



Sep 2, 2019 \_\_\_\_\_ 2019

Assistant Secretary for Border, Immigration and Trade  
Office of Policy  
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](mailto:IP-FCC@hq.dhs.gov)

Dear Sir:

This Letter of Assurances (“LOA”) sets forth the commitments made by America Europe Connect 2 USA, Inc. (“AEC2 USA”), America Europe Connect 2 Limited (“AEC2”), Edge Cable Holdings USA, LLC (“Edge”), GU Holdings Inc. (“GU Holdings”), and Optibulk Havfrue AS (“Optibulk”) (collectively, the “Licensees”) to the U.S. Department of Homeland Security (“DHS”) to address national security, law enforcement, and public safety concerns raised with regard to an application filed by the Licensees with the Federal Communications Commission (“FCC”) for a license to land and operate within the United States a private fiber-optic submarine cable network connecting Wall, New Jersey; Blaabjerg, Denmark; Old Head Beach, Leckanvy, Ireland; and Kristiansand, Norway (the “Havfrue System”).<sup>1</sup>

The Licensees have agreed to provide this LOA to DHS, and the Licensees understand that DHS 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.

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<sup>1</sup> SCL-LIC-20180511-00010, Joint Application for Cable Landing License.





- B. “Domestic Communications Infrastructure” or “DCI” means: (a) any portion of the Havfrue 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.*, Microsoft Office) used by or on behalf of the Licensees to provide, process, direct, control, supervise, or manage Domestic Communications; and (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 the Licensees for purposes of performing network management, monitoring, maintenance, or other operational functions for the Havfrue System.
- E. “Principal Equipment” means the primary electronic components of the Havfrue System, which comprises 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 used for monitoring, administration, or provisioning of the Havfrue System (with the exception of COTS software used for common business functions, *e.g.*, Microsoft Office).
- F. “Screened Personnel” has the meaning set forth in Paragraph 11 below.
- G. “Wet Infrastructure” means hardware components installed and residing on the undersea portion of the Havfrue System, 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 the Havfrue System.

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

The Licensees undertake to comply with the following commitments:

## 1. Security Point of Contact

AEC2 USA agrees to maintain a primary Security Point of Contact (“Primary POC”) for purposes of this LOA. Each other individual Licensee will designate a secondary point of contact (“Secondary POC”) for purposes of this LOA. The Primary POC will be a U.S. citizen residing in the United States and will maintain an active U.S. Government security clearance at the “Secret” level or higher. AEC2 USA and each other individual Licensee agree to nominate a proposed Primary POC and Secondary POCs respectively within thirty (30) business days of the execution of this LOA.

The Primary POC will be available twenty-four (24) hours per day, seven (7) days per week, regarding any national security, law enforcement, or public safety concerns that DHS may raise with respect to the Havfrue System. Upon request by DHS, the Primary POC will make himself/herself available in person within the United States at a mutually agreeable date and location, including in a classified setting as determined necessary. The Primary POC will be responsible for receiving and promptly effectuating any lawful inquiries or requests for information and, subject to paragraph 18, for otherwise ensuring compliance with obligations set forth in this LOA. In the event a lawful inquiry or request for information implicates SLTE owned and/or operated by a Licensee other than AEC2USA, the Primary POC will provide prompt notice of such inquiry or request to the relevant Secondary POC, who will promptly respond directly to the relevant government agency.

The Licensees will notify DHS of any proposed change to any Primary or Secondary POC at least ten (10) business days in advance of such proposed change.

Any proposed Primary or Secondary POC will be subject to DHS review and non-objection and may be subject to a background check at the sole discretion of DHS.





**2. Cable System Information**

Within sixty (60) business days of the execution of this LOA, and, thereafter, within fifteen (15) business days upon DHS request, the Licensees agree to make available the following Havfrue System Information:

- (a) Network management information, as follows: (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; (5) organizational chart, to include specific reference to the names and positions of senior officials responsible for operations of the Havfrue System, for each Licensee; and (6) descriptions of interfaces and connections to the Havfrue System for service offload, disaster recovery, or administrative functions;
- (b) A complete and current list of all contracts held by the Licensees or their designee(s) for the maintenance and security of the Havfrue System; and
- (c) A restoration plan for the Principal Equipment and the Wet Infrastructure for the Havfrue System.

**3. Operational Requirements**

With respect to the operation of the Havfrue System, the Licensees agree as follows:

- (a) The Licensees will have the ability to promptly and effectively interrupt, in whole or in part, traffic to and from the United States on the Havfrue System by disabling or disconnecting circuits at the U.S. cable landing station or at other locations within the United States;





- (b) The Licensees will configure all necessary systems to ensure the NOC can suspend or interrupt the optical carrier signal or all of the Havfrue System within the DCI.

