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April 7, 2020

Assistant Attorney General for National Security  
United States Department of Justice  
National Security Division  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Subject: FCC# ITC-T/C-20191223-00201/WC Docket No. 19-393  
Joint Application by MTN Infrastructure TopCo, Inc. ("MTN") and North State  
Telecommunications Corporation ("North State") for authority pursuant to  
Section 214 of the Communications Act of 1934, as amended, to transfer indirect  
control of international Section 214 authorization holders to MTN Infrastructure  
TopCo, Inc.

Dear Sir/Madam:

This Letter of Agreement ("LOA" or "Agreement") sets forth the commitments made by MTN and North State (collectively, "the Parties") to the U.S. Department of Justice ("USDOJ") to address national security, law enforcement, and public safety concerns arising from MTN's and North State's joint application to the Federal Communications Commission ("FCC") to transfer indirect control of the wholly owned subsidiaries of North State that hold domestic and international Section 214 authorizations to MTN.

The Parties adopt as true and correct all statements made by MTN and North State or its representatives to USDOJ or other Team Telecom agencies and the FCC in the course of the review of the above-referenced application, and it hereby adopts those statements as the basis for this LOA.

### **Definitions**

1. For purposes of this LOA, the following definitions apply:
  - a. "Access" means the ability to undertake physically or logically any of the following actions:
    - (i) To read, copy, divert, or otherwise obtain non-public information or technology from or about software, hardware, a database or other system, or a network;

- (ii) To add, edit, delete, reconfigure, provision, or alter information or technology stored on or by software, hardware, a system or network; or
- (iii) To alter the physical or logical state of software, hardware, a system or network.

b. “Call Detail Record” (“CDR”) means the data records or call log records that contain information about each call made by a user and processed by switch, call manager, or call server.

c. “Customer Proprietary Network Information” (“CPNI”) means as set forth in 47 U.S.C. § 222(h)(1).

d. “Date of this LOA” means the date on which the Parties execute this LOA.

e. “Days” means calendar Days unless otherwise specified.

f. “Domestic Communications” or “DC” means:

- (i) Wire Communications, or Electronic Communications (whether stored or not), from one location within the United States, including its territories, to another location within the United States; or
- (ii) The U.S. portion of a Wire Communication or Electronic Communication (whether stored or not) that originates or terminates in the United States or its territories.

g. “Domestic Communications Infrastructure” (“DCI”) means any of North State’s systems that physically is located in the United States, including its territories, including any transmission, switching, bridging, and routing equipment, and any associated software (with the exception of commercial-off-the-shelf (“COTS”) software used for common business functions, *e.g.*, Microsoft Office) used by, or on behalf of<sup>1</sup>, North State to provide, process, direct, control, supervise, or manage DC.

h. “Electronic Surveillance” means:

- (i) The interception of wire, oral, or electronic communications as set forth in 18 U.S.C. § 2510(1), (2), (4) and (12), respectively, and electronic surveillance as set forth in 50 U.S.C. § 1801(f);

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<sup>1</sup> The phrase “on behalf of,” as used in this paragraph, does not include entities with which SORACOM has contracted for peering, interconnection, roaming, long distance, wholesale network access, or other similar arrangements.

