

**Before the
Federal Communications Commission
Washington, D.C. 20554**

<i>In the Matter of</i>)	
)	
)	
Trans-Pacific Express Cable)	
Network Consortium)	File No. SCL-MOD-20080714-00012
)	
Application to Modify the Trans-)	
Pacific Express Cable Network)	
)	

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

The Department of Justice (“DOJ”), the Department of Homeland Security (“DHS”), and the Department of Defense (collectively, the “Agencies”), submit this Petition to Adopt Conditions to Authorizations and Licenses (“Petition”), pursuant to Section 1.41 of the Federal Communications Commission’s (“Commission”) rules.¹ Through this Petition, the Agencies advise the Commission that they have no objection to the Commission granting its consent in the above-referenced proceeding, provided that the Commission condition the grant on compliance by Verizon Business Global LLC and its affiliates and subsidiaries with the commitments and undertakings contained in the Agreement dated December 20, 2007 (“Agreement”) and amended as of May 11, 2009 (“Amendment”) between Verizon Business Global LLC and the Agencies. The Agreement and Amendment are attached hereto.

In the above-captioned proceeding, the Trans-Pacific Express Cable Network Consortium has sought Commission consent to modify its existing submarine cable landing authorization² to

¹ 47 C.F.R. § 1.41.

² See FCC File No. SCL-LIC-20070222-00002.

include NTT Communications Corporation as a licensee on the Trans-Pacific Express cable and to extend the cable to add a landing station in Shinmaruyama, Japan. In its modification application, the Trans-Pacific Express Cable Network requested the Commission to condition its grant of the application on “the continued compliance of Verizon with the commitments and undertakings contained in [the Agreement].”

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, 21,707 ¶ 94 (2001).

After discussions with representatives of Verizon Business Global LLC in connection with the above-referenced proceeding, the Agencies have concluded that the commitments set forth in the Agreement, as now modified by the Amendment, 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 above-referenced application, provided that the Commission conditions its consent on Verizon Business Global LLC’s compliance with the commitments set forth in the Agreement and Amendment.

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

Respectfully submitted,

/S/ STEPHEN R. HEIFETZ
Mr. Stephen R. Heifetz
Deputy Assistant Secretary
for Policy Development
U.S. Department of Homeland Security
3801 Nebraska Ave., N.W.
Washington, D.C. 20528

/S/ DAVIS S. KRIS
Mr. David S. Kris
Assistant Attorney General
for National Security
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

/S/ ROBERT S. GORMAN
Mr. Robert S. Gorman
General Counsel
Defense Information Systems Agency
P.O. Box 4502 (DISA OGC)
Arlington, VA 22204

May 11, 2009

AMENDMENT TO AGREEMENT

THIS AMENDMENT TO THE TPE AGREEMENT (the “Amendment”) is made as of the date of the last signature affixed hereto, by and among Verizon Business Global LLC, (“Verizon Business”), on the one hand, and the U.S. Department of Homeland Security (“DHS”), the U.S. Department of Defense (“DOD”), and the U.S. Department of Justice (“DOJ”), on the other hand (referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

WHEREAS, the Parties heretofore entered into an agreement dated as of December 20, 2007 (a copy of which is attached hereto as Exhibit A and referred to herein as the “TPE Agreement”) whereby the Parties agreed to set forth certain rights, obligations and undertakings to be performed with respect to national security, law enforcement and public safety concerns regarding the TPE Consortium’s fiber-optic submarine cable system,¹ which will link the United States with the People’s Republic of China, the Republic of Korea and the island of Taiwan (all terms defined in the TPE Agreement shall have the same meanings ascribed to such terms therein, unless defined otherwise in this Amendment);

WHEREAS, the TPE Consortium has filed a modification application² (the “Modification Application”) with the Federal Communication Commission (the “FCC”) to add an additional foreign member to the TPE Consortium and to add an additional foreign landing station in Shinmaruyama, Japan;

WHEREAS, the FCC’s grant of the Modification Application may be made subject to conditions relating to national security, law enforcement and public safety; and

WHEREAS, the TPE Consortium has requested that the FCC condition its grant of the Modification Application on the continued compliance of Verizon Business with the TPE Agreement;

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties are entering into this Amendment to address national security, law enforcement and public safety concerns.

