

AMENDMENT TO AGREEMENT

THIS AMENDMENT TO AGREEMENT (the “Amendment”) is made as of the date of the last signature affixed hereto (the “Effective Date”), by and among VSNL America, Inc. (“VSNL America”), VSNL Telecommunications (U.S.), Inc. (“VSNL US”), Videsh Sanchar Nigam Limited (“VSNL”), on the one hand, and the U.S. Department of Justice (“DOJ”), including the Federal Bureau of Investigation (“FBI”), and the U.S. Department of Homeland Security (“DHS”), and the U.S. Department of Defense (“DOD”), on the other hand (referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

WHEREAS, VSNL, VSNL America, VSNL US, DOJ, FBI, DHS and DOD have heretofore entered into that certain Agreement dated as of April 7, 2005 (a copy of which is attached hereto as Exhibit A and referred to herein as the “Agreement”) whereby such parties agreed to set forth certain rights, obligations and undertakings to be performed with respect to national security, law enforcement and public safety concerns (all terms defined in the Agreement shall have the same meanings ascribed to such terms therein, unless defined otherwise in this Amendment); and

WHEREAS, pursuant to an Agreement and Plan of Amalgamation dated as of July 25, 2005 among VSNL, VSNL Telecommunications (Bermuda) Ltd. (“VSNL Bermuda”) and Teleglobe International Holdings Ltd. and affiliated entities (“Teleglobe”) (the “Amalgamation Agreement”), one or more applications (hereinafter “Teleglobe Application(s)”) will be filed with the FCC for authorization to assign and/or transfer control of certain licenses heretofore granted by the FCC, as such licenses are described on Exhibit B hereto; and

WHEREAS, the FCC’s grant of the Teleglobe Applications may be made subject to conditions relating to national security, law enforcement, and public safety.

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties are entering into this Amendment to address national security, law enforcement and public safety concerns.

ARTICLE 1: AMENDMENTS TO AGREEMENT

1.1 Amendment to Definition of Domestic Communications Infrastructure. The definition of “Domestic Communications Infrastructure” in Section 1.11 is hereby deleted in its entirety and replaced with the following:

1.11 “Domestic Communications Infrastructure” means (a) transmission, switching, bridging and routing equipment (including software and upgrades) used by or on behalf of VSNL America or VSNL US to provide, process, direct, control, supervise or manage Domestic Communications; (b) facilities and equipment used by or on behalf of VSNL America or VSNL US that are physically located in the United States; and (c) facilities used by or on behalf of VSNL America or VSNL US 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 VSNL US or their Affiliates, and
 - (B) available in substantially similar form and on commercially reasonable terms through communications services of companies other than VSNL America, VSNL US or their Affiliates.

The phrase “on behalf of” as used in this section does not include entities with which VSNL 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. Domestic Communications Infrastructure also does not include the TGN Network Operations Center located in the United Kingdom or the Teleglobe Network Operations Center (“**Teleglobe NOC**”) currently located at 1441 Carrie-Derick in Montreal, Canada.

1.2 **New Definition.** The definition of “Teleglobe” is hereby added to the Agreement as a new Section 1.34 as follows:

“**Teleglobe**” means Teleglobe International Holdings Limited, a Bermuda corporation, and affiliated entities.

1.3 **New Sections 2.10 and 2.11.** The following new Sections 2.10 and 2.11 are hereby added to the Agreement as follows:

2.10 **Routing of Teleglobe Traffic.** VSNL shall ensure that all Domestic Communications routed over the Teleglobe network, including any associated network management transmissions, shall not be routed outside of the United States and/or Canada, except as and only to the extent it is necessary in emergency situations (*e.g.*, a natural disaster that removes the ability to route traffic over US and/or Canadian networks).

2.11 **Teleglobe Network Operations Center.** VSNL agrees to adopt (or cause the adoption of) security measures for the Teleglobe NOC located at 1441 Carrie-Derick, Montreal, Canada that are consistent with, and based upon, the provisions in Sections 3.2-3.3 (Visitation Policy), 3.9 (Information Security Plan) and 3.14 (Screening of Personnel). VSNL shall include such measures in a security plan that will be provided to DHS, DOJ, FBI and DOD for review and consultation within thirty (30) days after the date on which the FCC grants the applications filed by Teleglobe, VSNL and/or related entities for authorization to assign and/or

transfer all FCC-granted authorizations currently held by Teleglobe. This security plan shall include provisions regarding multicasting technology as agreed between VSNL and DHS, DOJ, FBI and DOD, and it shall include procedures and processes to implement Section 2.10. VSNL agrees to provide DHS, DOJ, FBI and DOD with written notice of any changes to this security plan as soon as reasonably practicable before such changes take effect. Network management information regarding the Teleglobe NOC will be accessible only to persons who have been screened pursuant to Section 3.14 or the employee screening provisions in the security plan for the Teleglobe NOC. In the event a new Network Operations Center is established for Domestic Communications routed over the Teleglobe network, or network functionalities of the current Teleglobe NOC are transferred to a new location, such new Network Operations Center or transferred Teleglobe NOC functionalities shall be located in the United States. In any such case, DHS, DOJ, FBI and DOD shall be consulted and receive at least ninety (90) days' advance notice.