- (ii) Access to stored wire or electronic communications, as referred to in 18 U.S.C. § 2701 et seq.;
  - (iii) 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 set forth in 18 U.S.C. § 3121 et seq. and 50 U.S.C. § 1841 et seq.;
  - (iv) Acquisition of location-related information concerning a subscriber or facility;
  - (v) Preservation of any of the above information pursuant to 18 U.S.C. § 2703(f); and
  - (vi) Access to or acquisition, interception, or preservation of, wire, oral, or electronic communications or information as described in (i) through (v) above and comparable state laws.
- i. “Foreign” means non-United States, or its territories.
- j. “Government” means any government, or governmental, administrative, or regulatory entity, authority, commission, board, agency, instrumentality, bureau or political subdivision, and any court, tribunal, judicial or arbitral body.
- k. “Lawful U.S. Process” means U.S. federal, state, or local court orders, subpoenas, warrants, processes, directives, certificates or authorizations, and other orders, legal process, statutory authorizations and certifications for Electronic Surveillance, physical search and seizure, production of tangible things or Access to or disclosure of Domestic Communications, call-associated data, transactional data, Subscriber Information, or associated records.
- l. “Managed Network Service Provider” or “MNSP” means any third party that has Access to Principal Equipment for the purpose of:
- (i) network operation; provisioning of Internet and telecommunications services; routine, corrective, and preventative maintenance, including switching, routing, and testing; network and service monitoring; network performance, optimization, and reporting; network audits, provisioning, creation and implementation of modifications or upgrades; or
  - (ii) provision of DC or operation of DCI, including: customer support; Operations Support Systems (“OSS”); Business Support Systems (BSS); Network Operations Centers (“NOCs”); information

technology; cloud operations/services; 5G (SDN, NFV, Applications); and datacenter services and operations.

m. “Network Operations Center” or “NOC” means any locations and facilities performing network management, monitoring, accumulating accounting and usage data, maintenance, user support, or other operational functions for DC.

n. “Network Systems Security Plan” or “NSSP” means a network systems security plan that addresses information security, remote access, physical security, cybersecurity, third-party contractors (managed service providers), Outsourcing and Offshoring, maintenance and retention of system logs, protection of Lawful U.S. Process, protection of U.S. Records obtained by the Parties from customers or through provision of services, and data breach notifications.

o. “NIST-Compliant Cybersecurity Plan” means a cybersecurity plan that conforms with the most recently published version of the National Institute of Standards and Technology (NIST) Cybersecurity Framework, available at <https://www.nist.gov/cyberframework>.

p. “Offshore” means performing obligations of this LOA using entities and personnel outside of the territorial limits of the United States, whether those entities or personnel are employees of the Parties.

q. “Outsource” means, with respect to DC, supporting the services and operational needs of the Parties at issue in this LOA using contractors or third parties.

r. “Person” means any natural person or legal entity.

s. “Personally Identifiable Information” or “PII” means any information that uniquely identifies and correlates to a natural person or can be used to distinguish or trace a natural person's identity, alone, including his or her name, social security number, or biometric records, or when combined with other personal or identifying information that is linked or linkable to a specific individual, including date and place of birth, or parent's surname, including any “personal identifier information” as set forth in 31 C.F.R. § 800.402(c)(6)(vi)(B).

t. “Principal Equipment” means all primary telecommunications and information network (*e.g.*, wireline, wireless, subsea, satellite, LAN, WAN, WLAN, SAN, MAN, IP, MPLS, FR, Wi-Fi, 3G/4G/LTE, 5G, etc.) equipment (*e.g.*, hardware, software, platforms, OS, applications, protocols) that supports core telecommunications or information services (*e.g.*, voice, data, text, MMS, FAX, video, Internet, OTT, Apps), functions (*e.g.*, network/element management, maintenance, provisioning, NOC, etc.), or operations (*e.g.*, OSS/BSS, customer support, billing, backups, cloud services, etc.), including but not limited to routers, servers, circuit switches or soft-switches, PBXs, call processors, databases, storage devices, load balancers, radios, smart antennas, transmission equipment (RF/Microwave/Wi-Fi/Fiber Optic), RAN, SDR,

equalizers/amplifiers, MDF, digital/optical cross-connects, PFE, multiplexers, HLR/VLR, gateway routers, signaling, Network Function Virtualizations, hypervisors, EPC, BSC, BT, or eNodeB.

u. “Security Incident” means:

