

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
MFS CableCo US, Inc.)
) File No. SCL-LIC-20080603-00011
and)
)
Cedar Cable Ltd.)
)
Application for a Cable Landing License)

**PETITION TO ADOPT CONDITIONS TO
AUTHORIZATIONS AND LICENSES**

The Department of Homeland Security (“DHS”) and the Department of Justice (“DOJ”) (collectively, the “Agencies”), submit this Petition to Adopt Conditions to Authorizations and Licenses (“Petition”), pursuant to Section 1.41 of the Federal Communications Commission (“Commission”) rules.¹ Through this Petition, the Agencies advise the Commission that they have no objection to the Commission approving the authority sought in the above-referenced proceeding, provided that the Commission conditions its approval on the agreement of Verizon Business Global, LLC, for itself and its affiliates, to abide by the commitments and undertakings set forth in the February 11, 2009 agreement (the “Agreement”), which is attached hereto.

In the above-referenced proceeding, the Applicants petitioned the Commission for authority under the Cable Landing License Act of 1921² and Executive Order 10530³ to

¹ 47 C.F.R. § 1.41.

² Pub. Law No. 8, 67th Congress, 42 Stat. 8 (1921); 47 U.S.C. §§ 34-39.

³ Exec. Ord. No. 10530 § 5(a) (May 10, 1954), reprinted as amended in 3 U.S.C. § 301.

construct, land and operate a private fiber-optic submarine cable system linking Bermuda and the United States, which will be called the “CB-1 System.”

The Commission has long recognized that law enforcement, national security, and public safety concerns are part of its public interest analysis, and has accorded deference to the views of other U.S. government agencies with expertise in those areas. *See In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, etc.*, 16 FCC Rcd. 21,661, 21707 ¶ 94 (2001).

After discussions with representatives of the Applicants in connection with the above-referenced proceeding, the Agencies have concluded that the additional commitments set forth in the Agreement will help ensure that the Agencies and other entities with responsibility for enforcing the law, protecting the national security, and preserving public safety can proceed appropriately to satisfy those responsibilities. Accordingly, the Agencies advise the Commission that they have no objection to the Commission granting the application in the above-referenced proceeding, provided that the Commission conditions its consent on compliance by Verizon Business Global, LLC with the commitments set forth in the Agreement.

The Agencies are authorized to state that the Applicants do not object to the grant of this Petition.

Respectfully submitted,

/s/ Charlie Steele for
Matthew G. Olsen
Acting Assistant Attorney General
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/s/ Stephen Heifetz
Stephen Heifetz
Deputy Assistant Secretary for Policy Development
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3801 Nebraska Avenue, N.W.
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February 13, 2009

AGREEMENT

THIS AGREEMENT (the “**Agreement**”) is made as of the date of the last signature affixed hereto, by and between Verizon Business Global LLC, for itself, its Affiliates and subsidiaries (collectively and individually referred to hereafter as “**Verizon Business**”) on the one hand, and the U.S. Department of Homeland Security (“**DHS**”), on the other (each 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 and Sensitive Information is also critical to U.S. national security;

WHEREAS, Verizon Business is a Delaware limited liability company that through its Affiliates provides telecommunications services and other services such as advanced IP, data, voice, and wireless solutions to businesses, carriers, government, and other customers worldwide;

WHEREAS, Verizon Business has certain obligations to protect from unauthorized disclosure the contents of wire and electronic communications under U.S. law;

WHEREAS, certain electronic communication services, including telephone services, which Verizon Business provides are subject to U.S. privacy and electronic surveillance laws;

WHEREAS, Verizon Business also has direct physical and electronic access to a variety of customer and end-user information that is subject to U.S. privacy and electronic surveillance laws;

WHEREAS, Verizon Business, through its subsidiary MFS CableCo US, Inc., has entered into an agreement with Cable Co. Ltd. and Cedar Cable Ltd., which are companies organized under the laws of Bermuda, to construct a private fiber-optic submarine cable system known as the “**CB-1 Cable System**” linking Paget, Bermuda and Charlestown, Rhode Island, by using existing components of the retired Gemini North cable system;