ARTICLE 1: AMENDMENTS TO AGREEMENT

1.1 New Definition. The definition of “TPE Principal Equipment” is hereby added to the TPE Agreement as a new Section 1.37 as follows:

1.37 **“TPE Principal Equipment”** means the primary electronic components of the Domestic TPE Infrastructure, such as servers, repeaters, submarine line terminal

¹ Federal Communications Commission File No. SCL-LIC-200700222-00002, filed on February 20, 2007.

² Federal Communications Commission File No. SCL-MOD-20080714-00012, filed on July 14, 2008.

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.

1.2 New Section 2.2. The following new Section 2.2 is hereby added to the TPE Agreement as follows:

2.2 Cable System Infrastructure. By June 1, 2009, Verizon Business shall provide to DHS, DOD and DOJ a list of the TPE 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 TPE 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 any party may raise with respect to the TPE Principal Equipment, related vendors and subcontractors, and TPE Network Management Information, and Verizon shall provide updated information to DHS, DOD and DOJ identifying changes, if any, to the information on the list of TPE Principal Equipment and related vendors and subcontractors. Verizon Business agrees to make TPE Network Management Information for the Trans-Pacific Express cable network available to DHS, DOD and DOJ upon request to the extent such information is readily available to Verizon Business.

1.3 Amend Section 6.3. The introductory paragraph of section 6.3, up to but not including subparagraph (a), is hereby deleted and replaced as follows:

6.3 Outsourcing Contracts. Verizon Business shall not enter into an Outsourcing Contract that affords the contractor Access to Sensitive Information, Classified Information, TPE Transactional Data, TPE Subscriber Information and TPE Principal Equipment that is owned in whole or in part by Verizon Business other than in accordance with applicable law. In any Outsourcing Contract pertaining to control or operation of the Domestic TPE Infrastructure as defined herein or pertaining to the technical maintenance or security of TPE Principal Equipment owned in whole or in part by Verizon Business, Verizon Business shall take reasonable steps to ensure that the contractor complies with the applicable terms of this Agreement. Such steps shall include the following:

Paragraph (b)(i) of section 6.3 is hereby struck and replaced as follows:

- (i) no later than **thirty (30) days** before the Outsourcing Contract becomes effective, or by June 1, 2009, or as soon thereafter as is practicable, whichever is later, Verizon Business shall notify DHS, DOD, and DOJ in writing, identifying the name of the entity, describing the functions covered by this Agreement, and attaching a complete copy of the Outsourcing Contract; and

1.4 **Amend Section 6.11.** Subparagraph (c) of section 6.11 is hereby amended by striking the word “and” immediately following the semicolon at the end of the paragraph. Subparagraph (d) of section 6.11 is hereby amended by striking the period at the end of the paragraph, and replacing it with “; and”. New subparagraph (e) is hereby inserted at the end of section 6.11:

- (e) a description of any changes in the TPE Cable Network topology due to the addition of new members to the TPE Consortium, new NOCs or new landing stations during the calendar year, to include a detailed description and map of the TPE Cable Network.

ARTICLE 2: FCC CONDITION

2.1 **FCC Approval.** Upon the execution of this Amendment by all the Parties hereto, DHS, DOD, and DOJ shall, on their 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 B attached hereto (the “**Condition to FCC Authorization**”), DHS, DOD, and DOJ have no objection to the FCC’s grant of the Modification Application. This Section is effective upon execution of this Amendment by all the Parties hereto; provided, however, that in the case of a material modification or withdrawal of the Modification Application after the execution of this Amendment (i) the effectiveness of this Section may be suspended by DHS, DOD, and DOJ; or (ii) DHS, DOD, and DOJ may object, formally or informally, to the grant of the Modification Application and seek additional or different terms that would, consistent with the public interest, address any threat to their ability to enforce the laws, preserve the national security and protect the public safety raised by any such material modification or withdrawal of the Modification Application.

ARTICLE 3: OTHER

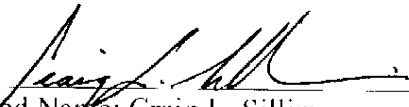
3.1 **Miscellaneous.** This Amendment, and the obligations imposed and rights conferred herein, shall be effective upon the execution of this Amendment by all the Parties hereto. In the event that any provision of this Amendment and any provision of the Agreement are inconsistent or conflicting, the inconsistent or conflicting provisions of this Amendment shall be and constitute an amendment of the Agreement and shall control, but only to the extent that such provision is expressly inconsistent with the Agreement. Except as expressly amended by this Amendment, the Agreement is in all respects ratified, confirmed and approved and all the terms, provisions and conditions set forth in the Agreement that are not specifically modified by this Amendment shall be and remain in full force and effect.

