Inc.
c/o Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
Attn: Robert J. Aamoth, Esq.

5.14 Compliance Assurance. VSNL will take all steps necessary to ensure that VSNL America complies with the terms of this Agreement.

ARTICLE 6: FREEDOM OF INFORMATION ACT

6.1 Protection from Disclosure. The DOJ, the FBI and the DHS shall take all reasonable measures to protect from public disclosure all information submitted by VSNL America (or other entities in accordance with the terms of this Agreement) to the DOJ, the FBI or the DHS in connection with this Agreement and clearly marked with the legend "Business Confidential; subject to protection under 5 U.S.C. § 553(b); not to be released without notice to the filing party" or similar designation. Such markings shall signify that it is the company's position that the information so marked constitutes "trade secrets" and/or "commercial or financial information obtained from a person and privileged or confidential," or otherwise warrants protection within the meaning of 5 U.S.C. § 552(b)(4). For the purposes of 5 U.S.C. § 552(b)(4), the Parties agree that information so marked is voluntarily submitted. If a request is made under 5 U.S.C. §552(a)(3) for information so marked, and disclosure of any information (including disclosure in redacted form) is contemplated, the DOJ, the FBI or the DHS, as appropriate, shall notify the company of the intended disclosure as provided by Executive Order 12600, 52 Fed. Reg. 23781 (June 25, 1987). If VSNL America objects to the intended disclosure and its objections are not sustained, the DOJ, the FBI, or the DHS, as appropriate, shall notify the company of its intention to release (as provided by Section 5 of E.O. 12600) not later than five (5) business days prior to disclosure of the challenged information.

6.2 Use of Information for U.S. Government Purposes. Nothing in this Agreement shall prevent the FBI, the DOJ or the DHS from lawfully disseminating information as appropriate to seek enforcement of this Agreement, or from lawfully sharing information as appropriate with other federal, state, or local Government Authorities to protect public safety, law enforcement, or national security interests, provided that the FBI, the DOJ and the DHS take all reasonable measures to protect from public disclosure the information marked as described in Section 6.1.

ARTICLE 7: FCC CONDITION

7.1 **FCC Approval.** Upon the execution of this Agreement by all the Parties, the FBI, the DOJ and the DHS shall promptly notify the FCC that, provided the FCC adopts a condition substantially the same as set forth in Exhibit A attached hereto (the “Condition to FCC Authorization”), the FBI, the DOJ and the DHS have no objection to the FCC’s grant of the application filed with the FCC in FCC File No. ITC-214-20030728-00376. This Section is effective upon execution of this Agreement by all the Parties.

7.2 **Future Applications.** VSNL and VSNL America agree that in any application or petition by VSNL or VSNL America to the FCC for licensing or other authority filed with or granted by the FCC after the execution of this Agreement, except with respect to *pro forma* assignments or *pro forma* transfers of control, VSNL or VSNL America shall request that the FCC condition the grant of such licensing or other authority on compliance with the terms of this Agreement. Notwithstanding Section 8.9, the FBI, the DOJ and the DHS reserve the right to object, formally or informally, to the grant of any other FCC application or petition of VSNL America or its Affiliates for a license or other authorization under Titles II and III of the Communications Act of 1934, as amended, and to seek additional or different terms that would, consistent with the public interest, address any threat to their ability to enforce the laws, preserve the national security and protect the public safety raised by the transactions underlying such applications or petitions.

ARTICLE 8: OTHER

8.1 **Right to Make and Perform Agreement.** VSNL, for itself and for VSNL America, represents that it has and shall continue to have throughout the term of this Agreement the full right to enter into this Agreement and perform its obligations hereunder and that this Agreement is a legal, valid, and binding obligation of VSNL and VSNL America, enforceable in accordance with its terms.

8.2 **Headings.** The Article and section headings and numbering in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of the terms of this Agreement.

8.3 **Other Laws.** Nothing in this Agreement is intended to limit or constitute a waiver of (a) any obligation imposed by any U.S. federal, state or local laws on VSNL or VSNL America, (b) any enforcement authority available under any U.S. or state laws, (c) the sovereign immunity of the United States, or (d) any authority the U.S. government may possess over the activities or facilities of VSNL America located within or outside the United States (including authority pursuant to the International Emergency Economic Power Act). Nothing in this Agreement is intended to or is to be interpreted to require the Parties to violate any applicable U.S. law.

8.4 **Statutory References.** All references in this Agreement to statutory provisions shall include any future amendments to such statutory provisions.

8.5 **Non-Parties.** Nothing in this Agreement is intended to confer or does confer any rights on any person other than the Parties and any Government Authorities entitled to effect Electronic Surveillance pursuant to Lawful U.S. Process.

8.6 Modifications. This Agreement may only be modified by written agreement signed by all of the Parties. The FBI, the DOJ and the DHS agree to consider promptly and in good faith possible modifications to this Agreement if VSNL America believes that the obligations imposed on VSNL America under this Agreement are substantially more restrictive than those imposed on other U.S. and foreign licensed service providers in like circumstances in order to protect U.S. national security, law enforcement, and public safety concerns. Any substantial modification to this Agreement shall be reported to the FCC within thirty (30) days after approval in writing by the Parties.