WHEREAS, MFS CableCo U.S. and Cedar Cable Ltd. have jointly applied¹ to the Federal Communications Commission (“FCC”) for a license to construct and operate the CB-1 System;

WHEREAS, the network operations center for the CB-1 Cable System will be located at Verizon Business’s owned and operated Manasquan cable landing station at Sea Girt, New Jersey, which also serves the Gemini Bermuda System,² which is another U.S.-Bermuda private fiber-optic submarine cable system governed by a March 3, 2008 agreement between the Parties;

WHEREAS, the demarcation point in the U.S. for network surveillance by the CB-1 Cable System network operations center shall be the optical distribution frame located in the Verizon Business landing station in Charlestown, Rhode Island;

WHEREAS, the demarcation point in the Bermuda for network surveillance by the CB-1 Cable System network operations center shall be the optical distribution frame located in the landing station in Paget, Bermuda;

WHEREAS, the CB-1 Cable System will provide telecommunications services to and from the United States which are subject in certain respects to U.S. privacy and electronic surveillance laws;

WHEREAS, DHS will request that the FCC’s grant of the pending CB-1 Cable System application be made subject to resolution of issues relating to national security, law enforcement, and public safety as set forth herein, and whereas Verizon Business has agreed to enter into this Agreement with DHS to address issues raised by DHS and to jointly petition that the FCC condition the requested authorization on compliance with this Agreement;

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 **“Access”** or **“Accessible”** 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).

1.2 **“Affiliate”** means any entity that Verizon Business owns or Controls.

1.3 **“CB-1 Cable System”** or **“CCS”** has the meaning attributed to it in the Recitals and more specifically includes the equipment, systems, and facilities deployed between the optical

¹ Federal Communications Commission File No. SCL-LIC-20080603-00011, filed on June 3, 2008.

² Federal Communications Commission File No. SCL-LIC-20070925-00017, filed on September 21, 2007.

distribution frame in Charlestown, Rhode Island, which serves as the network demarcation point for U.S. end of the CB-1 system, and the optical distribution frame in Paget, Bermuda, which serves as the demarcation point for the Bermuda end of the CB-1 system, as well as the network operations center from which the CB-1 system is managed.

1.4 “**Charlestown Equipment**” means Verizon Business’s power feed, routing, switching, bridging and similar equipment (including software and upgrades) deployed in the Verizon Business landing station in Charlestown, Rhode Island, by or on behalf of Verizon Business for use as part of CCS.

1.5 “**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.

1.6 “**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 1.5(a) through (d); or
- (f) Verizon Business’s obligations under this Agreement.

1.7 “**CPNI**” means Customer Proprietary Network Information as defined in 47 U.S.C. § 222.

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

1.9 “**Domestic CCS 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, but in either case (a) or (b), solely for such period of time as such Wire Communication or Electronic Communication is in transit on or stored in Domestic CCS Infrastructure.

1.10 “**Domestic CCS Infrastructure**” means (a) the beach manhole, conduit, and other outside-plant facilities supporting CCS at the Verizon Business cable landing station in Charlestown, Rhode Island; (b) Charlestown Equipment; and (c) equipment in the Verizon Business CB-1 network operations center in Manasquan, New Jersey, used by Verizon Business to operate, control, monitor, or otherwise manage CCS.

1.11 “**Effective Date**” means the date this Agreement becomes effective, which is the date this Agreement is signed by the last Party to sign it (as indicated by the date stated opposite that Party’s signature).

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

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

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

1.15 “**Government**,” “**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.

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

1.17 “**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 or production of tangible things seeking Access to or disclosure of Domestic CCS Communications, CCS Transactional Data, or CCS Subscriber Information.

1.18 “**Management of Verizon Business**” means its officers and members of the Board of Directors.

1.19 “**CCS Network Management Information**” means the network management operations plans, processes and procedures implemented to access, monitor, manage, maintain, or otherwise operate CCS.