[signature pages follow]

This Amendment is executed on behalf of the Parties:

Verizon Business

Date: April 22, 2009

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

United States Department of Homeland Security

Date: _____

By: _____
Printed Name: _____
Title: _____

United States Department of Defense

Date: _____

By: _____
Printed Name: _____
Title: _____

United States Department of Justice

Date: _____

By: _____
Printed Name: _____
Title: _____

This Amendment is executed on behalf of the Parties:

Verizon Business

Date: _____

By: _____
Printed Name: Craig L. Silliman
Title: Vice President & General Counsel

United States Department of Homeland Security

Date: May 11, 2009

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

United States Department of Defense

Date: _____

By: _____
Printed Name:
Title:

United States Department of Justice

Date: _____

By: _____
Printed Name:
Title:

This Amendment is executed on behalf of the Parties:

Verizon Business

Date: _____

By: _____
Printed Name: Craig L. Silliman
Title: Vice President & General Counsel

United States Department of Homeland Security

Date: _____

By: _____
Printed Name:
Title:

United States Department of Defense

Date: 5/7/09

By: Cheryl J. Roby
Printed Name: Cheryl J. Roby
Title: Acting Assistant Secretary of Defense for
Networks and Information Integration/
Department of Defense Chief Information
Officer (ASD(NII)/DoD CIO)

United States Department of Justice

Date: _____

By: _____
Printed Name:
Title:

This Amendment is executed on behalf of the Parties:

Verizon Business

Date: _____

By: _____
Printed Name: Craig L. Silliman
Title: Vice President & General Counsel

United States Department of Homeland Security

Date: _____

By: _____
Printed Name:
Title:

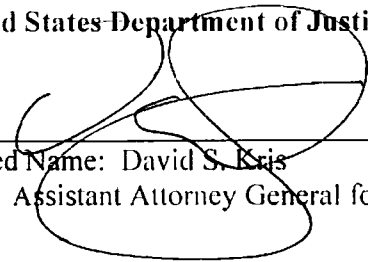
United States Department of Defense

Date: _____

By: _____
Printed Name:
Title:

United States Department of Justice

Date: 4-30-09

By: 
Printed Name: David S. Kris
Title: Assistant Attorney General for National Security

**EXHIBIT A
AGREEMENT**

JAN 9 - 2008

Federal Communications Commission
Office of the Secretary**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 United States Department of Homeland Security (“**DHS**”), the United States Department of Defense (“**DOD**”), and the United States Department of Justice (“**DOJ**”), on the other hand (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’s Affiliate MCI International, Inc. (“**MCI**”), is a member of the Trans-Pacific Express (“**TPE**”) consortium (the “**TPE Consortium**”), a group of six (6) companies that intends to construct, land and operate a fiber-optic submarine cable system linking the People’s Republic of China (“**PRC**”), the Republic of Korea (“**ROK**”), the island of Taiwan, and the United States (the “**TPE Cable Network**”);

WHEREAS, in addition to MCII, the members of the TPE Consortium are China Network Communications Group Corporation ("**China Netcom**"), China Telecommunications Corporation ("**China Telecom**"), China United Telecommunications Corporation ("**China Unicom**"), Chunghwa Telecom ("**Chunghwa**"), and KT Corporation ("**KT**"), all of whom are parties to a cable Construction and Maintenance Agreement ("**C&MA**");

WHEREAS, each member of the TPE Consortium will have the same investment, voting rights and ownership in the TPE Cable Network, and whereas the C&MA requires that decisions regarding the TPE Cable Network be made by at least two-thirds majority, with no party having veto power;

WHEREAS, the TPE Cable Network will combine a linear trans-Pacific route with an intra-Asian ring, and whereas, the cable will land in Asia at currently operational cable landing stations in Chongming, PRC; Qingdao, PRC; Keoje, ROK; Tanshui, the island of Taiwan; and in the United States in Nedonna Beach, Oregon, at a beach manhole owned by WCI Cable, Inc. ("**WCIC**") (the "**U.S. Cable Landing**");

WHEREAS, after landing at the U.S. Cable Landing, the TPE cable will run through buried conduit to a landing building, each owned by WCIC, and thereafter will travel at least two diverse routes each owned by WCIC or Verizon Business ("**U.S. TPE Segment**") to certain equipment in Verizon Business's cable terminal in Hillsboro, Oregon, at which point the TPE cable will terminate (the "**U.S. Termination Point**");