If any Licensee is required to interrupt traffic to or from the United States as a result of lawful U.S. process, such Licensee will 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. Principal Equipment List**

Within thirty (30) business days of the execution of this LOA, the Licensees agree 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, or maintaining the Principal Equipment.

Objections to the Principal Equipment List will be handled pursuant to Paragraph 8.

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

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

The Licensees agree to provide DHS at least fifteen (15) business days' advance notice prior to performing any maintenance, repair, or replacement that would result in any modification to the quantum, function, configuration, operation, or location of existing Principal Equipment for the Havfrue System or testing thereof. With any such notice, Licensees may request that DHS waive the notice obligation of this Paragraph 5 for substantially similar modifications in the future. The Licensees may 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 Havfrue System; however, in such circumstances, the Licensees agree to provide advance notice to DHS of the modification, if practicable, and, if impracticable, the Licensees agree to provide notice within ten (10) business days after the modification of the Principal Equipment. The Licensees may continue to utilize any Principal Equipment repaired or replaced pursuant to the process outlined in this Paragraph, provided DHS does not object pursuant to Paragraph 8.

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

The Licensees agree to provide at least thirty (30) business days' advance notice prior to modifying the list of vendors, contractors, or subcontractors involved in providing, installing, operating, managing, or maintaining the Principal Equipment. In addition, the Licensees agree to 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). Objections to any new vendor, contractor, or subcontractor for the Principal Equipment or the proposed service offerings thereof will be handled pursuant to Paragraph 8.

**7. Equipment Testing**

The Licensees agree to provide at least thirty (30) business days' advance notice prior to initiating the testing of any new Principal Equipment connected to DCI or Wet Infrastructure of the Havfrue System by any vendor not already on the approved Principal Equipment List. Objections to any testing proposed pursuant to this Paragraph will be handled pursuant to Paragraph 8.

**8. Objection Resolution**

DHS will notify the Licensees of any objection, including the basis for DHS's objection, to a notice submitted pursuant to Paragraphs 4, 5, 6 or 7 above within forty-five (45) business days of receipt of such notice. The USG will endeavor to provide such approval within 60-days; however, if





such approval is not provided timely, after consultation and agreement, the parties can determine a reasonable timeframe for the USG to grant approval. In the event of such an objection, the Licensees will not expand the existing deployment or enhance the capabilities of any Principal Equipment to which DHS has objected, and the Licensees agree to meet, confer and otherwise attempt in good faith to resolve DHS' objection. Until the objection is resolved, the Licensees will not upgrade, install, replace, or service any objectionable Principal Equipment without written authorization from DHS.

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

The Licensees agree to take practicable measures to prevent unauthorized access to the Havfrue System and to prevent any unlawful use or disclosure of information carried on the same, which measures Licensees shall include in the policies that they will develop and implement pursuant to this LOA. For purposes of this Paragraph, such "practicable measures," at a minimum, include 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.

The Licensees agree to take appropriate measures to protect and promote resiliency of the Havfrue System, including measures to ensure that security patches for systems and applications are up to date.

The Licensees agree to maintain or exceed security standards and best practices utilized within the U.S. telecommunications industry for maintenance of password systems and firewalls, non-destructive access logs, and periodic internal audits of network security and associated network devices. The Licensees agree to submit a policy regarding logical security measures adopted in accordance with this Paragraph to DHS within sixty (60) business days of the date of execution of this LOA. The Licensees agree to meet, confer and otherwise attempt in good faith to resolve any concerns DHS may raise about such policy.





**10. Physical Security Measures**

The Licensees agree to take practicable measures to physically secure the Havfrue System, including the DCI. The Licensees will screen appropriate personnel in accordance with Paragraph 11 below, and the Licensees will require that all visitors who physically access the DCI are escorted at all times by Screened Personnel, as defined herein. The Licensees agree to submit a policy setting forth Licensees’ physical security measures to DHS within sixty (60) business days of the date of execution of this LOA. The Licensees agree to meet, confer and otherwise attempt in good faith to resolve any concerns DHS may raise about such policy.

**11. Screening of Personnel**

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

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

The Licensees’ 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 satisfying the requirements set forth in the screening policy, such persons will be considered “Screened Personnel.”

The Licensees agree to submit the screening policy to DHS within sixty (60) business days of the date of execution of this LOA. If DHS notifies the Licensees of any concerns regarding such policies, the Licensees agree to meet, confer, and otherwise attempt in good faith to resolve such concerns to the satisfaction of DHS. The Licensees agree to cooperate with any request by DHS to provide additional identifying information regarding Screened Personnel.







**12. Reporting Incidents and Breaches**

The Licensees agree to report to DHS promptly if they learn of information that reasonably indicates:

- (a) Unauthorized third-party access to, or disruption or corruption of, the Havfrue System or any information being carried on the Havfrue 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.