1.20 “**CCS Principal Equipment**” means the primary electronic components of the Domestic CCS Infrastructure, to include the hardware used for the CB-1 Cable System at the

Verizon Business network operations center, the Charlestown landing station(s) and the cable itself, such as servers, repeaters, submarine line terminal equipment (SLTE), system supervisory equipment (SSE), power feed equipment (PFE), tilt and shape equalizer units (TEQ/SEQ), optical distribution frames (ODF), and synchronous optical network (SONET), synchronous digital hierarchy (SDH), wave division multiplexing (WDM), dense wave division multiplexing (DWDM), coarse wave division multiplexing (CWDM) or optical carrier network (OCx) equipment, as applicable.

1.21 **“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).

1.22 **“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 Authority or Government Authorities 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; (d) the means of carrying out Electronic Surveillance; or (e) the type(s) of service, telephone number(s), records, communications, or facilities subjected to Lawful U.S. Process; as well as all other information that is not Classified Information but is: (i) 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; and (ii) provided by such authorized official to Verizon Business Security Personnel.

1.23 **“Security Personnel”** means the points of contact designated pursuant to Section 3.6.

1.24 **“CCS Subscriber Information”** means all records or other information relating to customers or subscribers of Verizon Business contained in Domestic CCS Infrastructure 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 CCS Subscriber Information when it is sought pursuant to the provisions of other Lawful U.S. Process.

1.25 **“CCS Transactional Data”** means the following when part of SONET, wavelength, or other packet header or signaling information of a Domestic CCS Communication but excludes the content (payload) of a Domestic CCS Communication:

- (a) “call identifying information,” as defined in 47 U.S.C. § 1001(2), including without limitation the telephone number or similar identifying designator;
- (b) any information related to the sender or recipient of that Domestic CCS Communication, including, 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;

- (c) any information 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 (e) below;
- (d) 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, including electronic mail headers showing From: and To: addresses; and
- (e) 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 CCS Communication is transmitted.

1.26 “**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.

1.27 “**Verizon Business**” means Verizon Business Global LLC, its Affiliates, and subsidiaries.

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

1.29 **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: OPERATIONS, FACILITIES, INFORMATION STORAGE AND ACCESS

2.1 **Operational Requirements.** With respect to the operation of the CB-1 Cable System, Verizon Business agrees as follows:

- (a) Verizon Business shall have the ability to promptly and effectively interrupt in whole or in part traffic to and from the United States on the CB-1 Cable System by disabling or disconnecting circuits at the U.S. cable landing; and
- (b) the CB-1 Cable System shall be configured so that Verizon Business will be able to view the status of the CB-1 Cable System and individual cable segments.

2.2 **Compliance with Lawful U.S. Process.** Verizon Business shall take all steps required by applicable law to configure the Domestic CCS Infrastructure to be capable of complying, and Verizon Business employees in the United States will have authority unconstrained by Cable Co. Ltd. and Cedar Cable Ltd. to comply with:

- (a) Lawful U.S. Process;
- (b) the orders of the President of the United States in the exercise of his/her authority under the Cable Landing License Act of 1921, as amended (47 U.S.C. §§ 34-39) and Executive Order 10530 § 5(a), reprinted as amended in 3 U.S.C. § 301, and § 706 of the Communications Act of 1934, as amended, (47 U.S.C. § 606); 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 **Cable System Infrastructure.** Within **thirty (30) business days** after the Effective Date Verizon Business shall provide to DHS a list of the CCS Principal Equipment to include information on each item's manufacturer and model, as well as the identity of any vendors or subcontractors retained by Verizon Business to install, operate, manage or maintain the CCS Principal Equipment. Periodically thereafter, but no less frequently than once every six months, Verizon Business and DHS will discuss in good faith any national security, law enforcement or public safety concerns that either party may raise with respect to the CCS Principal Equipment, related vendors and subcontractors, and CCS Network Management Information, and Verizon shall provide updated information to DHS identifying changes, if any, to the information on the list of CCS Principal Equipment and related vendors and subcontractors. Verizon Business agrees to make CCS Network Management Information for the CB-1 Cable System available to DHS upon request to the extent such information is readily available to Verizon Business.