WHEREAS, physical security at the U.S. Cable Landing is managed by WCIC, Verizon Business contracts for WCIC's services, and Verizon Business is ultimately responsible for physical security for TPE at this site;

WHEREAS, each member of the TPE Consortium that operates a landing station will be able to interrupt all traffic passing through their respective cable landing facilities;

WHEREAS, one (1) or more Network Operation Centers will be established by other members of the TPE Consortium outside of the United States (each, a "**Non-U.S. TPE NOC**") which will be able to view the status of the TPE Cable Network and individual TPE cable segments;

WHEREAS, Verizon Business will be able to suspend or interrupt some or all of the traffic on the TPE Cable Network passing through the U.S. Termination Point and no other party will be able to restore such traffic in response to such an interruption;

WHEREAS, the demarcation point in the U.S. for network surveillance by the NOCs is the Optical Distribution Frame located at the U.S. Termination Point;

WHEREAS, Verizon Business policies and procedures govern physical and logical security at the Verizon Business cable terminal in Hillsboro, Oregon, and at Verizon Business's existing facilities for other networks within the United States;

WHEREAS, on February 20, 2007, MCII applied on behalf of the TPE Consortium to the Federal Communications Commission ("**FCC**") for a submarine cable landing license under

the Cable Landing License Act of 1921¹ and Executive Order No. 10530,² FCC File No SCL-LIC-20070222-00002 (the “**Application**”);

WHEREAS, DHS, DOD, and DOJ will request that the FCC’s grant of the pending 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, DOD, and DOJ to address issues raised by DHS, DOD, and DOJ, 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 “**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.

1.4 “**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 non-fulfillment of contracts of the entity;

¹ Pub. Law No. 8, 67th Congress, 42 Stat. 8 (1921); 47 U.S.C. §§ 34-39.

² Exec. Ord. No. 10530 § 5(a) (May 10, 1954), reprinted as amended in 3 U.S.C. § 301.

- (e) the amendment of the articles of incorporation or constituent agreement of the entity with respect to the matters described in Section 1.4(a) through (d); or
- (f) Verizon Business's obligations under this Agreement.

1.5 "**De facto**" and "**de jure**" control have the meanings provided in 47 C.F.R. § 1.2110.

1.6 "**Domestic TPE 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 TPE Infrastructure.

1.7 "**Domestic TPE Infrastructure**" means: (a) the U.S. Cable Landing, including the Verizon Business TPE power feed equipment in the landing building; (b) the U.S. TPE Segment; (c) Hillsboro Equipment; and (d) equipment in the Verizon Business U.S. TPE NOC used by Verizon Business to operate, control, monitor, or otherwise manage the U.S. Cable Landing, the U.S. TPE Segment, or the Hillsboro Equipment.

1.8 "**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).

1.9 "**Electronic Communication**" has the meaning given it in 18 U.S.C. § 2510(12).

1.10 "**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.

1.11 "**Hillsboro Equipment**" means Verizon Business's routing switching, bridging and similar equipment (including software and upgrades) deployed by or on behalf of Verizon Business for use as part of the TPE Cable Network in the Verizon Business cable terminal in Hillsboro.

1.12 "**Foreign**" where used in this Agreement, whether capitalized or lower case, means non-U.S.

1.13 "**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.

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

1.15 “**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 TPE Communications, TPE Transactional Data, or TPE Subscriber Information.

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

1.17 “**Network Operations Center**” or “**NOC**” means the locations and facilities designated as such by the members of the TPE Consortium for purposes of performing network management, monitoring, maintenance or other operational functions for the TPE Cable Network.

1.18 “**Offshore**” or “**Offshoring**” means performing functions covered by this Agreement which are normally performed by personnel of Verizon Business within the territorial limits of the continental United States through the use of personnel outside the territorial limits of the continental United States.

1.19 “**Optical Distribution Frame**” or “**ODF**” means a passive device containing connection modules for terminating optical cables located in each of the foreign landing stations and in the U.S. Termination Point that serves as the demarcation point between TPE Cable Network in each country and the non-TPE networks and communications infrastructure in each country.

1.20 “**Outsource**” or “**Outsourcing**” means performing functions covered by this Agreement which are normally performed by personnel of Verizon Business through the use of contractors of Verizon Business.

1.21 “**Outsourcing Contract**” means a contract between Verizon Business and an individual or entity to perform functions covered by this Agreement which are normally performed by employees of companies in the business of providing those telecommunications services that Verizon Business provides. Outsourcing Contract also includes any contract to perform a specific activity that is required to be performed by Verizon Business under the express terms of this Agreement.