1.4 **Modification to Section 5.10.** Section 5.10 of the Agreement is hereby deleted in its entirety and replaced with the following:

5.10 Access to Information and Facilities. DHS, DOJ, FBI, or DOD may visit any part of VSNL America's or VSNL US's Domestic Communications Infrastructure and security offices, as well as the current Teleglobe NOC located at 1441 Carrie-Derick, Montreal, Canada, the TGN Network Operations Center located in the United Kingdom, or any new Network Operations Center that may be established subject to the provisions in Section 2.11, 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 DHS, DOJ, FBI, or DOD to verify compliance with the terms of this Agreement.

ARTICLE 2: FCC CONDITION AND CFIUS

2.1 **FCC Approval.** Upon the execution of this Amendment by all the Parties hereto, DHS, DOJ, FBI, and DOD shall, on their own motion at an appropriate time or at the request of VSNL or Teleglobe, notify the FCC that, provided the FCC adopts a condition substantially the same as set forth in Exhibit C attached hereto (the "**Condition to FCC Authorization**"), DHS, DOJ, FBI, and DOD have no objection to the FCC's grant of the Teleglobe Applications. This Section is effective upon execution of this Amendment by all the Parties hereto; provided, however, that in the case of a material modification or withdrawal of the Teleglobe Applications after the execution of this Amendment (i) the effectiveness of this Section may be suspended by DHS, DOJ, FBI, and DOD; or (ii) DHS, DOJ, FBI, and DOD may object, formally or informally, to the grant of the Teleglobe Applications and 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 any such material modification or withdrawal of the Teleglobe Applications.

2.2 **CFIUS.** Upon execution of this Amendment by all Parties hereto, DHS, DOJ, FBI, and DOD shall not object to termination of review under Exon-Florio concerning the acquisition of Teleglobe by VSNL, VSNL Bermuda and/or other companies affiliated with VSNL, unless:

- (a) VSNL, VSNL America, or VSNL US fails to comply with the material terms of the Agreement, as amended hereby;
- (b) DHS, DOJ, FBI, or DOD learns that the representations made to DHS, DOJ, FBI, or DOD by VSNL, VSNL America, or VSNL US during the negotiation of the Agreement or this Amendment itself are materially untrue or incomplete; or
- (c) there is any material change in the circumstances associated with the acquisition of the Tyco Global Network or Teleglobe by VSNL and other companies affiliated with VSNL, where such change affects national security.

For the avoidance of doubt, nothing in this Article shall expand, limit, or otherwise affect in any way the rights and remedies available to DHS, DOJ, FBI, and DOD under Section 721 of the Defense Production Act of 1950 as amended, codified at 50 U.S.C. App. § 2170, or 31 C.F.R. Part 800.

ARTICLE 3: OTHER

3.1 **Miscellaneous.** This Amendment, and the obligations imposed and rights conferred herein, shall be effective upon the execution of this Agreement by all the Parties hereto. This Amendment may be executed in any number of counterparts, each of which when so executed shall be deemed an original, and all of which together shall constitute one and the same document. In the event that any provision of this Amendment and any provision of the Agreement are inconsistent or conflicting, the inconsistent or conflicting provisions of this Amendment shall be and constitute an amendment of the Agreement and shall control, but only to the extent that such provision is expressly inconsistent with the Agreement. Except as expressly amended by this Amendment, the Agreement is in all respects ratified, confirmed and approved and all the terms, provisions and conditions set forth in the Agreement that are not specifically modified by this Amendment shall be and remain in full force and effect.

[Signature Pages Follow]

This Amendment is executed on behalf of the Parties:

“VSNL”

Videsh Sanchar Nigam Limited

Date: December 12, 2005

By: /s/ Satish Ranade
Printed Name: Satish Ranade
Title: Company Secretary and VP (Legal)

“VSNL America”

VSNL America, Inc.

Date: December 12, 2005

By: /s/ Satish Ranade
Printed Name: Satish Ranade
Title: President

“VSNL US”

VSNL Telecommunications (US), Inc.

Date: December 12, 2005

By: /s/ N. Srinath
Printed Name: N. Srinath
Title: President

“FBI”

Federal Bureau of Investigation

Date: December 12, 2005

By: /s/ Elaine N. Lammert
Printed Name: Elaine N. Lammert
Title: Deputy General Counsel

“DHS”

Department of Homeland Security

Date: December 12, 2005

By: /s/ Stewart Baker
Printed Name: Stewart Baker
Title: Assistant Secretary for Policy

“DOJ”

United States Department of Justice

Date: December 12, 2005

By: /s/ Laura H. Parsky
Printed Name: Laura H. Parsky
Title: Deputy Assistant Attorney General, Criminal
Division

“DOD”

United States Department of Defense

Date: December 9, 2005

By: /s/ John G. Grimes
Printed Name: John G. Grimes
Title: Assistant Secretary of Defense (Networks
and Integration)

EXHIBIT A
AGREEMENT
[ATTACH A SIGNED COPY OF THE AGREEMENT]

AGREEMENT

THIS AGREEMENT (the “Agreement”) is made as of the date of the last signature affixed hereto, by and between VSNL America, Inc. (“VSNL America”), VSNL Telecommunications (U.S.), Inc. (“VSNL US”), and Videsh Sanchar Nigam Limited (“VSNL”), on the one hand, and the U.S. Department of Justice (“DOJ”), including the Federal Bureau of Investigation (“FBI”), and the U.S. Department of Homeland Security (“DHS”), and the U.S. Department of Defense (“DOD”), on the other hand (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 Homeland Security Presidential 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 and VSNL US have 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, while VSNL US plans to own and operate the U.S. portion of the former Tyco Global Network (“TGN”);