2.4 **Information Storage and Access.** Unless otherwise agreed to by the Parties, Verizon Business shall make the following available in the United States:

- (a) stored Domestic CCS Communications, if such communications are stored by or on behalf of Verizon Business for any reason;
- (b) CCS Transactional Data, if such data are stored by or on behalf of Verizon Business for any reason;
- (c) CCS Subscriber Information, if such information is stored by or on behalf of Verizon Business for any reason; and
- (d) CCS Network Management Information in accordance with Section 2.3, above.

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 United States in the possession, custody, or control of Verizon Business, including any information that is listed in Section 2.4 above, Verizon Business shall store such preserved records or other evidence in the United States.

2.6 **Compliance with Applicable Law.** Nothing in this Agreement shall excuse any party from any obligation it may have to comply with applicable legal requirements for the retention, preservation, or production of information, records or data as well as for Electronic Surveillance.

2.7 **Storage of Protected Information.** Verizon Business shall store all Classified Information and Sensitive Information in accordance with applicable law and this Agreement.

ARTICLE 3: SECURITY

3.1 **Measures to Prevent Improper Use or Access.** Verizon Business shall take all reasonable measures to prevent the use of or Access to the Domestic CCS Infrastructure: (a) to conduct Electronic Surveillance; or (b) to Access, obtain or disclose Domestic CCS Communications, CCS Transactional Data, CCS Subscriber Information, Classified Information or Sensitive Information, in each case in violation of any U.S. federal, state, or local laws or the terms of this Agreement. Upon written request of DHS, Verizon Business shall make available to DHS current versions of its security policies and procedures for the Domestic CCS Infrastructure, and agrees to meet and confer with DHS and reasonably address any concerns DHS may raise with respect to such policies and procedures.

3.2 **Access by Foreign Government Authorities.** Verizon Business shall not, directly or indirectly, disclose or permit disclosure of, or provide Access to Domestic CCS Communications, CCS Transactional Data, or CCS Subscriber Information, stored by or on behalf of Verizon Business to any person if the known 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 first satisfying all applicable U.S. federal, state and local legal requirements, and without, to the maximum extent possible, having first provided notice to DHS as soon as possible and in no event later than **ten (10) business days** after such request for Access is received by Verizon Business. Verizon Business shall take reasonable measures to ensure that it will promptly learn of all such requests for Access.

3.3 **Disclosure to Foreign Government Authorities.** Verizon Business shall not, directly or indirectly, knowingly disclose or permit disclosure of, or provide Access to:

- (a) Classified or Sensitive Information;
- (b) CCS Transactional Data, CCS Subscriber Information, or a copy of any Wire or Electronic Communications which have been 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;

stored by or on behalf of Verizon Business to any Foreign Government, identified representative, component or subdivision thereof, without satisfying all applicable U.S. federal, state and local legal requirements, and without obtaining either the express written consent of DHS or the authorization of a court of competent jurisdiction in the United States. Any requests or any legal process submitted by a Foreign Government, an identified representative, a component or subdivision thereof to Verizon Business for the communications, data or information identified

in this Section that is maintained by Verizon Business shall be referred to DHS as soon as possible and in no event later than **ten (10) business days** after such request or legal process is received by or known to Verizon Business, 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. Verizon Business shall take reasonable measures to ensure that it will promptly learn of all such requests or submission of legal process.

3.4 **Notification of Access or Disclosure Requests from Foreign Non-Governmental Entities.** Within **ten (10) business days** after receiving legal process or requests from Foreign non-governmental entities for Access to or disclosure of Domestic CCS Communications stored by or on behalf of Verizon Business in the United States, Verizon Business shall notify DHS in writing of such legal process or requests, unless such disclosure would violate applicable law.

3.5 **Security of Lawful U.S. Process.** Verizon Business shall protect the designated confidentiality and security of all Lawful U.S. Process served upon it and the designated confidentiality and security of Classified and Sensitive Information in accordance with applicable U.S. federal and state law or regulation and this Agreement.