1.22 “**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).

1.23 “**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.

1.24 "**Security Personnel**," means the points of contact designated pursuant to Section 4.6.

1.25 "**TPE Account Information**" means information, if any, exchanged between Verizon Business and a customer specifically relating to provision of service using TPE, including without limitation the customer's identity, billing address, contact information, service type, service architecture, price, service performance, and the like associated with customer's contracted-for use of the TPE Cable Network.

1.26 "**TPE Cable Network**," in addition to the meaning given in the Recitals to this Agreement, means all equipment, facilities and services: (a) pertaining to the Trans-Pacific Express cable network linking the continental United States and mainland China and located between the ODF at each foreign landing station and the ODF at the U.S. Termination Point, respectively, including but not limited to all optical cables; landing stations in Chongming, PRC; Qingdao, PRC; Keoje, ROK; Tanshui, the island of Taiwan; and Nedonna Beach, Oregon, United States of America; and (b) all TPE NOCs.

1.27 "**TPE Network Management Information**" means, with respect to TPE, the network management operations plans, processes and procedures implemented to monitor, manage, maintain, or otherwise operate the TPE Cable Network, including but not limited to network management operations plans, processes and procedures; descriptions of the placement of NOC(s) and linkages (for service offload or administrative activities) to other domestic and international carriers, ISPs and other critical infrastructures; descriptions of networks and operations processes and procedures for management control and relation to the backbone infrastructure(s) including other service providers; description of any unique or proprietary control mechanisms as well as operating and administrative software; and network performance information.

1.28 "**TPE Subscriber Information**" means all records or other information relating to customers or subscribers of Verizon Business contained in Domestic TPE 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 TPE Subscriber Information when it is sought pursuant to the provisions of other Lawful U.S. Process.

1.29 "**TPE Transactional Data**" means the following when part of SONET or wavelength header or signaling information of a Domestic TPE Communication but excludes the content (payload) of a Domestic TPE 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 TPE 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 TPE Communication is transmitted.

1.30 “**United States**” 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.

1.31 “**U.S. Termination Point**” has the meaning given to it in the Recitals of this Agreement.

1.32 “**U.S. TPE Segment**” has the meaning given to it in the Recitals of this Agreement.

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

1.34 “**WCIC**” means WCI Cable, Inc., its Affiliates, and subsidiaries.

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

1.36 **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: REQUIREMENTS REGARDING THE TPE CABLE NETWORK

2.1 **Requirements.** With respect to the operation of the TPE Cable Network, Verizon Business agrees as follows:

- (a) Verizon Business shall maintain freedom to act independently without foreign ownership, control or influence in all matters relating to the TPE Cable Network. Verizon Business's compliance with the terms of the C&MA and related arrangements for TPE shall not be deemed a violation of this provision;
- (b) a NOC for the TPE Cable Network shall be established within the United States, to be operated by or on behalf of Verizon Business (the "U.S. TPE NOC") utilizing Screened Personnel. Verizon Business may use an existing Verizon Business network operations center within the United States for this purpose;
- (c) Verizon Business shall obtain the right to direct WCIC to implement all terms of this Agreement. Verizon Business shall also obtain an indefeasible right of use in the U.S. Cable Landing; the WCIC conduit connecting the U.S. Cable Landing to the WCIC landing building; the WCIC landing building; and the TPE cable in the U.S. TPE Segment from WCIC for the life of the TPE Cable Network. Physical entry to all privately owned and controlled areas of these facilities dedicated to TPE shall be limited to Verizon Business and WCIC Screened Personnel and authorized visitors;
- (d) Subject to the requirements of Article 4 below, Verizon Business will provide DHS, DOD, and DOJ upon request with copies of: (i) its security policies and procedures governing TPE-related activities at the cable terminal Hillsboro, Oregon; U.S. TPE NOC; the Verizon Business portion of the U.S. TPE Segment; and (ii) WCIC's security policies and procedures governing TPE-related activities at the U.S. Cable Landing, the landing building, and the WCIC portion of the U.S. TPE Segment; Verizon Business shall reasonably address any concerns DHS, DOD, and/or DOJ may raise with respect to such security policies and procedures;
- (e) Verizon Business shall configure Domestic TPE Infrastructure so that it can promptly and effectively interrupt in whole or in part traffic to and from the United States on the TPE Cable Network by disabling or disconnecting circuits at the Verizon Business cable terminal in Hillsboro, Oregon;
- (f) Verizon Business shall configure all necessary systems so that the U.S. TPE NOC will be able to initiate a suspension or interruption of SONET service on some or all of the TPE Cable Network;
- (g) Verizon Business shall configure all necessary systems so that the U.S. TPE NOC will be able to view the status of the TPE Cable Network and individual TPE cable segments; and

- (h) Verizon Business shall configure Domestic TPE Infrastructure so that Non-U.S. TPE NOCs will be unable to observe any portion of Verizon Business's network beyond the Optical Distribution Frame in the U.S. Termination Point.