- (i) Any known or suspected breach of this LOA, including a violation of any approved policy or procedure under this LOA;
- (ii) Any unauthorized Access to, or disclosure of, PII;
- (iii) Any unauthorized Access to, or disclosure of, information obtained from or relating to Government entities; or
- (iv) Any one or more of the following which affect the company’s computer network(s) or associated information systems:
  - A. Unplanned disruptions to a service or denial of a service;
  - B. Unauthorized processing or storage of data;
  - C. Unauthorized modifications to system hardware, firmware, or software; or
  - D. Attempts from unauthorized sources to Access systems or data if these attempts to Access systems or data may materially affect company’s ability to comply with the terms of this LOA.

v. “Subscriber Information” means any information of the type referred to and accessible subject to the procedures set forth in 18 U.S.C. § 2703(c)(2) or 18 U.S.C. § 2709, as amended or superseded.

w. “Team Telecom” or “Team Telecom Agencies” means the Department of Justice (USDOJ), including the Federal Bureau of Investigation (FBI), the Department of Homeland Security (DHS), and the Department of Defense (DoD).

x. “U.S. Records” means the Parties’ customer billing records, Subscriber Information, PII, CDRs, CPNI, and any other information used, processed, or maintained in the ordinary course of business related to the services offered by the Parties within the United States, including information subject to disclosure to a U.S. federal or state governmental entity under the procedures set forth in 18 U.S.C. § 2703(c), (d) and 18 U.S.C. § 2709.

## **Personnel**

2. North State agrees to designate and maintain a U.S. law enforcement point of contact (“LEPOC”) in the United States who will be subject to prior approval by USDOJ, including the FBI. The LEPOC shall be either a U.S. citizen residing in the United States or its territories or a trusted third-party (“TTP”) compliance vendor unless USDOJ otherwise agrees in

writing. The LEPOC must be approved by the FBI to receive service of Lawful U.S. Process for U.S. Records and, where possible, to assist and support lawful requests for surveillance or production of U.S. Records by U.S. federal, state, and local law enforcement agencies.

3. North State agrees to provide the LEPOC's PII or the TTP's name and contact information to USDOJ within fifteen (15) Days from the Date of this LOA.

4. North State agrees to notify USDOJ, including the FBI, in writing at least thirty (30) Days prior to modifying its LEPOC for USDOJ and FBI objection or non-objection. For those cases involving the unexpected firing, resignation, or death of LEPOC, written notice will be provided within five (5) Days of such event. Under these circumstances, USDOJ and FBI will object or not object to the replacement LEPOC within thirty (30) Days.

5. North State agrees that the designated LEPOC will have Access to all U.S. Records, and, in response to Lawful U.S. Process, will make such records available promptly and, in any event, will respond to the request no later than five (5) Days after receiving such Lawful U.S. Process unless USDOJ grants an extension.

6. North State agrees to implement, either directly or through a vendor or service provider, a process to screen existing or newly hired personnel, any personnel of an approved Outsourced or Offshored service provider performing under an agreement with the Parties. The personnel screening process shall include background investigations, public criminal records checks, or other analogous means to ascertain a person's trustworthiness. The Parties further agree to provide USDOJ with a written description of this personnel-screening process no later than sixty (60) Days after the Date of this LOA for USDOJ objection or non-objection.

#### **Lawful U.S. Process, Foreign Access, and Requests for Information**

7. North State agrees to comply with all court orders and Lawful U.S. Process, including process relating to Electronic Surveillance.

8. Upon receipt of any Lawful U.S. Process, North State (or its approved TTP) agrees to place any and all information responsive to the Lawful U.S. Process within the territorial boundaries of the United States and otherwise provide to the requesting officials, in a manner and time consistent with the Lawful U.S. Process.

9. North State (and any approved TTP) agrees not to provide, or otherwise allow the disclosure of, or Access to, U.S. Records, Domestic Communications, or any call content or call data information, to any Foreign Government or a Foreign Person that has not been approved by USDOJ consistent with paragraph 18 of this LOA, without prior written consent of USDOJ, or a court of competent jurisdiction in the United States.

