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Ladies and Gentlemen:

This Letter of Assurances (“LOA”) outlines the commitments made by Telxius Cable USA (“Telxius”, f/k/a Telefónica International Wholesale Services USA, Inc.) to the U.S. Department of Homeland Security (“DHS”), and the U.S. Department of Defense (“DOD”), together “the USG Parties,” in order to address national security, law enforcement, and public safety concerns raised with regard to an application filed by Edge Cable Holdings USA, LLC, Microsoft Infrastructure Group, LLC, Telefónica International Wholesale Services América, S.A., and Telefónica International Wholesale Services USA, Inc. (“MAREA Applicants”) with the Federal Communications Commission (“FCC”) requesting authority to land and operate a fiber optic submarine cable system linking the United States and Spain (“MAREA Cable System”).<sup>1</sup> The MAREA Cable System will be a private, non-common carrier fiber optic cable.

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<sup>1</sup> SCL-LIC-20160525-00012, Application of Edge Cable Holdings USA, LLC, Microsoft Infrastructure Group, LLC, Telefónica International Wholesale Services América, S.A., and Telefónica International Wholesale Services USA, Inc., for a License to Land and Operate a Private Fiber-Optic Submarine Cable System Connecting the United States and Spain.

Telxius has agreed to provide this LOA to the USG Parties to address issues raised by the USG Parties, and Telxius understands that the USG Parties will petition the FCC to condition the requested authorization on compliance with this LOA.

For purposes of this LOA:

- A. “Domestic Communications” means: (a) Wire Communications or Electronic Communications (whether stored or not) from one U.S. location to another U.S. location and (b) the U.S. portion of a Wire Communication or Electronic Communication (whether stored or not) that originates or terminates in the United States.
- B. “Domestic Communications Infrastructure” or “DCI” means: (a) any portion of the MAREA Cable System that physically is located in the United States, up to 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.*, MS Office) used by or on behalf of the MAREA Applicants to provide, process, direct, control, supervise, or manage Domestic Communications; (b) Network Operations Center (“NOC”) facilities, as defined in Section D below.
- C. “Electronic Communication” has the meaning given it in 18 U.S.C. § 2510(12).
- D. “Network Operations Center” or “NOC” means the locations and facilities designated as such by Telxius for purposes of performing network management, monitoring, maintenance, or other operational functions for the MAREA Cable System.
- E. “Principal Equipment” means the primary electronic components of the MAREA Cable System, which includes the Domestic Communications Infrastructure and Wet Infrastructure. Principal Equipment includes: 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”), wave division multiplexing (“WDM”), dense wave division multiplexing (“DWDM”), coarse wave division multiplexing (“CWDM”), or optical carrier network (“OCx”) equipment, as applicable; and any non-embedded software necessary for the proper monitoring, administration, and provisioning of the MAREA Cable System (with the exception of COTS software used for common business functions, *e.g.*, MS Office).
- F. “Screened Personnel” has the meaning set forth in Paragraph 9 below.
- G. “Wet Infrastructure” means hardware components installed and residing on the undersea portion of the MAREA Cable System, including fiber optic cables, repeaters, branching units, and routers (if any). Wet Infrastructure includes all the components used in order to define the topology of the undersea portion of the MAREA Cable System.

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

Upon grant of the requested FCC authority, Telxius undertakes to comply with the following commitments:

### **1. Security Points of Contact**

Within sixty (60) business days of the execution of this LOA, Telxius shall nominate a Security Point of Contact (“POC”) for purposes of this LOA, as well as at least one alternate POC in the event the primary POC cannot be reached. The nominated POCs shall be U.S. citizens and shall reside in the United States. The nominated POCs shall be subject to the USG Parties’ review and non-objection, and they may be subject to a background check at the sole discretion of the USG Parties. The POC, or an alternate, shall be available twenty-four (24) hours per day, seven (7) days per week, regarding any national security, law enforcement, or public safety concerns that the USG Parties may raise with respect to the MAREA Cable System. The POCs shall be responsible for receiving and promptly effectuating any lawful inquiries or requests for information and for otherwise ensuring compliance with obligations set forth in this LOA. Telxius shall notify the USG Parties of any proposed change to a POC at least ten (10) business days in advance of such change. Any subsequently proposed POC shall be subject to the USG Parties’ review and non-objection and may be subject to a background check at the sole discretion of the USG Parties.