ARTICLE 3: FACILITIES, INFORMATION STORAGE AND ACCESS

3.1 Domestic TPE Infrastructure. Except to the extent and under conditions concurred in by DHS, DOD, and DOJ in writing:

- (a) except as required for the operation of the TPE Cable Network or as otherwise provided in this Agreement, all Domestic TPE Infrastructure shall be directed, controlled, supervised and managed by Verizon Business; and
- (b) Verizon Business shall provide technical or other assistance in accordance with applicable law to facilitate Electronic Surveillance of Domestic TPE Communications.

3.2 Compliance with Lawful U.S. Process. Verizon Business shall take all steps required by applicable law to configure the Domestic TPE Infrastructure to be capable of complying, and Verizon Business employees in the United States will have authority unconstrained by any other TPE Consortium member 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 § 706 of the Communications Act of 1934, as amended, (47 U.S.C. § 606), and under § 302(e) of the Aviation Act of 1958 (49 U.S.C. § 40107(b)) and Executive Order 11161 (as amended by Executive Order 11382); 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.).

3.3 Information Storage and Access. Unless otherwise agreed to by the Parties, Verizon Business shall store exclusively in the United States the following:

- (a) stored Domestic TPE Communications, if such communications are stored by or on behalf of Verizon Business for any reason;
- (b) TPE Transactional Data, if such data are stored by or on behalf of Verizon Business for any reason;
- (c) TPE Subscriber Information, if such information is stored by or on behalf of Verizon Business for any reason;
- (d) Billing records (if any) of domestic customers or subscribers for use of TPE services, if such information is stored by or on behalf of Verizon Business for any reason; and

(e) TPE Network Management Information.

Notwithstanding the foregoing, nothing in this Section imposes any restriction on storage of: (i) TPE Account Information to the extent necessary to administer and maintain Verizon Business's relationships with customers (if any) who have contracted specifically for use of TPE; and (ii) TPE Network Management Information to the extent necessary to administer and maintain Verizon Business's relationships with other TPE Consortium members in connection with the TPE Cable Network. Nothing in this Section excludes the use of TPE Transactional Data for business or network management purposes in the normal course of business if said data is subject to security and Access controls. The phrase "on behalf of" as used in this Section does not include entities with which Verizon Business contracts in the ordinary course of business for peering, interconnection, roaming, collocation, long distance, or other similar commercial arrangements on which the Parties have agreed.

3.4 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 3.3 above, Verizon Business shall store such preserved records or other evidence in the United States.

3.5 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.

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

ARTICLE 4: SECURITY

4.1 Measures to Prevent Improper Use or Access. Verizon Business shall take all reasonable measures to prevent the use of or Access to the Domestic TPE Infrastructure: (a) to conduct Electronic Surveillance; or (b) to Access, obtain or disclose Domestic TPE Communications, TPE Transactional Data, TPE 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. These measures shall include maintaining and/or creating and complying with written Verizon Business policies and procedures related to a comprehensive security strategy for TPE-related activities at its cable terminal in Hillsboro, Oregon, the U.S. TPE NOC, the U.S. Cable Landing, and the U.S. TPE Segment, including all TPE-related activities of WCIC. Upon written request of DHS, DOD, and/or DOJ, Verizon Business shall make available to the requesting Party or Parties current versions of such policies and procedures, and agrees to meet and confer with the DHS, DOD, and DOJ and reasonably address any concerns they may raise as part of the procedure described herein.

4.2 Access by Foreign Government Authorities. Verizon Business shall not, directly or indirectly, disclose or permit disclosure of, or provide Access to Domestic TPE Communications, TPE Transactional Data, or TPE 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, DOD, and DOJ 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.

4.3 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) TPE Transactional Data, TPE 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, DOD, and DOJ 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 for the communications, data or information identified in this Section that is maintained by Verizon shall be referred to DHS, DOD, and DOJ 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, 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 shall take reasonable measures to ensure that it will promptly learn of all such requests or submission of legal process.