3.6 **Point of Contact.** Within **ten (10) business days** after the Effective Date, Verizon Business shall designate points of contact within the United States with the authority and responsibility for accepting and overseeing the carrying out of various types of Lawful U.S. Process in connection with the Domestic CCS Infrastructure. The points of contact shall be 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 on Verizon Business of specified Lawful U.S. Process in connection with the Domestic CCS Infrastructure. Promptly after designating such points of contact, Verizon Business shall notify DHS in writing of the points of contact and the type of Lawful U.S. Process each is designated to receive, and thereafter shall promptly notify DHS of any change in such designation. The points of contact shall be resident U.S. citizens. Verizon Business shall cooperate with any reasonable request by a Government Authority within the United States that a background check, security clearance process or both be completed for a designated point of contact.

3.7 **Information Security Plan.** Verizon Business shall:

- (a) take appropriate measures to prevent unauthorized Access to Classified or Sensitive Information;
- (b) assign U.S. citizens to positions that handle or that regularly deal with information identifiable to such person as Sensitive Information;
- (c) upon request from DHS, provide the name, date of birth, and other relevant requested identifier information of each person who regularly handles or deals with Sensitive Information;
- (d) require that personnel handling Classified Information shall have been granted appropriate security clearances pursuant to Executive Order 12968;

(e) provide that the points of contact described in Section 3.6 of this Agreement shall have sufficient authority over any of Verizon Business's employees who may handle Classified or Sensitive Information to maintain the confidentiality and security of such information in accordance with applicable U.S. legal authority and the terms of this Agreement; and

(f) maintain appropriately secure facilities (e.g., offices) for the handling and storage of any Classified or Sensitive Information.

3.8 **Nondisclosure of Protected Data.** Verizon Business shall not directly or indirectly disclose information concerning Lawful U.S. Process, Classified Information, or Sensitive Information to any third party, or to any officer, director, shareholder, employee, agent, or contractor of Verizon Business, including those who serve in a supervisory, managerial or executive role with respect to the employees working with the information, unless disclosure has been approved by prior written consent obtained from DHS, or there is a need for disclosure of the information in order to fulfill an obligation consistent with the purpose for which the information is collected or maintained.

3.9 **Notice of Obligations.** Verizon Business shall instruct appropriate officials, employees, contractors, and agents as to Verizon Business's obligations under this Agreement, including the individuals' duty to report any violation of this Agreement and the reporting requirements in Article 4 of this Agreement, and shall issue periodic reminders to them of such obligations.

3.10 **Access to Classified 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 Verizon Business might have to Classified or Sensitive Information under that Government Authority's jurisdiction.

ARTICLE 4: REPORTING AND NOTICE

4.1 **Filings Concerning de jure or de facto Control of Verizon Business.** If Verizon Business makes any filing with the FCC or any other Government Authority relating to the *de facto* or *de jure* control of Verizon Business, or the CB-1 Cable System, except for filings with the FCC for assignments or transfers of control that are *pro forma*, Verizon Business shall promptly provide to DHS written notice and copies of such filing.

4.2 **Change in Control.** If any member of the Management of Verizon Business learns of any information that reasonably indicates that any single foreign entity or individual, other than those already identified in connection with the pending FCC Application, has or will likely obtain an ownership interest (direct or indirect) in Verizon Business, or the CB-1 Cable System, above ten (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: (i) Control; or (ii) *de facto* or *de jure* control of Verizon Business then such officer or director shall promptly cause Verizon Business to the maximum extent possible to notify DHS in writing within **ten (10) business days**. Notice under this Section shall, at a minimum:

- (a) identify the entity or individual(s) acquiring Control (specifying the name, addresses, and telephone numbers of the entity);
- (b) identify the beneficial owners of the increased or prospective increased interest in Verizon Business 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 Verizon Business and, if applicable, the basis for their prospective Control of Verizon Business.