10. North State (and any approved TTP) agree not to disclose the receipt of Lawful U.S. Process, or compliance with Lawful U.S. Process, to any Foreign Government, or any person not authorized under the Lawful U.S. Process, without prior written consent of USDOJ, or a court of competent jurisdiction in the United States.

11. North State (and any approved TTP) agree to refer any requests for information described in Paragraph 9 from a Foreign Person that has not been approved by USDOJ consistent with paragraph 18 of this LOA, or a Foreign Government, including any legal process from a Foreign Government, to USDOJ as soon as possible, but in no event later than five (5) Days after such a request, or legal process, is received by, or made known to, North State, unless disclosure of the request, or legal process, would be in violation of U.S. law, or in violation of an order of a court of competent jurisdiction in the United States.

12. North State (and any approved TTP) agree not to comply with such requests from Foreign Governments and Foreign Persons that has not been approved by USDOJ consistent with paragraph 18 of this LOA without prior written consent of USDOJ, or an order of a court of competent jurisdiction in the United States.

13. North State (and any approved TTP) agree to ensure that U.S. Records are not subject to mandatory destruction under any Foreign laws.

#### **Unauthorized Access and Security Incidents**

14. North State agrees to take all practicable measures to prevent unauthorized Access to U.S. Records, Domestic Communications, and the DCI.

15. North State agrees to take all practicable measures to prevent any unlawful use or disclosure of information relating to U.S. Records or Domestic Communications.

16. North State agrees to adopt the network security and cybersecurity plans that were submitted in response to Team Telecom's triage questionnaire. No later than ninety (90) Days after the Date of this LOA, North State shall submit any updates to these security plans to USDOJ to constitute North State's updated NSSP and its NIST-Compliant Cybersecurity Plan for objection or non-objection.

17. North State agrees that the NSSP will address, but not be limited to, information security, remote access, physical security, cyber-security, third-party contractors, Outsourcing and Offshoring, maintenance and retention of system logs, protection of Lawful U.S. Process, protection of U.S. Records obtained by North State in the ordinary course of business, and North State's specific plan to require that third-party providers notify North State in the event of a breach or loss of U.S. Records within a specified time period after discovery, not to exceed 72 hours from the time of discovery.

18. North State agrees to notify USDOJ of any Foreign Person employed by North State and its parent companies that will have Access to U.S. Records; including PII, CPNI and CDRs; DC, and DCI for USDOJ objection or non-objection. North State further agrees to provide the PII of each Foreign Person identified pursuant to this paragraph to USDOJ as part of such notification.

19. North State agrees to notify USDOJ at least thirty (30) Days prior to storing any U.S. Records outside of the United States or its territories for USDOJ objection or non-objection. Such notice shall include:

- a. A description of the type of information to be stored outside of the United States;
- b. The custodian of the information (even if such custodian is North State);
- c. The location where the information is to be stored; and
- d. The factors considered in deciding to store that information outside of the United States.

### **Reporting Incidents and Breaches**

20. North State agrees to report to USDOJ promptly if it learns of information that reasonably indicates:

- a. A Security Incident;
- b. Unauthorized Access to, or disclosure of, any information relating to services provided by North State, or referring or relating in any way to North State's customers in the United States or its territories;
- c. Any unauthorized Access to, or disclosure of, Domestic Communications in violation of federal, state, or local law; or
- d. Any material breach of the commitments made in this LOA.

21. In its agreements with new third-party service providers or renewals of existing agreements, North State agrees to require any third-party service provider to disclose to North State any data breach of any U.S. Records, or any loss of U.S. Records, whether from a data breach, or other cause, within 72 hours of the third party discovering the breach or loss. To the extent North State already has agreements with any third-party service providers with Access to U.S. Records, North State agrees to use commercially reasonable efforts to negotiate amendments to those documents, and within one year from the date of signing this LOA, will require those third-party service providers to disclose any breaches, or loss of U.S. Records consistent with this paragraph; provided, however, that if North State is not able to bring all such third party contracts into compliance within such one year term, North State shall file a notice with USDOJ identifying any third such party contracts and stating the reasons why North State has been unable to bring such third party contracts into compliance and seek a waiver for such contracts.