### **2. Cable System Information**

Within sixty (60) business days of the execution of this LOA, and within fifteen (15) business days upon request by the USG Parties, Telxius agrees to make available the following MAREA Cable System Information:

- (a) Network management information, including: (1) a network map that includes physical and logical topology; (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; and (5) descriptions of interfaces and connections to the MAREA Cable System for service offload, disaster recovery, or administrative functions;
- (b) Complete and current list of all contracts held by Telxius or its designee(s) for the maintenance and security of the MAREA Cable System; and
- (c) A restoration plan for the Principal Equipment and the Wet Infrastructure for the MAREA Cable System.

### **3. Operational Requirements**

With respect to the operation of the MAREA Cable System, Telxius agrees as follows:

- (a) Telxius shall have the ability to promptly and effectively interrupt, in whole or in part, traffic to and from the United States on the MAREA Cable System by disabling or disconnecting circuits at the U.S. cable landing station or at other locations within the United States;
- (b) Telxius shall configure all necessary systems so the NOC will be able to initiate a suspension or interruption of the optical carrier signal or all of the MAREA Cable System within the DCI.

If Telxius is required to interrupt traffic to or from the United States as a result of lawful U.S. process, Telxius shall be permitted to disclose publicly that it was required to interrupt service in response to lawful U.S. process, without disclosing any of the content of such request.

### **4. Initial Principal Equipment List**

Within sixty (60) business days of the execution of this LOA, Telxius shall provide the USG Parties 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, or maintaining the Principal Equipment.

### **5. Material Modifications to Existing Principal Equipment**

Telxius shall provide the USG Parties at least ten (10) business days' advance notice prior to performing any maintenance, repair, or replacement that would result in any material modification to existing Principal Equipment for the MAREA Cable System. Telxius need not comply with the advance notice requirement 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 the MAREA Cable System; however, in such circumstances, Telxius shall provide advance notice to the USG Parties of the material modification, if practicable, and, if impracticable, Telxius shall provide notice within ten (10) business days after the material modification of the Principal Equipment. Telxius agrees to meet and confer with the USG Parties and to consider any concerns the USG Parties may raise about materials submitted pursuant to this provision.

## **6. Change in Vendors, Contracts, or Subcontracts for Principal Equipment**

Telxius shall provide at least thirty (30) business days' advance notice prior to making any modifications to the list of vendors, contractors, or subcontractors involved in providing, installing, operating, managing, or maintaining the Principal Equipment. In addition, Telxius shall provide at least thirty (30) business 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). Telxius agrees to negotiate in good faith to resolve any national security, law enforcement, or public safety concerns the USG Parties may raise with respect to materials submitted pursuant to this provision.

## **7. Measures to Prevent Improper Use and Unauthorized Access**

Telxius agrees to take all reasonable measures to prevent unauthorized access to the MAREA Cable System and to prevent any unlawful use or disclosure of information carried on the same. Such measures shall include contractual safeguards and screening procedures for personnel with logical access to the DCI. In addition, Telxius will take appropriate measures to protect and promote resiliency of the MAREA Cable System, including measures to ensure that security patches for systems and applications are kept up to date. Telxius will submit a policy regarding logical security measures to the USG Parties within sixty (60) business days of the date of execution of this LOA. Telxius agrees to meet and confer with the USG Parties and to consider any concerns the USG Parties may raise about such policy.

## **8. Physical Security Measures**

Telxius agrees to take all reasonable measures to physically secure the MAREA Cable System, including the DCI. Telxius will screen appropriate personnel, and Telxius will require that all visitors who physically access the DCI are escorted at all times by Screened Personnel, as defined herein. Telxius will submit a policy regarding physical security measures to the USG Parties within sixty (60) business days of the date of execution of this LOA. Telxius agrees to meet and confer with the USG Parties and to consider any concerns the USG Parties may raise about such policy.

## **9. Screening of Personnel**

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

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

Telxius's personnel screening process shall 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 shall be considered "Screened Personnel."

Telxius will submit the screening policy to the USG Parties within sixty (60) business days of the date of execution of this LOA. Telxius agrees to meet and confer with the USG Parties and to consider any concerns the USG Parties may raise about such policy. In addition, Telxius will cooperate with any reasonable request by the USG Parties to provide additional identifying information regarding Screened Personnel.