4.3 **Procedure and Process on Reporting.** Within forty-five (45) calendar days of the Effective Date, Verizon Business shall adopt and distribute to the Management of Verizon Business, a written procedure or process for the reporting by the Management of Verizon Business of any noncompliance with this Agreement. This written procedure or process shall also provide for the reporting by employees, agents and contractors to the Management of Verizon Business of information that must be reported to DHS under this Article. Any violation by Verizon Business of any material term of such corporate policy shall constitute a breach of this Agreement. By a written statement, Verizon Business shall notify all relevant employees, contractors and agents that the general categories of information identified in this Article should be disclosed to the Management of Verizon Business and shall set forth in a clear and prominent manner the contact information for a senior manager to whom such information may be reported. The written statement informing employees, contractors, and agents of the need to report this information shall also state that Verizon Business will not discriminate against, or otherwise take adverse action against, anyone who reports such information to the Management of Verizon Business or the United States government. Verizon Business shall make such process or procedure documents available to DHS upon request.

4.4 **Non-retaliation.** Verizon Business shall continue and maintain its official corporate policy that strictly prohibits Verizon Business 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 this Article, or has notified or attempted to notify the Management of Verizon Business to report information that he or she believes in good faith is required to be reported to DHS under either this Article or under Verizon Business's written notice to employees on the reporting of any such information. Any violation by Verizon Business of any material term of such corporate policy shall constitute a breach of this Agreement. Verizon Business shall make such process or procedure documents available to DHS upon request.

4.5 **Reporting of Incidents.** Verizon Business shall report to DHS if it learns of any information that reasonably indicates:

- (a) a material breach of this Agreement;
- (b) access to or disclosure of Domestic CCS Communications, or the conduct of Electronic Surveillance on Domestic CCS Infrastructure, in violation of federal, state or local law or regulation;

- (c) access to or disclosure of CCS Transactional Data in violation of federal, state or local law or regulation (except for violations of FCC regulations relating to improper commercial use of CCS Transactional Data or breach of CPNI); or
- (d) improper access to or disclosure of Classified or Sensitive Information.

This report shall be made in writing by an appropriate officer of Verizon Business to DHS no later than **ten (10) business days** after Verizon Business learns of any information that reasonably indicates a matter described in this Section. Verizon Business shall lawfully cooperate in investigating the matters described in this Section. Verizon Business need not report information where disclosure of such information would be in violation of applicable law.

4.6 **Availability of Information and Facilities.** DHS may visit, at any time upon reasonable request, any part of Verizon Business's Domestic CCS Infrastructure or relevant security offices to conduct on-site reviews concerning the implementation of the terms of this Agreement and may at any time require copies or review of information concerning technical, physical, management, or other security measures reasonably required by DHS to verify compliance with the terms of this Agreement.

4.7 **Personnel Interviews.** Upon reasonable notice from DHS, Verizon Business shall make available for interview any knowledgeable employee of Verizon Business located in the United States, who is in a position to provide information to verify compliance with the terms of this Agreement.

4.8 **Annual Report.** On or before the last day of January 2010 and January of each year thereafter, an appropriate officer of Verizon Business shall submit to DHS a report assessing Verizon Business's compliance with the terms of this Agreement for the preceding calendar year. The report shall include:

- (a) a copy of the then current policies and procedures adopted to comply with this Agreement;
- (b) a summary of the changes, if any, to the policies or procedures, and the reasons for those changes;
- (c) a summary of any known acts of noncompliance with the terms of this Agreement, 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; and
- (d) a summary of any other events occurring during the reporting period that, to the knowledge of Verizon Business, will or reasonably could affect the effectiveness of or its compliance with this Agreement.

