



November 25, 2020

Assistant Secretary for Trade and Economic Security
Office of Strategy, Policy, and Plans
Mail Stop 0445
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, D.C. 20528-0445
IP-FCC@hq.dhs.gov

Dear Sir:

This Letter of Assurances (“LOA”) outlines the commitments made by GCX Holdings Limited (“GCX”), including its subsidiary FLAG Telecom Limited (“FLAG”), to the U.S. Department of Homeland Security (“DHS”) to address national security and law enforcement risks raised with regard to an application filed by Reliance Globalcom Limited, Debtor-in-Possession (“RGL DIP”) with the Federal Communications Commission (“FCC”) requesting authority to assign the cable landing license held by RGL DIP for the FLAG Atlantic-1 system (“FA-1”)¹ to FLAG. FA-1 connects the United States, France, and the United Kingdom.

GCX certifies as true and correct, under penalties outlined in 18 U.S.C. § 1001, all statements GCX or its representatives has made to USDOJ, including the Federal Bureau of Investigation (“FBI”), the Department of Homeland Security, the Department of Defense, and the FCC in the course of the reviews of the above-referenced applications that were conducted pursuant to Executive Order 13913 and hereby adopts those statements as the basis for this LOA.

GCX has agreed to provide this LOA to DHS, and understands that upon execution of this LOA, the FCC will be petitioned to condition the cable landing license for FA-1 on compliance with this LOA.

For purposes of this LOA:

- A. “Access” means the ability to physically or logically undertake any of the following actions: (a) read, divert, or otherwise obtain non-public information or technology from or about software, hardware, a system or a network; (b) add, edit or alter information or technology stored on or by software, hardware, a system or a network; and (c) alter the physical or logical state of software, hardware, a system or a network (e.g., turning it on or off, changing configuration, removing or adding components or connections).
- B. “Domestic Communications” means: (a) Wire Communications or Electronic Communications (whether stored or not) between one U.S. location and another U.S. location; or (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 FCC File Nos. SCL-LIC-19990301-00005 and SCL-MOD-20040211-00006.



- C. “Domestic Communications Infrastructure” or “DCI” means: (a) any portion of FA-1 that physically is located in the United States, up to and including the submarine line terminating equipment, including (if 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 GCX for FA-1 to provide, process, direct, control, supervise, or manage Domestic Communications; and (b) Network Operations Center (“NOC”) facilities, as defined in Section E below.
- D. “Electronic Communication” has the meaning given it in 18 U.S.C. § 2510(12).
- E. “Network Operations Center” or “NOC” means the locations and facilities designated as such by GCX for purposes of performing network management, monitoring, maintenance, or other operational functions for FA-1.
- F. “Principal Equipment” means the primary electronic components of FA-1, which comprises the DCI and Wet Infrastructure. Principal Equipment consists of: network element servers; routers; switches; repeaters; submarine line terminal equipment (“SLTE”); system supervisory equipment (“SSE”); signal modulators and amplifiers; power feed equipment (“PFE”); tilt and shape equalizer units (“TEQ/SEQ”); optical distribution frames (“ODF”); branching units (“BU”); synchronous optical network (“SONET”); synchronous digital hierarchy (“SDH”); interface equipment; wavelength selective switch (“WSS”) technology; wave division multiplexing (“WDM”); dense wave division multiplexing (“DWDM”); coarse wave division multiplexing (“CWDM”); optical carrier network (“OCx”) equipment, as applicable; all embedded software for the equipment; any non-embedded software used for monitoring, administration, or provisioning FA-1 (with the exception of COTS software used for common business functions, *e.g.*, Microsoft Office); and any other such equipment, whether physical or logical, that performs the functions of the equipment described in this definition that GCX may use in the normal course of business.
- G. “Screened Personnel” has the meaning given it in Section 11 below.
- H. “Wet Infrastructure” means hardware components installed and residing on the undersea portion of FA-1, including fiber optic cables, repeaters, branching units, and routers (if any). Wet Infrastructure includes all the components used to define the topology of the undersea portion of FA-1.
- I. “Wire Communication” has the meaning given it in 18 U.S.C. § 2510(1).