WHEREAS, VSNL America and VSNL US 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 and VSNL US 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 received pursuant to Section 214 of the Communications Act of 1934, as amended, an authorization from the Federal Communications Commission (“FCC”) in File No. ITC-214-20030728-00376 on August 26, 2004 (DA 04-2668) to provide U.S. international telecommunications services to all international points;

WHEREAS, VSNL and VSNL America entered into an agreement with the FBI, DOJ and DHS dated May 24, 2004, compliance with which is a condition of the Section 214 authorization held by VSNL America;

WHEREAS, pursuant to a Stock and Asset Purchase Agreement dated November 1, 2004 among Tycom (US) Holdings, Inc., Tyco Global Networks Ltd., Tyco International Group, S.A., VSNL Bermuda LTD. and VSNL (the "Acquisition Agreement"), VSNL US and Tyco Telecommunications (US) Inc., Tyco International Ltd., and Tyco Networks (Guam) L.L.C. (hereinafter "Tyco") plan to file with the FCC one or more applications [hereinafter "Tyco/VSNL Application"] for authorization to assign and/or transfer the FCC-granted cable landing licenses for the Tyco Atlantic and Tyco Pacific cable systems;

WHEREAS, VSNL America is a direct wholly-owned subsidiary of, and VSNL US is an indirect wholly-owned subsidiary of, VSNL, which is a foreign telecommunications carrier in which the Government of India holds an approximate 26 percent ownership interest;

WHEREAS, the FCC's grant of the Tyco/VSNL Application may be made subject to conditions relating to national security, law enforcement, and public safety, and whereas VSNL America and VSNL US have agreed to enter into this Agreement with DHS, DOJ, FBI, and DOD to address issues raised by DHS, DOJ, FBI, and DOD, and to jointly petition that the FCC condition the requested authorization on compliance with this Agreement;

WHEREAS, by Executive Order 12661, the President, pursuant to Section 721 of the Defense Production Act, as amended, authorized the Committee on Foreign Investment in the United States ("CFIUS") to review, for national security purposes, foreign acquisitions of U.S. companies;

WHEREAS, Tyco and VSNL have submitted a voluntary notice with CFIUS regarding the acquisition of the TGN by VSNL and other companies affiliated with VSNL and the Parties have entered into this Agreement to address national security issues that DHS, DOJ, FBI, and/or DOD might raise, including in the CFIUS review process; and

WHEREAS, representatives of VSNL, VSNL America and VSNL US have held discussions with U.S. Government officials. During those discussions, VSNL, VSNL America and VSNL US have represented that: (a) neither VSNL, VSNL America nor VSNL US has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL, VSNL America or VSNL US providing Domestic Communications through facilities located outside the United States; (b) neither VSNL, VSNL America nor VSNL US has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL, VSNL America or VSNL US 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, VSNL America nor VSNL US has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL, VSNL America or VSNL US providing Domestic Communications or Web hosting services in the United States through any Affiliate other than VSNL America, VSNL US, or their 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, VSNL US 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”** shall have the meaning indicated in Executive Order 12958, as amended by Executive Order 13292, or any successor executive order, or the Atomic Energy Act of 1954, or any statute that succeeds or amends the Atomic Energy Act of 1954.

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 or VSNL US’s obligations under this Agreement.

1.5 **“Controlled Unclassified Information”** means any information that does not qualify as ‘Classified Information’ pursuant to Section 1.3 of this Agreement, and that cannot be exported from the United States or reexported without authorization from the U.S. Government, pursuant to 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., Chapter VII, Subchapter C. Notwithstanding the reference to the ITAR and the EAR in this definition, nothing in this definition or any other provision in this Agreement shall in any way impose, remove, limit, alter or otherwise have any effect on VSNL America’s or VSNL US’s obligations that otherwise exist under the ITAR and the EAR, to the extent that the ITAR or the EAR have any application to

VSNL America and VSNL US, and if there is any conflict or perceived conflict between the terms of this Agreement and any obligations thereunder and the obligations imposed by either the ITAR or the EAR, the ITAR and the EAR shall control.

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 “**DOD**” means the U.S. Department of Defense.

1.10 “**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.

1.11 “**Domestic Communications Infrastructure**” means (a) transmission, switching, bridging and routing equipment (including software and upgrades) used by or on behalf of VSNL America or VSNL US to provide, process, direct, control, supervise or manage Domestic Communications; (b) facilities and equipment used by or on behalf of VSNL America or VSNL US that are physically located in the United States; and (c) facilities used by or on behalf of VSNL America or VSNL US 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 VSNL US or their Affiliates, and
 - (B) available in substantially similar form and on commercially reasonable terms through communications services of companies other than VSNL America, VSNL US or their Affiliates.

The phrase “on behalf of” as used in this section does not include entities with which VSNL 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. Domestic Communications Infrastructure also does not include the TGN Network Operations Center located in the United Kingdom.

1.12 “**Effective Date**” means the date on which the FCC grants the Tyco/VSNL Application.

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

1.14 **“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.

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

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

1.17 **“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.

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

1.19 **“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.

1.20 **“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.

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

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

1.23 **“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).

1.24 **“Security Officer”** means the person(s) designated pursuant to Section 3.10 of this Agreement.

1.25 **“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, or (e) the type(s) of service, telephone number(s), records, communications, or facilities subjected to Lawful U.S. Process; or is other information that is not Classified Information but is 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” of some type recognized by the agency involved. The designation of sensitive in this paragraph may reference “Official Use Only,” “Limited Official Use Only,” “Law Enforcement Sensitive,” “Sensitive Security Information,” or other similar terms, and, shall be deemed “Sensitive Information” for purposes of this Agreement. VSNL America and VSNL US 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.