8.7 Severability. The provisions of this Agreement shall be severable and if any provision thereof or the application of such provision under any circumstances is held invalid by a court of competent jurisdiction, it shall not affect any other provision of this Agreement or the application of any provision thereof.

8.8 Changes in Circumstances for VSNL America. The DOJ, the FBI and the DHS agree to negotiate in good faith and promptly with respect to any request by VSNL America for relief from application of specific provisions of this Agreement if those provisions become unduly burdensome or adversely affect VSNL America's competitive position.

8.9 Changes in Circumstances for DOJ, FBI or DHS. If after the date that all the Parties have executed this Agreement, the DOJ, the FBI or the DHS finds that the terms of this Agreement are inadequate to address national security, law enforcement, or public safety concerns, then VSNL and VSNL America will negotiate in good faith to modify this Agreement to address those concerns.

8.10 Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile, each of which shall together constitute one and the same Agreement. ~~But~~ **8.11 Successors and Assigns.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties, and their respective successors and assigns. This Agreement shall also be binding on all subsidiaries, divisions, departments, branches, and other components or agents of VSNL America, and on all Affiliates of VSNL America (individually, a "Covered VSNL America Entity," and collectively, "Covered VSNL America Entities").

8.12 Effectiveness of Article 8. This Article 8, and the obligations imposed and rights conferred herein, shall be effective upon the execution of this Agreement by all the Parties.

8.13 Effectiveness of Agreement. Except as otherwise specifically provided in the provisions of this Agreement, the obligations imposed and rights conferred by this Agreement shall take effect upon the Effective Date.

8.14 Suspension of Agreement and Obligations Hereunder. This Agreement shall be suspended upon thirty (30) days notice to the FBI, the DOJ and the DHS if no Covered VSNL America Entity provides Domestic Communications.

8.15 Suspension of Agreement If No Foreign Ownership. This Agreement shall be suspended in its entirety with respect to VSNL America and to VSNL thirty (30) days after

receipt from VSNL America of notice and documentation reasonably satisfactory to the DOJ, the FBI and the DHS that no foreign entity or combination of foreign entities (including one or more persons under common Control) either Controls VSNL America or holds, directly or indirectly, a ten (10) percent or greater interest in VSNL America unless the DOJ, the FBI and the DHS notify VSNL America within said thirty (30) day period that this Agreement shall not be suspended in order to protect U.S. national security, law enforcement, and public safety concerns. If this Agreement is not suspended pursuant to this provision, the DOJ, the FBI and the DHS agree to consider promptly and in good faith possible modifications to this Agreement. Notwithstanding anything to the contrary in this Section 8.15, this Agreement shall remain in effect with respect to VSNL America for so long as (and the obligations of VSNL America shall not be suspended and any suspension of the obligations of VSNL America shall terminate if) VSNL or any other foreign entity or combination of foreign entities (including one or more persons under common Control) either Controls VSNL America or at any time holds or is a party to an agreement to hold, directly or indirectly, a ten (10) percent or greater interest in VSNL America or any transferee or assignee of the FCC licenses or authorizations held by VSNL America.

8.16 Notice of Additional Services. VSNL or VSNL America shall provide a minimum of thirty (30) days advanced notice to the DOJ, the FBI and the DHS in the event that VSNL or VSNL America or any Affiliate changes or intends to change the present plans set forth in the recitals to this Agreement such that the representations made therein are no longer fully accurate, true and complete.

This Agreement is executed on behalf of the Parties:

Videsh Sanchar Nigam Limited

Date: 05/24/04

By: /s/ SATISH RANADE

Printed Name: Satish Ranade

Title: Executive Director (Legal) and Company Secretary

VSNL America, Inc.

Date: 05/24/04

By: /s/ SATISH RANADE

Printed Name: Satish Ranade

Title: President

Federal Bureau of Investigation

Date: 05/10/04

By: /s/ PATRICK W. KELLEY

Printed Name: Patrick W. Kelley

Title: Deputy General Counsel

Department of Homeland Security

Date: 05/24/04

By: /s/ TINA W. GABBRIELLI

Printed Name: Tina W. Gabbrielli

Title: Director of Intelligence Coordination and Special Infrastructure Protection Programs, Office of Infrastructure Protection

United States Department of Justice

Date: 05/18/04

By: /s/ LAURA H. PARSKY

Printed Name: Laura H. Parsky

Title: Deputy Assistant Attorney General, Criminal Division

EXHIBIT A
CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses transferred thereunder are subject to compliance with the provisions of the Agreement between VSNL and VSNL America, on the one hand, and the Department of Justice (the “DOJ”), the Federal Bureau of Investigation (the “FBI”), and the Department of Homeland Security (“DHS”), on the other, dated May 24, 2004, which Agreement is designed to address national security, law enforcement, and public safety concerns of the DOJ, the FBI and the DHS regarding the authority granted herein. Nothing in this Agreement is intended to limit any obligation imposed by Federal law or regulation including, but not limited to, 47 U.S.C. § 222(a) and (c)(1) and the FCC’s implementing regulations.