GCX undertakes to comply with the following commitments:

1. Security Point of Contact

GCX agrees to maintain a Security Point of Contact (“POC”) for purposes of this LOA. The POC will possess the appropriate authority, reporting lines, independence, skills and resources to ensure compliance with the terms of this LOA. The POC will be a U.S. citizen and, to the knowledge of GCX, will be eligible to hold U.S. Government security clearances at the “Secret” level or higher. GCX agrees to nominate its proposed POC within **30 days** of the execution of this LOA. GCX understands that the POC nomination will be subject to DHS review and approval and may be subject to a background check at the sole discretion of DHS. In order to facilitate this, GCX will provide the name, date of birth, place of birth, social security number, and passport number of the nominee, and will subsequently provide any other information requested by DHS.

The POC will be available twenty-four (24) hours per day, seven (7) days per week, regarding any national security or law enforcement risks that DHS may identify with respect to FA-1. Upon request by DHS, the POC will make himself/herself available in person within the United States within **72 hours** at a date and location as deemed necessary by DHS. The POC will be responsible for receiving and promptly effectuating any lawful inquiries or requests for information, and GCX will ensure that the POC has sufficient authority to effectuate compliance with obligations set forth in this LOA.

GCX agrees to notify DHS of any proposed change to the POC at least **15 days** in advance (except in the case of the unexpected firing, resignation or death of the POC in which case such written notice must be provided within **5 days** of such event) of such proposed change. GCX understands that any proposed POC will be subject to DHS review and approval pursuant to this Section as outlined above.

2. Cable System Information

Within **45 days** of the execution of this LOA, and, thereafter, within **30 days** upon request by DHS, GCX agrees to make available the following FA-1 information:

- (a) network management information, including: (1) a network map that includes physical and logical topology, including any terrestrial backhaul from the cable landing stations to SLTE locations or other facilities housing FA-1 Principal Equipment; (2) network and telecommunications architecture descriptions and associated descriptions of interconnection points and controlled gateways to the DCI and Wet Infrastructure; (3) network operational plans, processes, and procedures; (4) locations and functions of any NOCs, data centers, and main distribution facilities; (5) an organizational chart, to include specific reference to the names and positions of senior GCX officials responsible for operations of FA-



1, and/or senior officials of any third parties performing such duties on behalf of GCX; and (6) descriptions of interfaces and connections to FA-1 for service offload, disaster recovery, or administrative functions;

- (b) a complete and current list of all contracts held by GCX or its designee(s) for the maintenance, repair and security of FA-1; and
- (c) a restoration plan for the Principal Equipment and the Wet Infrastructure for FA-1.

3. Operational Requirements

With respect to the operation of FA-1, GCX agrees as follows:

- (a) GCX will have the ability to promptly and effectively interrupt, in whole or in part, traffic to and from the United States on FA-1 by disabling or disconnecting circuits at the U.S. cable landing stations or at other locations within the United States;
- (b) GCX will configure all necessary systems to ensure it can suspend or interrupt the optical carrier signal or all of FA-1 within the DCI.

If GCX is required to interrupt traffic to or from the United States as a result of lawful U.S. process, GCX will be permitted to disclose publicly that it was required to interrupt service in response to lawful U.S. process consistent with any limits on disclosure that may be imposed by such lawful U.S. process and without disclosing any of the content of such request.