1.26 **“Subscriber Information”** means information relating to subscribers or customers of VSNL America or VSNL US 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.

1.27 **“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 VSNL US, or an entity acting on behalf of VSNL America or VSNL US, 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, Internet Protocol (“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, Media Access Control (“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 or any of its Affiliates has contracted for peering, interconnection, roaming, long distance, or other similar arrangements on which the Parties may agree.

1.28 **“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.

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

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

1.31 **“VSNL US”** means VSNL Telecommunications (US), Inc., a Delaware corporation.

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

1.33 **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 DHS, DOJ, FBI, and DOD 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 or VSNL US; 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 or VSNL US and physically located in the United States, from which Electronic Surveillance can be conducted pursuant to Lawful U.S. Process. VSNL America and VSNL US will provide technical or other assistance to facilitate such Electronic Surveillance.

2.2 **Compliance with Lawful U.S. Process.** VSNL America and VSNL US shall take all practicable steps to configure their Domestic Communications Infrastructure to be capable of

complying, and VSNL America and VSNL US 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 and VSNL US, 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 or VSNL US 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 or VSNL US, if such communications are stored by or on behalf of VSNL America or VSNL US 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 or VSNL US for any reason;
- (d) Subscriber Information, if such information is stored by or on behalf of VSNL America or VSNL US 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 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 and VSNL US shall store for at least two years all billing records described in Section 2.3(e) above. Nothing in this paragraph shall require VSNL America or VSNL US 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 or VSNL US that is listed in Section 2.3 above, VSNL America or VSNL US 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 or VSNL US from any obligation they 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 and VSNL US have not waived any legal right they might have to resist such process.

2.7 **Routing of Domestic Communications.** VSNL America and VSNL US shall not route Domestic Communications outside the United States, except as and only to the extent it is necessary in emergency situations (*e.g.*, a natural disaster that removes the ability to route traffic over US networks).

2.8 **CPNI.** VSNL America and VSNL US 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 VSNL US or their contractors at any location outside of the United States is prohibited, unless the storage is in an appropriately secured location within the offices of a U.S. military facility, a U.S. Embassy or Consulate or other U.S. Government Authority, except that **Controlled Unclassified Information** may be stored in any manner not inconsistent with (a) the terms of a license or authorization issued under the U.S. International Traffic in Arms Regulations (“ITAR”) or the U.S. Export Administration Regulations (“EAR”), or (b) the other terms of this Agreement.

ARTICLE 3: SECURITY

3.1 **Measures to Prevent Improper Use or Access.** VSNL America and VSNL US 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, a visitation policy, and physical security measures. On or before the Effective Date, documents constituting and describing all such controls, policies, procedures, plans, and measures shall be provided to DHS, DOJ, FBI, and DOD for review and consultation. Thereafter VSNL America or VSNL US shall provide written notice to DHS, DOJ, FBI, and

DOD of any material changes in the documents or in such controls, policies, procedures, plans, and measures, as soon as reasonably practicable before the changes take effect.

3.2 **Visitation Policy.** No later than thirty (30) days after the Effective Date, VSNL America and VSNL US 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 or VSNL US).
- (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, VSNL America or VSNL US personnel involved. In addition, a chronological file of all documents associated with such visits shall be maintained by VSNL America and VSNL US 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 or VSNL US 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 or VSNL US; (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 or VSNL US business. Records of such visits shall be maintained by VSNL America and VSNL US for at least two (2) years from the date of the visits. Routine Business Visits may include:

- (a) 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;
- (b) visits by customers or commercial suppliers regarding, for example, solicitation of orders, price quotes, or the provision of products or services; and
- (c) visits concerning fiscal, financial, or legal matters.

3.4 **Access by Foreign Government Authorities.** VSNL America and VSNL US 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 or VSNL US 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 DHS, DOJ, FBI, or DOD 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 DHS, DOJ, FBI, and DOD 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 and VSNL US 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 and VSNL US shall not, directly or indirectly, disclose or permit disclosure of, or provide access to:

- (a) Classified, Sensitive, or Controlled Unclassified Information;
- (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; or
- (c) the existence of Lawful U.S. Process that is not already a matter of public record.

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 DHS, DOJ, FBI, or DOD 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

or VSNL US for the communications, data or information identified in this Section 3.5 that is maintained by VSNL America or VSNL US shall be referred to DHS, DOJ, FBI, and DOD 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 and VSNL US 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 one month after receiving legal process or requests from foreign non-governmental entities for access to or disclosure of Domestic Communications, VSNL America or VSNL US shall notify 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 and VSNL US 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 and VSNL US shall each designate in writing to DHS, DOJ, FBI, and DOD, 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 or VSNL US. VSNL America and VSNL US shall each provide in writing, in accordance with Section 5.14 of this Agreement, to DHS, DOJ, FBI, and DOD, the name and contact information for each point of contact. The points of contact shall be assigned to VSNL America's or VSNL US'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 or VSNL US shall notify DHS, DOJ, FBI, and DOD 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 and VSNL US 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 and VSNL US shall each 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 DHS, DOJ, FBI, or DOD, 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 or VSNL US'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 and VSNL US will accept or reject screened persons ("Screened Personnel").