4.4 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 TPE Communications stored by or on behalf of Verizon Business in the United States, Verizon Business shall notify DHS, DOD, and DOJ in writing of such legal process or requests, unless such disclosure would violate applicable law.

4.5 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.

4.6 Points 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 TPE 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 TPE Infrastructure. Promptly after designating such points of contact, Verizon Business shall notify DHS, DOD, and DOJ in writing of the points of contact and the type of Lawful U.S. Process each is designated and cleared to receive, and thereafter shall promptly notify DHS, DOD, and DOJ of any change in such designation. The points of contact shall be resident U.S. citizens. Verizon Business shall cooperate with any reasonable notice 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.

4.7 Information Security Plan. Verizon Business shall:

- (a) take appropriate measures to prevent unauthorized Access to or disclosure of Classified or Sensitive Information and to address proper handling and storage of such information;
- (b) assign only Screened Personnel (as that term is defined in Section 4.11) to positions that regularly deal with or are responsible for maintaining the confidentiality of Sensitive Information;
- (c) upon request from DHS, DOD, or DOJ, 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 4.6 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.

4.8 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, DOD, and DOJ, 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.

4.9 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

Sections 6.2, 6.3, 6.5, and 6.8 of this Agreement, and shall issue periodic reminders to them of such obligations.

4.10 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.

4.11 Screening of Personnel. Verizon Business shall implement a screening process to ensure compliance with all personnel screening requirements agreed to by Verizon Business and the USG Parties in this Agreement, which includes screening for any existing or newly hired Verizon Business personnel (such personnel, upon satisfactory completion of screening procedures, to be considered "**Screened Personnel**"):

- (a) whose position involves Access to the Domestic TPE Infrastructure that enables those persons to monitor the content of Domestic TPE Communications;
- (b) whose position allows Access to TPE Transactional Data other than data that would constitute TPE Account Information or TPE Network Management Information;
- (c) all persons who have Access to Sensitive Information; and
- (d) all Security Personnel.

4.12 Screening Process Requirements. The screening process undertaken pursuant to this Section shall specifically include a background and financial investigation, in addition to a public criminal records check. In addition:

- (a) Verizon Business shall consult with DHS, DOD, and DOJ regarding the screening procedures to be utilized. Verizon Business shall reasonably address any concerns DHS, DOD, or DOJ may raise with respect to such screening procedures. Verizon Business shall utilize the criteria identified pursuant to Section 4.11 of this Agreement to identify the personnel to be screened.
- (b) Verizon Business shall cooperate with reasonable lawful requests by DHS, DOD, or DOJ, or any U.S. Government Authority desiring to conduct any further background checks.
- (c) Individuals who are rejected pursuant to such further background checks by DHS, DOD, or DOJ shall not be permitted to perform functions that would require screening under this Section. Verizon Business shall notify DHS, DOD, and DOJ of the job modification of any individual rejected because of the screening conducted pursuant to this Agreement within **ten (10) business days** of such modification, and shall provide DHS, DOD, and DOJ upon request with the name, date of birth and any other requested identifier information of such individual.
- (d) Verizon Business shall provide training programs to instruct Screened Personnel as to their obligations under the Agreement. Verizon Business shall monitor on a

regular basis the status of Screened Personnel, and shall remove personnel who no longer meet the Screened Personnel requirements.

- (e) Verizon Business shall maintain records relating to the status of Screened Personnel, and shall provide these records, upon request, to any or all of DHS, DOD, and DOJ.
- (f) Any records or other information relating to individual persons provided to or obtained by DHS, DOD, or DOJ in connection with this Agreement, including implementation and results of screening requirements shall be maintained in a secure and confidential manner strictly in accordance with applicable law.

ARTICLE 5: DISPUTES

5.1 **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) 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) days** of such meeting may be submitted by any Party to the Assistant Secretary for Policy of DHS, the Assistant Secretary of Defense for Networks and Information Integration (ASD NII)/Department of Defense Chief Information Officer (CIO) of DOD, the Assistant Attorney General for National Security of DOJ, and the General Counsel Verizon Business, unless DHS, DOD, or DOJ 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 5.2. The Parties shall meet by person or by phone within **ten (10) days**, or at such later date as they may mutually agree, after notification of the dispute and inability to resolve it at the staff level. 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 5.2. 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 purposes of resolving that disagreement. A Party resorting to measures set forth in Section 5.2 shall give prior written notice of its intent to do so to each other Party.