Within **45 days** of the execution of this LOA, GCX agrees to confirm to DHS in writing the location of the FA-1 NOC and other facilities with NOC functionality and the controller, operator, or manager for, the FA-1 NOC or NOCs. GCX understands DHS will approve or disapprove the locations within **45 days** of acknowledgement of receipt or as otherwise agreed to by GCX and DHS, with the right of approval not waived unless provided in writing by DHS. GCX agrees to notify DHS of any proposed change to NOC location(s), or operators, to include the addition of new NOC locations, at least **45 days** in advance of such proposed change. GCX understands DHS will approve or disapprove the new operator, location or locations within **45 days** of acknowledgement of receipt or as otherwise agreed to by GCX and DHS, with the right of approval not waived unless provided in writing by DHS.



4. Principal Equipment List

Within **45 days** of the execution of this LOA, GCX agrees to provide DHS with a list to include:

- (a) a complete and current list of all Principal Equipment, including:
 - (1) a description of each item and the functions supported,
 - (2) each item's manufacturer, and
 - (3) the model and/or version number of any hardware or software; and
- (b) any vendors, contractors, or subcontractors involved in providing, installing, operating, managing, repairing, or maintaining the Principal Equipment.

The Principal Equipment List will identify any changes to the list previously submitted to DHS on March 9, 2020. Objections to the Principal Equipment List will be handled pursuant to Section 8.

At the sole discretion of DHS, GCX agrees to supplement in writing the foregoing definition of Principal Equipment to address subsequent technological developments with submarine systems.

5. Modifications to Existing Principal Equipment

GCX agrees to provide DHS at least **45 days'** advance notice prior to any maintenance, repair, or replacement that would result in any modification to the quantum, function, configuration, operation, or location of existing Principal Equipment for FA-1. With any such notice, GCX may request that DHS waive the notice obligation of this Paragraph 5 for substantially similar modifications in the future. For the avoidance of doubt, modifications requiring notice to DHS do not include routine software updates pushed through by approved vendors.

The 45 days' advance notice requirement is waived for any maintenance, repair, or replacement that is undertaken in response to an unforeseen or uncontrollable event and that is necessary to ensure the continued operability of FA-1; however, in such circumstances, GCX agrees to provide advance notice to DHS of the modification, if practicable, and, if impracticable, GCX agrees to provide notice within **10 days** after the maintenance, repair, or replacement. This notice will include a detailed description of the equipment replaced and the circumstances surrounding the need to replace the Principal Equipment without 45 days' advance notice.



GCX may continue to utilize any Principal Equipment maintained, repaired, or replaced pursuant to the process outlined in this Section, provided that DHS does not object pursuant to Section 8. In the event of such an objection, GCX will not begin reliance upon, expand an existing deployment, or enhance the capabilities of any Principal Equipment to which DHS has objected, and GCX agrees to meet, confer, and otherwise attempt in good faith to resolve DHS's objection. Until the objection is resolved, GCX will not upgrade, install, replace, or service any objectionable Principal Equipment without written authorization from DHS.

6. Change in Vendors, Contractors, or Subcontractors for Principal Equipment

GCX agrees to provide at least **45 days'** advance notice prior to any change to the list of vendors, contractors, or subcontractors involved in providing, installing, operating, managing, repairing, or maintaining the Principal Equipment.

In addition, GCX agrees to provide at least **45 days'** advance notice prior to changing the service offerings or support from a previously-listed vendor, contractor, subcontractor (*i.e.*, where a previously-listed provider will be offering support in a previously unidentified way).

Objections to any new vendor, contractor, or subcontractor for the Principal Equipment or the proposed service offerings thereof will be handled pursuant to Section 8.

7. Equipment Testing

GCX agrees to provide at least **45 days'** advance notice prior to initiating the testing of any new Principal Equipment connected to FA-1 by any vendor not already on the approved Principal Equipment List. Objections to any testing proposed pursuant to this Section will be handled pursuant to Section 8.