On or before the Effective Date, each information security plan shall be provided to DHS, DOJ, FBI, and DOD for review and consultation. Thereafter VSNL America or VSNL US shall provide written notice to DHS, DOJ, FBI, and DOD of any material changes in either plan, as soon as reasonably practicable before the changes take effect.

3.10 Security Officer Responsibilities and Duties. Within 14 calendar days after the Effective Date, VSNL America and VSNL US shall each 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 or VSNL US'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, VSNL America or VSNL US, 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 DHS, DOJ, FBI, or DOD 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 and VSNL US shall instruct appropriate officials, employees, contractors, and agents as to VSNL America's or VSNL US'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 5.9 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 whatever access VSNL America or VSNL US might have to Classified, Controlled Unclassified, and Sensitive Information under that Government Authority's jurisdiction.

3.14 **Screening of Personnel.** VSNL America and VSNL US 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 and VSNL US shall consult with DHS, DOJ, FBI, and DOD on the screening procedures required under this Section. DHS, DOJ, FBI, and DOD shall take into consideration VSNL America's and VSNL US'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 and VSNL US agree to provide a list of positions subject to screening under this Section to DHS, DOJ, FBI, and DOD. 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 or VSNL US shall provide to the investigation services of DHS, DOJ, FBI, and DOD, 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 DHS, DOJ, FBI, and DOD.

- (b) If DHS, DOJ, FBI, or DOD so desires, it may on its own, or through OPM's investigation service, conduct further background checks for screened personnel. VSNL America and VSNL US will cooperate with any such further background checks.
- (c) Individuals who are rejected by VSNL America or VSNL US, or by DHS, DOJ, FBI, or DOD, 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 DHS, DOJ, FBI, or DOD shall be provided to VSNL America or VSNL US within a reasonable time, no longer than thirty (30) days after receipt of such rejection, in accordance with Section 5.14. VSNL America or VSNL US will notify the DHS, DOJ, FBI, and DOD 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 DHS, DOJ, FBI, and DOD with the name, date of birth and social security number of the individual.
- (d) VSNL America and VSNL US 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 and VSNL US 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 and VSNL US shall maintain records relating to the status of screened personnel, and shall provide these records, upon request, to DHS, DOJ, FBI, or DOD.

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 VSNL US, the General Counsel of the FBI, the Assistant Attorney General for the Criminal Division of the DOJ, the Assistant Secretary for Infrastructure Protection of the DHS, and the General Counsel of the DOD, or their respective designees, unless DHS, DOJ, FBI, or DOD believes that important national interests can be protected, or VSNL America or VSNL US 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 VSNL US, 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 VSNL US; or
- (c) seek civil sanctions for any violation by VSNL America, VSNL US or an Affiliate of any U.S. law or regulation or term of this Agreement; or
- (d) pursue criminal sanctions against VSNL America or VSNL US, or any director, officer, employee, representative, or agent of VSNL America or VSNL US, 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 or VSNL US from eligibility for contracting with the U.S. Government.

4.3 **Irreparable Injury.** VSNL, for itself and for VSNL America and VSNL US, agrees that the United States would suffer irreparable injury if for any reason VSNL, VSNL America or VSNL US 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 and VSNL US, agrees that, in seeking to enforce this Agreement, DHS, DOJ, FBI, and DOD 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 and VSNL US, 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, VSNL America and VSNL US 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, VSNL America or VSNL US 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 or VSNL US.** If VSNL America or VSNL US makes any filing with the FCC or any other Government Authority relating to the *de facto* or *de jure* control of VSNL America or VSNL US except for filings with the FCC for assignments or transfers of control that are *pro forma*, VSNL America or VSNL US shall promptly provide to DHS, DOJ, FBI, and DOD 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 and VSNL US.** If any member of the senior management of VSNL, VSNL America or VSNL US (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 **or VSNL US** 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 or VSNL US, then such senior manager shall promptly cause VSNL America or VSNL US through its Security Officer to notify DHS, DOJ, FBI, and DOD 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 or VSNL US 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 or VSNL US and, if applicable, the basis for their prospective Control of VSNL America or VSNL US.

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

- (a) If VSNL, VSNL America or VSNL US has the power or authority to exercise *de facto* or *de jure* control over such entity, then VSNL America or VSNL US will require the entity to fully comply with the terms of this Agreement.
- (b) To the extent VSNL, VSNL America or VSNL US 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 and VSNL US shall not enter into an Outsourcing Contract that affords the contractor access to Sensitive Information. In any Outsourcing Contract, VSNL America and VSNL US 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 and VSNL US 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 or VSNL US 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 or VSNL US shall notify the DHS, DOJ, FBI, and DOD 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, DOJ, FBI, and DOD will have 30 days from receipt of the notice to review and provide VSNL America or VSNL US with any objection to the Outsourcing Contract, which shall be based on national security, law enforcement, or public safety grounds. If DHS, DOJ, FBI, or DOD objects in accordance with this section, VSNL America or VSNL US shall not proceed with execution or performance of the Outsourcing Contract.
- (c) Neither VSNL, VSNL America nor VSNL US shall induce the contractor to violate its obligations to VSNL America or VSNL US related to this Agreement or to take any action that, if taken by VSNL America or VSNL US, would violate this Agreement.
- (d) If VSNL, VSNL America or VSNL US 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 or VSNL US, would violate a provision of this Agreement, or has violated its obligations to VSNL America or VSNL US related to this Agreement, VSNL America or VSNL US (1) will notify DHS, DOJ, FBI, and DOD promptly, and (2) in consultation and cooperation with the DHS, DOJ, FBI, and DOD, 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, VSNL America or VSNL US of any of its obligations under this Agreement.