In order to provide USDOJ with sufficient time to consider such a waiver, prior to the eleventh (11<sup>th</sup>) month anniversary of this LOA, North State shall make the filing described in the preceding paragraph for all contracts not in compliance at the time and provide ongoing updates



to USDOJ of any contracts listed on the waiver request that have come into compliance during the 11<sup>th</sup> and 12<sup>th</sup> months.

North State will forward copies of those amended agreements to USDOJ within ten (10) Days of executing those amendments.

22. North State agrees to notify USDOJ, including the points of contact (POC) listed in Paragraph 31, in writing of any of the Security Incidents or breaches described in Paragraphs 20 or 21 of this LOA. The notification shall take place no later than fifteen (15) Days after North State or any third party providing Outsourced or Offshored services to North State discovers the incident, intrusion, or breach has taken or is taking place, or sooner when required by statute or regulations.

23. North State agrees to notify the FBI and U.S. Secret Service as provided in Section 64.2011 of the Federal Communications Commission's rules within seven (7) business Days after reasonable determination that a person without authorization, or in exceeding their authorization, has gained Access to, used, or disclosed CPNI, or that of a third party used by North State, and shall electronically report the matter to the central reporting facility through the following portal:

<https://www.cpnireporting.gov/cpni/content/disclaimer.xhtml?dswid=8089>

### **Outsourced and Offshored Service Providers**

24. North State agrees to provide USDOJ within thirty (30) Days from the date North State receives the FCC's approval, a list of all Outsourced or Offshored service providers that provide services to North State for USDOJ objection or non-objection. The list should include any Outsourced or Offshored service provider that provides services for:

- a. MNSP services;
- b. NOC(s);
- c. Network maintenance services;
- d. Billing or customer support services;
- e. Any operation or service that could potentially expose the DCI, Domestic Communications, or U.S. Records to include CPNI such as CDRs; and
- f. Deploying any network elements, hardware, software, core network equipment, and network management capabilities that are owned, managed, manufactured, controlled by, or is subject to the influence or direction of a Foreign Government of which North State is reasonably aware of or has been notified by USDOJ.

25. North State agrees to notify USDOJ in writing no less than thirty (30) Days prior to the use of any new Outsourced or Offshore service providers that will provide the services described in Paragraph 23 (a)-(f). USDOJ agrees to object or non-object to any new Outsourced or Offshore service providers, within thirty (30) Days of receiving notice.

### **Change in Ownership and Service Portfolio**

26. North State agrees to provide USDOJ notice of any changes to its business, including but not limited to corporate structure changes, ownership changes involving five (5) percent or greater equity, corporate name changes, business model changes, corporate headquarter location changes, or business operation location changes no less than thirty (30) Days in advance of such change. North State also agrees to provide USDOJ notice within thirty (30) Days of initiating any bankruptcy proceeding or any other legal proceeding undertaken for the purpose of reorganizing, refinancing, or otherwise seeking relief from all or some of North State's debts.

27. North State agrees to provide USDOJ notice of any material change to its current portfolio of services offering, including offers of other services beyond its current portfolio, no less than thirty (30) Days in advance of such change for USDOJ objection or non-objection.

### **Principal Equipment**

28. North State agrees to provide USDOJ within ninety (90) Days of the Date of this LOA with a Principal Equipment List for USDOJ objection or non-objection. The Principal Equipment List shall include the following:

- a. A complete and current list of all Principal Equipment, including:
  - (i) a description of each item and the functions supported,
  - (ii) each item's manufacturer (by full name), and
  - (iii) the model and/or version number of any hardware or software.
- b. Any vendors, contractors, or subcontractors involved in providing, installing, operating, managing, or maintaining the Principal Equipment.