## **10. Reporting Incidents and Breaches**

Telxius agrees to report to the USG Parties promptly if it learns of information that reasonably indicates:

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

Any reports required by this provision should be made in writing to the USG Parties within ten (10) business days of discovery of the relevant conduct. Telxius further agrees to cooperate with the USG Parties' recommendations with respect to the remediation of such events and, to the extent such recommendations are not adopted by Telxius, to provide an explanation as to why such measures are not adopted. Telxius will provide this explanation, as well as a description of any other actions taken in response to a remediation recommendation from the USG Parties, within ten (10) business days of receipt of such recommendation.

## **11. Instruction of Obligations**

Telxius shall instruct appropriate officials, employees, contractors, and agents as to Telxius' obligations under this LOA, including the individuals' duty to report any violation, and shall issue periodic reminders of such obligations. Telxius shall issue these instructions in writing within sixty (60) business days of the date of execution of this LOA. Telxius will submit a copy to the USG Parties at the same time.

## **12. Change in Services or Cable Operations**

Telxius agrees that it will notify the USG Parties in writing at least thirty (30) business days prior to implementing any significant changes to the communications services or

operations of the MAREA Cable System such that the material representations made in the pending FCC Application(s) and associated materials are no longer fully accurate, true, and complete.

### **13. Change in Control**

If Telxius 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(s), has or likely will obtain an ownership interest, whether direct or indirect, in Telxius or the MAREA Cable System 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 Telxius, Telxius will provide notice in writing to the USG Parties 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 or individual(s));
- (b) Identify the beneficial owners of any such increased or prospective increased ownership interest in Telxius or the MAREA Cable System 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 Telxius or the MAREA Cable System and, if applicable, the basis for their prospective control of Telxius or the MAREA Cable System.

### **14. Annual Report**

On or before each anniversary of the date of execution of this LOA, Telxius will submit to the USG Parties a report assessing Telxius' 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 Paragraph 2 above, noting any changes during the reporting period;
- (c) An updated Principal Equipment list containing all information described in Paragraph 4 above, identifying any material modifications during the reporting period;
- (d) A copy of the then-current policies adopted in accordance with this LOA, including policies for logical security (Paragraph 7), physical security (Paragraph 8), personnel screening (Paragraph 9), incident reporting (Paragraph 10), and

employee training (Paragraph 11), and a summary of any changes during the reporting period and the reasons therefore;

- (e) 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; and
- (f) 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.

## **15. Right to Third-Party Audits**

The USG Parties may require Telxius to obtain a third-party audit of its compliance with the terms of this LOA and to provide the USG Parties with the resultant audit report. Telxius understands the following requirements for such audits:

- (a) If the right to third-party audits is availed by the USG Parties, Telxius will, within fifteen (15) business days of receiving such request, propose the third-party auditor, as well as the terms and scope of the audit.
- (b) Once Telxius has submitted the proposed auditor and the terms and scope of the audit, the USG Parties will have thirty (30) business days to provide a response to the proposed auditor and the terms and scope of the audit. If the USG Parties do not respond to the proposed auditor, terms, and scope within thirty (30) business days, the proposed auditor and terms and scope will be deemed to have been accepted.
- (c) Telxius shall reasonably address any concerns raised by the USG Parties and shall commence the audit within ninety (90) business days of reaching agreement on its scope and terms.
- (d) The audit required by this section shall be undertaken solely at Telxius' expense, and the USG Parties shall not be required to make any showing of cause to invoke this right to third-party audit. However, if the USG Parties invoke the right to a third-party audit, Telxius shall not be required to conduct another third-party audit until eighteen (18) months have passed from the conclusion of the previous audit.

## **16. USG Parties Consultation and Visitation**

Telxius agrees to meet and confer with the USG Parties and to address any concerns the USG Parties may raise about materials submitted pursuant to this LOA.

Telxius agrees to negotiate in good faith to resolve any national security, law enforcement, or public safety concerns the USG Parties may raise with respect to any matters set forth in this LOA.



Telxius agrees that, upon reasonable advance notice, the USG Parties may visit any part of the DCI to conduct on-site reviews concerning the implementation of the terms of this LOA and Telxius' compliance with its terms. Subject to applicable law, during such visits, Telxius shall cooperate with the requests of the USG Parties to make available information, facilities, and personnel to verify compliance with the terms of this LOA.

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

Telxius agrees that, in the event the commitments set forth in this letter are breached, in addition to any other remedy available at law or equity, the USG Parties may 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 Telxius or any successors-in-interest.

Telxius understands that, promptly upon execution of this letter by an authorized representative or attorney for Telxius, the USG Parties shall notify the FCC that it has no objection to the FCC's grant of the pending application.

For and on behalf of Telxius Cable USA, Inc.



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