5.5 **Notice of Foreign Influence.** If any member of the senior management of VSNL, VSNL America or VSNL US (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 or VSNL US in such a way that interferes with or impedes the performance by VSNL America or VSNL US of its duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by VSNL America or VSNL US of its rights under the Agreement, or foreseeably concerns the obligations of VSNL America or VSNL US under this Agreement, or
- (b) plans to exercise or has exercised, as a direct or indirect shareholder of VSNL America, VSNL US or their subsidiaries, any Control of VSNL America or VSNL US in such a way that interferes with or impedes the performance by VSNL America or VSNL US of its duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by VSNL America or VSNL US of its rights under the terms of this Agreement, or foreseeably concerns VSNL America's or VSNL US's obligations under this Agreement,

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

5.6 **Procedure and Process on Reporting.** Within fourteen (14) days of the Effective Date, VSNL America and VSNL US shall adopt and distribute to all officers, directors, employees, contractors, and agents a procedure and process for the reporting by officers, directors, employees, contractors, and agents of noncompliance with this Agreement. This procedure and process shall provide for the reporting of the information required in Sections 5.2, 5.4, 5.5, and 5.9 of this Agreement, and shall set forth in a clear and prominent manner the contact information for the Security Officer to whom such information may be reported.

5.7 **Non-retaliation.** Within one month after the Effective Date, VSNL America and VSNL US shall, by duly authorized action of its Board of Directors, adopt and distribute an official corporate policy that strictly prohibits VSNL America or VSNL US 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, 5.4, 5.5, or 5.9 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 DHS, DOJ, FBI, or DOD by the Security Officer under Sections 5.2, 5.4, 5.5, or 5.9 of this Agreement. Any violation by VSNL America or VSNL US of any material term of such corporate policy shall constitute a breach of this Agreement.

5.8 **Security Audit.** VSNL America and VSNL US shall conduct annual audits to assess their compliance with the terms of this Agreement, and shall furnish DHS, DOJ, FBI, and DOD with a report in accordance with Section 5.12 of this Agreement. After the execution of this Agreement and at least three months prior to commencing an audit, VSNL America and VSNL US shall provide DHS, DOJ, FBI, and DOD with the terms of the audits defining their scope and purpose. DHS, DOJ, FBI, and DOD shall have the right to review and approve these terms. VSNL, VSNL America and VSNL US 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, VSNL America or VSNL US. 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 and VSNL US policies and procedures designed to implement this Agreement; (2) all relevant information related to the configuration of the VSNL America and VSNL US network; (3) all minutes of meetings held or actions taken by the VSNL, VSNL America or VSNL US 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 5.9 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 and VSNL US facilities each year, (2) random testings of network firewalls, access points and other systems for potential vulnerabilities, and (3) confidential interviews of VSNL, VSNL America and VSNL US officers, directors, employees, contractors or agents concerning compliance with this Agreement. Upon request, VSNL America and VSNL US shall provide DHS, DOJ, FBI, or DOD with access to facilities, information, and personnel consistent with Sections 5.10 and 5.11

below in the event that DHS, DOJ, FBI, or DOD wishes to conduct its own annual audit of VSNL America's or VSNL US's compliance with this Agreement.

5.9 **Reporting of Incidents.** VSNL America and VSNL US shall report to DHS, DOJ, FBI, and DOD any information acquired by VSNL America, VSNL US or any of their 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 appropriate Security Officer to DHS, DOJ, FBI, and DOD no later than ten (10) calendar days after VSNL America or VSNL US acquires information indicating a matter described in this Section. VSNL America and VSNL US shall lawfully cooperate in investigating the matters described in this Section. VSNL America and VSNL US 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.

5.10 **Access to Information and Facilities.** DHS, DOJ, FBI, or DOD may visit any part of VSNL America's or VSNL US'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 DHS, DOJ, FBI, or DOD to verify compliance with the terms of this Agreement.

5.11 **Access to Personnel.** Upon reasonable notice from DHS, DOJ, FBI, or DOD, VSNL America and VSNL US shall make available for interview any officers or employees of VSNL America or VSNL US 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.

5.12 **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 and VSNL US shall each submit to DHS, DOJ, FBI, and DOD a report assessing VSNL America's and VSNL US'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 5.8 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 and VSNL US shall make available to the Security Officer in a timely fashion all information necessary to prepare the report required by this Section.

5.13 Information and Reports Concerning Network Architecture. If requested by DHS, DOJ, FBI, or DOD, VSNL America or VSNL US shall provide to DHS, DOJ, FBI, and DOD 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, Internet service providers (“ISPs”), and critical U.S. financial, energy, and transportation infrastructures.
- (c) A description of VSNL America’s or VSNL US’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 or VSNL US, as well as VSNL America’s or VSNL US’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 5.13, VSNL America and VSNL US 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.

5.14 **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

Note: All notices and other communications shall, in addition to the foregoing methods of delivery, be sent in email to Tina.Gabbrielli@dhs.gov or such other email account as DHS may designate in the future.

Department of Defense
Director of Information Assurance
Rm. 3D-239 Pentagon
Washington, D.C. 20301-6000

Mr. Satish Ranade
Company Secretary and Vice President (Legal)
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.