8. Objection Resolution

Within **90 days** of receipt of any notice provided by GCX pursuant to Sections 4, 5, 6, or 7, DHS shall either provide written approval or disapproval to GCX of the action described in such notice. If within the 90-days approval/disapproval period DHS seeks additional information from GCX, the approval/disapproval period shall be extended by the number of days DHS awaited the requested information. In the event of a disapproval, GCX will not expand the existing deployment or enhance the capabilities of any Principal Equipment of which DHS has disapproved, and GCX agrees to meet, confer and resolve DHS's objection. Until DHS's disapproval is resolved, GCX will not upgrade, install, replace, or service any disapproved Principal Equipment without written authorization from DHS.



9. Measures to Prevent Improper Use and Unauthorized Logical Access

GCX agrees to take practicable measures to prevent unauthorized logical access to FA-1 and to prevent any unlawful use or disclosure of information carried on the same, and GCX will include these measures in the policies that GCX will develop and implement pursuant to this LOA. For purposes of this Section, such “practicable measures,” at a minimum, include effectuating compliance with all applicable U.S. laws and regulations governing cybersecurity, information security, and privacy and will be measures consistent with best practices and guidelines, such as but not limited to the Cybersecurity Framework of the National Institute of Standards and Technology and 27001 Series standards of the International Organization for Standardization. These measures should also include items such as configuration management, security audits, and system interconnection documentation, as well as contractual safeguards and screening procedures for personnel with logical access to the DCI.

GCX agrees to take appropriate measures to protect and promote resiliency of FA-1, including measures to ensure that security patches for systems and applications are up to date.

GCX agrees to maintain or exceed security standards and best practices utilized within the U.S. telecommunications industry for maintenance of password systems and firewalls, monitoring and oversight of logical access to FA-1, maintenance of non-destructive logical access logs, and periodic internal audits of network security and associated network devices.

GCX agrees to submit a policy regarding logical security measures adopted in accordance with the requirements of this Section to DHS within **90 days** of the date of execution of this LOA. DHS will approve or disapprove the policy within **90 days** of receipt.

10. Physical Security Measures

GCX agrees to take practicable measures to physically secure FA-1, including the DCI and Wet Infrastructure. GCX will screen appropriate personnel in accordance with Section 11 below, and GCS will require that all persons who physically access the DCI are escorted at all times by Screened Personnel, as defined herein.

GCX agrees to submit a policy setting forth its physical security measures to DHS within **90 days** of the date of execution of this LOA. DHS will approve or disapprove the policy within **90 days** of receipt.



11. Screening of Personnel

GCX agrees to implement, either directly or through a vendor or service provider, a process to screen any existing or newly hired GCX personnel (or any personnel performing under an agreement or arrangement with GCX) in, at minimum, the following circumstances:

- (a) any person whose position could involve logical access to the DCI; and
- (b) any person charged with securing the DCI.

GCX's personnel screening process will be reflected in a written policy and will include background investigations, public criminal records checks, or other analogous means to ascertain a person's trustworthiness. Upon satisfactory completion of the requirements set forth in the screening policy, such persons will be considered "Screened Personnel."

GCX agrees to submit the screening policy to DHS within **90 days** of the execution of this LOA. DHS will approve or disapprove the policy within **90 days** of receipt. GCX agrees to cooperate with any request by DHS to provide additional identifying information regarding Screened Personnel.

Within **30 days** of DHS approval of the Screening Policy, GCX agrees to submit a list of all Screened Personnel to DHS. Such list will include: (1) full name (last, first, middle name); (2) all other names and aliases used; (3) address; (4) country and city of residence; (5) date of birth; (6) place of birth; (7) U.S. Social Security number (where applicable); (8) national identity number, including nationality, date and place of issuance, and expiration date (where applicable); and (9) U.S. or foreign passport number (if more than one, all must be fully disclosed). The USG Parties will approve or disapprove the list within **60 days** of receipt.

12. Reporting Incidents and Breaches

GCX agrees to report to DHS within **48 hours** if it learns of information that reasonably indicates:

- (a) unauthorized third-party access to, or disruption or corruption of, FA-1 or any information being carried on FA-1.
- (b) any other unauthorized access to or disclosure of Domestic Communications on FA-1 in violation of federal, state, or local law; or
- (c) any material breach of the commitments made in this LOA.