The Licensees agree to make any reports required by this provision in writing to DHS within ten (10) business days of discovery of the relevant conduct. The Licensees agree to remediate any incidents or breaches reported pursuant to this provision to the satisfaction of DHS.

**13. Instruction of Obligations**

The Licensees agree to instruct appropriate officers, employees, contractors, and agents as to the Licensees’ obligations under this LOA, including the individuals’ duty to report any violation, and to issue periodic reminders of such obligations. The Licensees agree to issue initial instructions in writing within sixty (60) business days of the date of execution of this LOA, and updated instructions annually thereafter. The Licensees agree to submit a copy of such instructions to DHS at the same time.

**14. Change in Services to Third Parties**

The Licensees anticipate utilizing the Havfrue System (a) for their or their affiliates’ own internal use and (b) for offering wholesale, government and enterprise customers leased, indefeasible rights of use for, or other non-ownership interests of capacity, spectrum or dark fibers on particularized terms and conditions pursuant to individualized negotiations. The Licensees agree to notify DHS in writing at least thirty (30) business days prior to implementing any changes to the nature of these services as offered to non-affiliate third-party customers of any of the Licensees. The Licensees agree





to provide a detailed description of the proposed change including the terms, conditions, and entities involved in making the change.

## 15. Change in Control

If the Licensees learn 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 any of the Licensees or the Havfrue 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 any of the Licensees, the Licensees agree to provide notice in writing to DHS within ten (10) business 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 the Licensees or the Havfrue 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 the Licensees or the Havfrue System and, if applicable, the basis for their prospective control of the Licensees or the Havfrue System.

## 16. Annual Report

On the anniversary of the date of this LOA, the Licensees agree submit to DHS a report assessing the Licensees' 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 9), physical security (Paragraph 10), personnel screening (Paragraph 11), incident reporting (Paragraph 12), and employee training (Paragraph 13), 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.

## **17. DHS Consultation and Visitation**

The Licensees agree to meet and confer with DHS and to resolve to the satisfaction of DHS any concerns DHS may raise about materials submitted pursuant to this LOA.

The Licensees agree to meet, confer and otherwise attempt in good faith to resolve any national security, law enforcement, or public safety concerns DHS may raise with respect to any matters set forth in this LOA.

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



**18. Individual Licensee Responsibility**

Obligations in this LOA relating to a Licensee’s SLTE are assumed by that Licensee on an individual basis.

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

Each Licensee 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, DHS 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 with respect to such Licensee or any successors-in-interest.

If, after this LOA takes effect, DHS or the Licensees believe that changed circumstances warrant a modification or termination of this LOA (including if DHS determines that the terms of this LOA are inadequate or no longer necessary to address national security, law enforcement, or public safety concerns), the Licensees shall negotiate in good faith with DHS 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 is intended to excuse the Licensees from their obligations to comply with any and all applicable legal requirements and obligations, including any and all applicable statutes, regulations, requirements, or orders.

The Licensees understand that, promptly upon execution of this letter by an authorized representative or attorney for the Licensees, DHS shall notify the FCC that it has no objection to the FCC’s grant of the pending application.





For and on behalf of America Europe Connect 2 USA, Inc. and America Europe Connect 2 Limited

*Nigel Bayliff*

Nigel Bayliff (Aug 31, 2019)

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Nigel Bayliff, Chief Executive Officer

America Europe Connect 2 USA, Inc.

51-54 Pearse Street, Dublin 2, Ireland

Tel: +353 1 662 4399

[nbayliff@aquacomms.com](mailto:nbayliff@aquacomms.com)

*Nigel Bayliff*

Nigel Bayliff (Aug 31, 2019)

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Nigel Bayliff, Chief Executive Officer

America Europe Connect 2 Limited

51-54 Pearse Street, Dublin 2, Ireland

Tel: +353 1 662 4399

[nbayliff@aquacomms.com](mailto:nbayliff@aquacomms.com)





For and on behalf of Edge Cable Holdings USA, LLC

*Kevin Salvadori*

Kevin Salvadori (Aug 30, 2019)

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Kevin Salvadori, Director

Edge Cable Holdings USA, LLC

1 Hacker Way Menlo Park CA 94025, United States

+16504412382

[ksalvadori@fb.com](mailto:ksalvadori@fb.com)





For and on behalf of GU Holdings Inc.

*Austin Schlick*

Austin Schlick (Sep 1, 2019)

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Austin Schlick, President

GU Holdings Inc.

1600 Amphitheatre Parkway Mountain View CA, 94043 United States

+1 (202) 346-1219

[schlick@google.com](mailto:schlick@google.com)





For and on behalf of Optibulk Havfrue AS

*Nina Bull*

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Nina Bull, VP Legal

Optibulk Havfrue AS

Nina Bull, VP Legal, Bulk Infrastructure AS, Frognerstranda 2, 0250 Oslo,  
Norway

+4791519089

nina.bull@bulk.no