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

With a copy to:

Director, Legal and Commercial Affairs
VSNL International
#22-07, UIC Building
5 Shenton Way
Singapore 068808

5.15 **Compliance Assurance.** VSNL will take all steps necessary to ensure that VSNL America and VSNL US comply with the terms of this Agreement.

ARTICLE 6: FREEDOM OF INFORMATION ACT

6.1 **Protection from Disclosure.** DHS, DOJ, FBI, and DOD shall take all reasonable measures to protect from public disclosure all information submitted by VSNL, VSNL America and VSNL US (or other entities in accordance with the terms of this Agreement) to DHS, DOJ, FBI, or DOD 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, DHS, DOJ, FBI, or DOD, 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 or VSNL US objects to the intended disclosure and its objections are not sustained, DHS, DOJ, FBI, or DOD, 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 DHS, DOJ, FBI, or DOD 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 DHS, DOJ, FBI, and DOD take all reasonable measures to protect from public disclosure the information marked as described in Section 6.1. Further, nothing in this Agreement shall limit DHS's, DOJ's, FBI's, or DOD's ability to disclose this Agreement or any information related to this Agreement to enforce or comply with any federal laws or regulations.

ARTICLE 7: FCC CONDITION AND CFIUS

7.1 **FCC Approval.** Upon the execution of this Agreement by all the Parties, DHS, DOJ, FBI, and DOD shall, on their own motion at an appropriate time or at the request of VSNL US, 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"), DHS, DOJ, FBI, and DOD have no objection to the FCC's grant of the Tyco/VSNL Application. This Section is effective upon execution of this Agreement by all the Parties, provided however that in the case of a material modification or withdrawal of the Tyco/VSNL Application after the execution of this Agreement the effectiveness of this Section may be suspended by DHS, DOJ, FBI, and DOD, or the DHS, and the right of objection reserved in Section 7.2 may be invoked.

7.2 **Future Applications.** VSNL, VSNL America and VSNL US agree that in any application or petition by VSNL, VSNL America or VSNL US 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, VSNL America or VSNL US 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, DHS, DOJ, FBI,

and DOD reserve the right to object, formally or informally, to the grant of any other FCC application or petition of VSNL America, VSNL US or their 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.

7.3 **CFIUS**. Upon execution of this Agreement, DHS, DOJ, FBI, and DOD shall not object to termination of review under Exon-Florio concerning the acquisition of the TGN by VSNL and other companies affiliated with VSNL, unless:

- (a) VSNL, VSNL America, or VSNL US fails to comply with the material terms of this Agreement;
- (b) DHS, DOJ, FBI, or DOD learns that the representations made to DHS, DOJ, FBI, or DOD by VSNL, VSNL America, or VSNL US during the negotiation of the Agreement or in the Agreement itself are materially untrue or incomplete; or
- (c) there is any material change in the circumstances associated with the acquisition of the TGN by VSNL and other companies affiliated with VSNL, where such change affects national security.

For the avoidance of doubt, nothing in this Article shall expand, limit, or otherwise affect in any way the rights and remedies available to DHS, DOJ, FBI, and DOD under Section 721 of the Defense Production Act of 1950 as amended, codified at 50 U.S.C. App. § 2170, or 31 C.F.R. Part 800.

ARTICLE 8: OTHER

8.1 **Right to Make and Perform Agreement**. VSNL, for itself and for VSNL America and VSNL US, 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 and VSNL US, 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, VSNL America or VSNL US, including the International Traffic in Arms Regulations, 22 C.F.R., Parts 120 through 130, and the Export Administration Regulations, 15 C.F.R., Parts 730 through 774, (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 or VSNL US located within or outside the United States (including authority pursuant to the International Emergency Economic Powers 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 **Entire Agreement; Modifications.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written, of the Parties with respect to the subject matter, including without limitation, that certain Agreement dated May 24, 2004 among VSNL America, VSNL, DOJ, FBI, and DHS (the “Prior Agreement”). This Agreement may only be modified by written agreement signed by all of the Parties. DHS, DOJ, FBI, and DOD agree to consider promptly and in good faith possible modifications to this Agreement if VSNL America or VSNL US believes that the obligations imposed on it 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 or VSNL US.** DHS, DOJ, FBI, and DOD agree to negotiate in good faith and promptly with respect to any request by VSNL America or VSNL US for relief from application of specific provisions of this Agreement if there is a change in circumstances such that those provisions become unduly burdensome or have a demonstrably adverse effect on VSNL America’s or VSNL US’s competitive position.

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

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 VSNL US, and on all Affiliates of VSNL America and VSNL US, to the extent such Affiliates provide Domestic Communications (a “Covered VSNL Entity”).

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.** With respect to a Covered VSNL Entity, this Agreement shall be suspended upon thirty (30) days notice to DHS, DOJ, FBI, and DOD if the Covered VSNL Entity does not provide Domestic Communications.