29. North State agrees to notify USDOJ in writing at least thirty (30) Days prior to introducing any new make or model of Principal Equipment (where such make or model was not already identified to USDOJ). USDOJ will object or non-object to such new make or model of Principal Equipment within thirty (30) Days of receipt of notice.

30. North State agrees to provide USDOJ with the names of providers, suppliers, and entities that will perform any maintenance, repair, or replacement that may result in any modification to its Principal Equipment.

### **Annual Report**

31. North State agrees to provide an annual report to USDOJ regarding its compliance with this LOA, to include:

- a. Certification that there were no other changes not previously reported to USDOJ;
- b. Notice(s) regarding the company's handling of U.S. Records, Domestic

Communications, and Lawful U.S. Process (*i.e.*, whether handled properly and in accordance with the assurances contained herein) including a list of any Foreign Persons with Access to U.S. Records not previously reported to USDOJ;

- c. Notification(s) of the installation and/or purchase or lease of any new makes or models of Foreign-manufactured telecommunication equipment not previously reported to USDOJ (including, but not limited to, switches, routers, software, hardware);
- d. Notification(s) of any relationships with Foreign-owned telecommunications partners, including any network peering (traffic exchange) relationships not previously reported to USDOJ;
- e. Network diagrams showing all extant network points of presence where North State network connects with other networks, and devices within such points of presence;
- f. Updated NISP and NIST-Compliant Cyber Security Plans;
- g. Report(s) of any occurrences of Security Incidents including, but not limited to, cyber-security incidences, network and enterprise breaches, and unauthorized Access to U.S. Records;
- h. Recertification of the services that North State provides or confirmation that no additional services are being offered;
- i. A re-identification of the name of and contact information of the LEPOC;
- j. Report progress or status of renegotiations of existing agreements with third-party service providers in accordance with Section 21; and
- k. Notification of any reasonably foreseeable matter that would give rise to an obligation under this LOA.

The annual report will be due each calendar year beginning one (1) year from the Date of this LOA. The Parties agrees to send electronic copies of the annual report and all notices and communications required under this LOA to the following individuals or any other individuals that DOJ identifies to MTN in the future: Chris Clements, USDOJ (at Christopher.Clements@usdoj.gov); Loyaan Egal, USDOJ (at Loyaan.Egal@usdoj.gov); and Eric Johnson (at Compliance.Telecom@usdoj.gov).

### **Miscellaneous**

32. North State will permit all routine site visits and requested interviews, on-site or otherwise, with at least twenty-four hour notice. Nothing in this provision shall be construed as

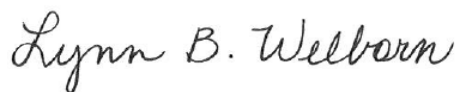
limiting or otherwise prohibiting USDOJ from discharging its obligations in circumstances deemed extraordinary.

33. If USDOJ determines this LOA no longer adequately addresses national security, law enforcement, or public safety concerns, North State will resolve those concerns. Rejection of a proposed modification alone shall not constitute evidence of a failure to negotiate in good faith. Rejection of a proposed modification may, however, serve as a basis to request that the FCC modify, condition, revoke, cancel, terminate or render null and void any relevant license, permit, or other authorization granted by the FCC to North State or its successors-in-interest.

34. North State agrees that in the event that it fails to comply with a material commitment set forth in this LOA, to include conduct contrary to timely USDOJ objection to any notice submitted pursuant to this LOA, USDOJ may request the FCC modify, condition, revoke, cancel, terminate or render null and void any relevant license, permit, or other authorization granted by the FCC to North State or its successors-in-interest in addition to pursuing any other remedy available at law or equity.

35. North State understands that, upon execution of this LOA by an authorized representative or attorney, or shortly thereafter, USDOJ agrees to notify the FCC that it does not object to the FCC's consent to North State's application.

Sincerely,



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Lynn B. Welborn  
Executive Vice President, Chief Administrative  
Officer  
April 7, 2020  
**North State**