Upon request by DHS, GCX agrees to submit in writing a follow-up report describing in greater detail the incident and GCX's steps to remediate the incident to DHS within **15 days** of discovery of the relevant conduct. GCX also agrees to submit in writing supplementary information regarding any follow-up report until such evaluation is complete. GCX agrees to remediate any incidents or breaches reported pursuant to this provision to the satisfaction of DHS.

13. Instruction of Obligations

GCX agrees to instruct appropriate officers, employees, contractors, and agents as to GCX's obligations under this LOA, including the individuals' duty to report any violation, and to issue periodic reminders of such obligations.

GCX agrees to issue initial instructions in writing and provide appropriate live training within **90 days** of the execution of this LOA, and GCX agrees to submit a copy of such instructions to DHS at the same time. GCX agrees to issue updated instructions or training annually thereafter.

14. Change in Services or Cable Operations

GCX agrees to notify DHS in writing at least **45 days** prior to implementing any changes to the communications services or operations of FA-1. GCX agrees to provide a detailed description of the proposed change including the terms, conditions, individuals and/or entities involved in making the change to the communications services or operations.

15. Change in Control

If GCX learns of any information that reasonably indicates that any single foreign entity or individual, other than those already identified, has or likely will obtain an ownership interest, whether direct or indirect, in GCX or FA-1 above ten (10) percent, or if any foreign entity or individual, singly or in combination with other foreign entities or individuals, has or likely otherwise will gain either: (i) control, as determined in accordance with 47 C.F.R. § 63.09(b); or (ii) *de facto* or *de jure* control of GCX or FA-1. GCX agrees to provide notice in writing to DHS within **15 days**. Notice under this Section will, at a minimum:

- (a) identify the entity or individual(s) acquiring control (specifying the name, addresses, and telephone numbers of the entity or individual(s));
- (b) identify the beneficial owners of any such increased or prospective increased ownership interest in GCX or FA-1 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 likely will obtain in GCX or FA-1 and, if applicable, the basis for their prospective control of GCX or FA-1.

16. Annual Report

On the anniversary of the date of this LOA, GCX agrees to submit to DHS a report assessing GCX's compliance with the terms of this LOA for the preceding year. The report shall include:

- (a) the names and contact information of the then-current POCs;
- (b) Cable System Information, as described in Section 2 above, noting any changes during the reporting period;
- (c) an updated Principal Equipment List containing all information described in Section 4 above, identifying any modifications during the reporting period;
- (d) a copy of the then-current policies adopted in accordance with this LOA, including policies for logical security (Section 9), physical security (Section 10), screening (Section 11), incident reporting (Section 12), and employee training (Section 13), and a summary of any changes during the reporting period and the reasons therefore;
- (e) the list of all Screened Personnel, noting any changes to the list;
- (f) updated list of all persons, vendors, contractors, or other entities that have been granted unescorted physical access to any DCI or Principal Equipment;
- (g) a summary of any events that occurred during the reporting period that will or reasonably could impact the effectiveness of or compliance with this LOA;
- (h) a summary of any known acts of noncompliance with the terms of this LOA that occurred during the reporting period, whether inadvertent or intentional, with a discussion of what steps have been or will be taken to prevent such acts from occurring in the future;

17. Third-Party Audit

At its sole discretion, but no more frequently than once every calendar year, unless the original audit is found by DHS to have been unsatisfactory, DHS may request a third-party audit of GCX's compliance with the terms of this LOA.