8.15 **Suspension of Agreement If No Foreign Ownership.** This Agreement shall be suspended in its entirety with respect to any Covered VSNL Entity no later than thirty (30) days after receipt from VSNL America or VSNL US of notice and documentation reasonably satisfactory to DHS, DOJ, FBI, and DOD that no foreign entity or combination of foreign entities (including one or more persons under common Control) either Controls the relevant Covered VSNL Entity or holds, directly or indirectly, a ten (10) percent or greater interest in the relevant Covered VSNL Entity; *provided, however*, this Agreement shall not be suspended with respect to a Covered VSNL Entity if and to the extent DHS, DOJ, FBI, and DOD notify the Covered VSNL Entity that one (1) or more of such entities have determined that suspension of this Agreement is not warranted in order to protect U.S. national security, law enforcement, and public safety concerns within such thirty (30) day period. If this Agreement is not suspended pursuant to this provision, DHS, DOJ, FBI, and DOD 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 a Covered VSNL Entity for so long as (and the obligations of the Covered VSNL Entity shall not be suspended and any suspension of the obligations of the Covered VSNL Entity shall terminate if) VSNL or any other foreign entity or combination of foreign entities (including one or more persons under common Control) either Controls the Covered VSNL Entity 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 the Covered VSNL Entity or any transferee or assignee of the FCC licenses or authorizations held by the Covered VSNL Entity. Notwithstanding anything to the contrary in this Section 8.15, this Agreement shall remain in effect and shall in no case be suspended unless DHS, DOJ, FBI, or DOD acknowledge such suspension in writing to VSNL, VSNL America or VSNL US.

8.16 **Notice of Additional Services.** VSNL, VSNL America or VSNL US shall provide a minimum of thirty (30) days advanced notice to DHS, DOJ, FBI, and DOD in the event that VSNL, VSNL America, VSNL US 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.

[Signature Pages Follow]

This Agreement is executed on behalf of the Parties:

Videsh Sanchar Nigam Limited

Date: April 5, 2005

By: /s/ Satish Ranade
Printed Name: Satish Ranade
Title: Company Secretary and VP (Legal)

VSNL America, Inc.

Date: April 5, 2005

By: /s/ Satish Ranade
Printed Name: Satish Ranade
Title: President

VSNL Telecommunications (US), Inc.

Date: April 5, 2005

By: /s/ N. Srinath
Printed Name: N. Srinath
Title: President

Federal Bureau of Investigation

Date: April 4, 2005

By: /s/ Patrick W. Kelley
Printed Name: Patrick W. Kelley
Title: Deputy General Counsel

Department of Homeland Security

Date: April 7, 2005

By: /s/ Tom Dinanno
Printed Name: Tom Dinanno
Title: Assistant Secretary for Infrastructure
Protection (Acting)

United States Department of Justice

Date: April 5, 2005

By: /s/ Laura H. Parks

Printed Name: Laura H. Parsky

Title: Deputy Assistant Attorney General, Criminal
Division

United States Department of Defense

Date: April 6, 2005

By: /s/ Dr. Linton Wells II

Printed Name: Dr. Linton Wells II

Title: Acting Assistant Secretary of Defense
(Networks and Information Integration)

EXHIBIT A
CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses transferred or assigned thereunder are subject to compliance with the provisions of the Agreement between Videsh Sanchar Nigam Limited, VSNL Telecommunications (US), Inc., and VSNL America, Inc., on the one hand, and the Department of Justice (the “DOJ”), including the Federal Bureau of Investigation (the “FBI”), and the Department of Homeland Security (“DHS”), and the Department of Defense (“DOD”) on the other, dated April __, 2005, which Agreement is designed to address national security, law enforcement, and public safety concerns of DHS, DOJ, FBI, and DOD 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.

EXHIBIT B

[ATTACH LIST OF TELEGLOBE AUTHORIZATIONS]

Section 214 Authorizations Held by Teleglobe America Inc.

FCC File Number	Summary
ITC-95-466	Authority to resell private lines not interconnected to public switched networks between the United States and international points, except Canada.
ITC-95-467	Authority to provide international services between the United States and international points through resale of international switched services.
ITC-95-468	Authority to resell private lines interconnected with the public switched network at one or both ends for provision of switched services between the United States and the United Kingdom.
ITC-96-074	Authority to resell interconnected private lines between the United States and Sweden for the provision of switched services.
ITC-96-452	Authority to provide limited global facilities-based services to all international points, except Canada.
ITC-96-410	Authority to acquire and operate facilities for the provision of international services between the United States and international points.
ITC-96-411	Authority to acquire and operate facilities for the provision of services between the United States and international points other than Canada using the CANUS-1 cable system
ITC-96-412	Authority to lease private lines between the United States and Canada for provision of switched and private line services.
ITC-98-342; ITC-98-342A	Authority to construct, acquire, and operate capacity in a Digital Submarine Cable System, the AMERICAS-II Cable System.
ITC-214-19980527-00346	Authority to construct, acquire, and operate capacity in the Columbus-III cable system.

Submarine Cable Landing Licenses Held by Teleglobe America Inc.

Cable System	<u>FCC File No.</u>
China-US	SCL-LIC-19980309-00005
Americas-II	SCL-AMD-19980430-00006
Japan-US	SCL-LIC-19981117-00025
Columbus III	SCL-LIC-19980527-00007
TAT-14	SCL-LIC-19990303-00004
CANUS-1	SCL-LIC-19930503-00004

EXHIBIT C
CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses transferred or assigned thereunder are subject to compliance with the provisions of the Agreement, between Videsh Sanchar Nigam Limited, VSNL Telecommunications (US), Inc., and VSNL America, Inc., on the one hand, and the Department of Justice (the “DOJ”), including the Federal Bureau of Investigation (the “FBI”), and the Department of Homeland Security (“DHS”), and the Department of Defense (“DOD”) on the other, dated April 7, 2005, as such Agreement was amended pursuant to an Amendment dated December 12, 2005 (collectively the “Agreement”), which Agreement is designed to address national security, law enforcement, and public safety concerns of DHS, DOJ, FBI, and DOD regarding the authority granted herein. Nothing in the 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.