4.9 **Notices.** Effective upon execution of this Agreement by 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 sent by electronic mail (if an email is specified below or in a subsequent notice) and one of the following methods:

(a) delivered personally, (b) sent by documented overnight courier service, or (c) 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 addresses as the Parties may designate in accordance with this Section:

Department of Homeland Security
Assistant Secretary for Policy
Washington, DC 20528
ip-fcc@dhs.gov

Verizon Business Global LLC
General Counsel Verizon Business
VC43E043
One Verizon Way
Basking Ridge, New Jersey 07920
craig.silliman@verizonbusiness.com

With a copy to:

Verizon Business
Director Network Engineering
Room D1311
2400 North Glenville
Richardson, Texas 75082
george.clutter@verizonbusiness.com

Notices shall be deemed received as of the date of personal delivery or the day following transmission by overnight courier or registered, certified mail. A Party may change its addresses for notice under this Section by providing notice of such change to each other Party in accordance with this Section.

4.10 Protection from Disclosure. DHS shall take all reasonable measures to protect from public disclosure all information submitted by Verizon Business (or other entities in accordance with the terms of this Agreement) to DHS in connection with this Agreement and clearly marked with the legend "Business Confidential; subject to protection under 5 U.S.C. § 552(b); not to be released without notice to the filing party" or similar designation. Such markings shall signify that it is Verizon Business'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 and is exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) under Exemption (b)(4). 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 shall notify Verizon Business of the intended disclosure as provided by Executive Order 12600, 52 Fed. Reg. 23781 (June 25, 1987). If Verizon Business objects to the notifying Party with respect to the intended disclosure and Verizon Business's objections are not

satisfactorily resolved, DHS shall notify Verizon Business of its intention to release (as provided by Section 5 of E.O. 12600) not later than **ten (10) business days** prior to disclosure of the challenged information.

4.11 Use of Information for U.S. Government Purposes. Nothing in this Agreement shall prevent DHS from lawfully disseminating information as appropriate to seek enforcement of this Agreement, or from lawfully sharing information as appropriate with other federal, state, or local Government Authorities to protect public safety, law enforcement, or national security interests, provided that DHS takes all reasonable measures to protect from public disclosure the information marked as described in Section 4.10. Further, nothing in this Agreement shall limit the ability of DHS to disclose this Agreement or any information related to this Agreement to enforce or comply with any federal law or regulation.

ARTICLE 5: FCC CONDITION

5.1 FCC Approval. Upon the execution of this Agreement by all the Parties, DHS shall, on its own motion at an appropriate time or at the request of Verizon Business, 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 has no objection to the FCC's grant of the pending Application described in the Recitals of this Agreement. This Section is effective upon the Effective Date, provided however that in the case of a material modification or withdrawal of the Application after the execution of this Agreement the effectiveness of this Section may be suspended by DHS, and any such FCC filing is subject to the right to object reserved in Section 5.2.

5.2 Right to Object to Future FCC Filings. Verizon Business agrees that in any application or petition by Verizon Business to the FCC for licensing or other authority filed with or granted by the FCC in connection with the CB-1 Cable System after the execution of this Agreement, except with respect to *pro forma* assignments or *pro forma* transfers of control, Verizon Business shall request that the FCC condition the grant of such licensing or other authority on compliance with the terms of this Agreement. Notwithstanding Section 7.9, DHS reserves the right to object, formally or informally, to the grant of any other FCC application or petition of Verizon Business 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 the ability of the United States to enforce the laws, preserve the national security and protect the public safety raised by the services and transactions underlying any such application or petition.

ARTICLE 6: DISPUTES

6.1 Informal Resolution. The Parties shall use their best reasonable 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. The Parties shall meet by person or by phone within **five (5) business days** of identification of a dispute, or at such other time as they shall mutually agree. Any disagreement that has not been resolved at the staff level within **ten (10) business days** of such meeting shall be submitted promptly to the General

Counsel of Verizon Business and the Assistant Secretary for Policy of DHS, unless DHS or Verizon Business believes that important national interests can be protected, or Verizon Business believes that paramount commercial interests can be resolved, only by resorting to the measures set forth in Section 6.2. 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 6.2. 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. A Party resorting to measures set forth in Section 6.2 shall give prior written notice of its intent to do so to each other Party.