- (a) Within **60 days** of DHS requesting a third-party audit, GCX will nominate two third-party auditors, subject to the approval of the DHS. Within **60 days** of the nominations, DHS will approve or disapprove the nominated third-party auditor firms.
- (b) If DHS disapproves of either of the nominated third-party auditors, GCX agrees to nominate, within **30 days** of such objection, another third-party auditor. If DHS disapproves the nomination of a supplemental third-party auditor, GCX will provide to DHS 3 additional candidates to be considered for third-party auditor from which DHS may choose at its discretion.
- (c) As part of the auditor nomination and approval process, DHS may condition approval of a nominated auditor on GCX providing information regarding GCX's and the nominated auditor's pre-existing relationship (if any).
- (d) GCX will be solely responsible for any costs associated with any third-party audit carried out pursuant to this Section. DHS, however, will consider avoidance of unreasonable costs as a factor when exercising its rights under this Section.
- (e) GCX will ensure the selected third-party auditor submits, prior to commencing the audit, a methodology and proposed scope of audit, both of which will be subject to DHS approval.
- (f) GCX will ensure that the executed engagement agreement with the third-party auditor is provided to DHS within **5 days** of execution.
- (g) The third-party auditor will promptly deliver to DHS and GCX all reports and related information generated or gathered during its review that relate directly to GCX's compliance with the terms of this LOA and agrees to meet independently with DHS upon request.

18. Consultation and Visitation

GCX agrees to meet and confer with DHS and to resolve to the satisfaction of DHS any concerns DHS may raise regarding compliance with this LOA.

GCX agrees to negotiate in good faith to resolve to the satisfaction of DHS any national security or law enforcement risks DHS may identify with respect to any matters set forth in this LOA.

GCX agrees that, upon **48 hours** advance notice, except when due to exigent circumstances such advance notice is not practicable, DHS may visit GCX and/or FA-1



facilities to conduct on-site reviews to verify the implementation of and compliance with the terms of this LOA. Subject to applicable law, GCX will provide unimpeded access to any documents, information, facilities, and personnel necessary to verify compliance with the terms of this LOA on the understanding that when advance notice of a visit is not provided, GCX will provide DHS with access to documents, information, facilities, and personnel within **24 hours** of such an access request.

19. Computing Time

In computing any time period pursuant to this LOA, the below rules apply.

- (a) For any period stated in days:
 - i. the day of the event that triggers the period is excluded;
 - ii. every day thereafter is counted, including intermediate Saturdays, Sundays, and federal holidays, except for those days that are tolled pursuant to Section 19(c); and
 - iii. the last day of the period is included, but if the last day is a Saturday, Sunday, or federal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or federal holiday.
- (b) For any period stated in hours:
 - i. begin counting immediately on the occurrence of the event that triggers the period;
 - ii. count every hour, including hours during intermediate Saturdays, Sundays, and federal holidays, except for those hours that are tolled pursuant to Section 19(c); and
 - iii. if the period would end on a Saturday, Sunday, or federal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or federal holiday.
- (c) Any approval provision applicable to DHS pursuant to this LOA shall be tolled during a lapse in appropriations or any time when the Federal government in the greater Washington, D.C. area is closed.



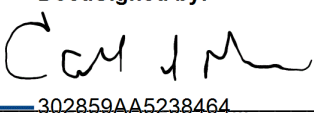
This LOA shall inure to the benefit of, and shall be binding upon, GCX and its successors, assigns, subsidiaries, and affiliates.

GCX agrees that, in the event that GCX breaches the commitments set forth in this LOA, a recommendation may be made 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 GCX or any successors-in-interest, in addition to any other remedy available at law or equity.

If, after this LOA takes effect, DHS or GCX believes that changed circumstances warrant modifying or terminating this LOA (including if DHS determines that the terms of this LOA are inadequate or no longer necessary to address national security or law enforcement risks), the Licensees and DHS agree to negotiate in good faith to modify this LOA. Rejection of a proposed modification alone shall not constitute evidence of a failure to negotiate in good faith.

Nothing in this LOA excuses GCX from its obligations to comply with all applicable legal requirements and obligations, including all applicable statutes, regulations, requirements, or orders.

For and on behalf of GCX

DocuSigned by:


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Carl Grivner, Chief Executive Officer

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