6.2 **Enforcement of Agreement.** Subject to Section 6.1 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) request that the Party or Parties believed to have breached, or about to breach, this Agreement cure such breach within **thirty (30) calendar days**, or whatever shorter time period is appropriate under the circumstances, upon receiving written notice of such breach;
- (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 Verizon Business in connection with the Application, request that the FCC take other action, or request that the FCC impose any other appropriate sanction, including but not limited to a forfeiture or other monetary penalty, against Verizon Business;
- (c) seek civil sanctions for any violation by Verizon Business of any U.S. law or regulation or term of this Agreement;
- (d) pursue criminal sanctions against Verizon Business, or any director, officer, employee, representative, or agent of Verizon Business, or against any other person or entity, for violations of the criminal laws of the United States; or
- (e) seek suspension or debarment of Verizon Business from eligibility for contracting with the U.S. Government in accordance with applicable law and regulation.

6.3 **Irreparable Injury.** Verizon Business agrees that the United States would suffer irreparable injury if for any reason Verizon Business failed to perform any of its obligations under this Agreement, and that monetary relief would not be an adequate remedy. Accordingly, Verizon Business agrees that, in seeking to enforce this Agreement, DHS shall be entitled, in addition to any other remedy available at law or equity, to seek specific performance and injunctive or other equitable relief.

6.4 **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.

6.5 **Waiver of Immunity.** Verizon Business 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 a “**Foreign State**” (as defined in 18 U.S.C. § 1603) from any legal action, suit or proceeding or from setoff or counterclaim relating to this Agreement, from the jurisdiction of any competent court or the FCC, from service of process, from attachment prior to judgment, from attachment in aid of execution of a judgment, from execution pursuant to a judgment or arbitral award, or from any other legal process in any jurisdiction, it, for itself and 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. Verizon Business 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 on the ground of sovereignty or otherwise based upon a status as an agency or instrumentality of a Foreign State at any time any action is initiated by a U.S. federal, state, or local Government Authority against Verizon Business with respect to compliance with this Agreement.

6.6 **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.

ARTICLE 7: OTHER

7.1 **Right to Make and Perform Agreement.** Each Party 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 such Party enforceable in accordance with its terms.

7.2 **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.

7.3 **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 any Party, (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 Verizon Business 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 law.

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

7.5 **Non-Parties.** Nothing in this Agreement is intended to confer or does confer any rights on any person other than the Parties.

7.6 **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. This Agreement may only be modified by written agreement signed by all of the Parties. DHS agrees to consider promptly and in good faith possible modifications to this Agreement if Verizon Business 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) calendar days** after approval in writing by the Parties.

7.7 **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.

7.8 **Changes in Circumstances for Verizon.** DHS agrees to negotiate in good faith and promptly with respect to any request by Verizon Business 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 Verizon Business's competitive position.

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

7.10 **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.

7.11 **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 Verizon Business, and on all Affiliates of Verizon Business.

7.12 **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.


7.13 **Notice of Additional Services.** Verizon Business shall provide a minimum of **thirty (30) calendar days** advanced notice to DHS in the event that Verizon Business or any Affiliate changes or intends to change the technical or operational plans set forth in the Recitals to this Agreement such that the material representations made therein are no longer fully accurate, true and complete.

[Signature Pages Follow]

This Agreement is executed on behalf of the Parties:

Verizon Business

Date: 11 Feb. 2009

By: 
Printed Name: Craig Silliman
Title: Senior Vice President &
General Counsel

United States Department of Homeland Security

Date: 11 Feb. 2009

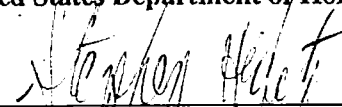
By: 
Printed Name: Stephen R. Heifetz
Title: Deputy Assistant Secretary for Policy Development

EXHIBIT A
CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses granted thereunder are subject to compliance with the provisions of the agreement (the “**Agreement**”) between Verizon Business Global LLC, on the one hand, and the Department of Homeland Security (“**DHS**”), on the other, dated February 11, 2009, which Agreement is designed to address national security, law enforcement, and public safety concerns of DHS 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.