5.2 **Enforcement of Agreement.** Subject to Section 5.1 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 Authority to:

- (a) Request that the Party or Parties believed to have breached, or about to breach, this Agreement cure such breach within **thirty (30) 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 officer, director, employee, contractor, 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.

5.3 **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, DOD, and DOJ shall be entitled, in addition to any other remedy available at law or equity, to seek specific performance and injunctive or other equitable relief.

5.4 **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.

5.5 **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.

5.6 **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 6: REPORTING AND NOTICE

6.1 **Filings Concerning *de facto* or *de jure* 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 TPE Cable Network except for filings with the FCC for assignments or transfers of control that are *pro forma*, Verizon Business shall promptly provide to DHS, DOD, and DOJ written notice and copies of such filing.

6.2 **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 in the pending FCC Application(s), has or will likely obtain an ownership interest (direct or indirect) in Verizon Business or the TPE Cable Network 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 likely will otherwise gain either: (i) Control; or (ii) *de facto* or *de jure* control of Verizon Business, then such officer or director shall cause Verizon Business, to the maximum extent possible, to notify DHS, DOD, and DOJ 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.

6.3 **Outsourcing Contracts.** Verizon Business shall not enter into an Outsourcing Contract that affords the contractor Access to Sensitive Information, Classified Information, TPE Transactional Data, and TPE Subscriber Information other than in accordance with applicable law. In any Outsourcing Contract pertaining to control or operation of the Domestic TPE Infrastructure as defined herein, Verizon Business shall take reasonable steps to ensure that the contractor complies with the applicable terms of this Agreement. Such steps shall include the following:

- (a) Verizon Business shall include written provisions in the Outsourcing Contract that require the contractor to comply with all applicable terms of this Agreement or shall take other reasonable, good-faith measures to ensure that the contractor is aware of, agrees to, and is bound to comply with all such terms;

- (b) if the contractor may perform any of the contracted-for services outside the United States, or is identified after reasonable inquiry by Verizon Business as either Controlled by one or more foreign persons or combination of foreign persons under common Control, or as having ten (10) percent or more of its voting equity held, directly or indirectly, by one or more foreign persons or combination of foreign persons under common Control, then:
 - (i) no later than **thirty (30) days** before the Outsourcing Contract becomes effective, Verizon Business shall notify DHS, DOD, and DOJ in writing, identifying the name of the entity, describing the functions covered by this Agreement, and attaching a complete copy of the Outsourcing Contract; and
 - (ii) DHS, DOD, and DOJ shall have **thirty (30) days** from receipt of the notice to review and provide Verizon Business with any objection to the Outsourcing Contract, which objection shall be based on national security, law enforcement, or public safety grounds. If DHS, DOD, or DOJ objects in accordance with this Section, Verizon Business shall meet with the objecting Party and confer regarding such concerns.
- (c) Verizon Business shall not induce the contractor either to violate its obligations to Verizon Business related to this Agreement or to take any action that, if taken by Verizon Business, would violate this Agreement;
- (d) if Verizon Business discovers any information that reasonably indicates that the contractor or any of its employees or agents has taken an action that, had it been taken by Verizon Business, would violate a provision of this Agreement, or has violated its obligations to Verizon Business related to this Agreement, Verizon Business:
 - (i) shall notify DHS, DOD, and DOJ within **ten (10) business days**; and
 - (ii) in consultation and cooperation with DHS, DOD, and DOJ, shall take all reasonable steps necessary to rectify promptly the situation, including terminating the Outsourcing Contract (with or without notice and opportunity for cure) or initiating and pursuing litigation or other remedies at law and equity; and
- (e) neither an Outsourcing Contract nor any provision of this Section does nor shall it be construed to relieve Verizon Business of any of its obligations under this Agreement.

6.4 Offshoring. Verizon Business shall comply with all aspects of this Agreement with respect to any personnel it may have offshore.

6.5 Notice of Foreign Influence. If any member of the Management of Verizon Business discovers any information that reasonably indicates that any Foreign Government, any Foreign Government-controlled entity, or any foreign entity plans to participate or has participated in any aspect of the day-to-day management of Verizon Business or the TPE Cable Network in such a way that:

- (a) materially interferes with or impedes the performance by Verizon Business of its duties and obligations under the terms of this Agreement;
- (b) materially interferes with or impedes the exercise by Verizon Business of its rights under the Agreement; or
- (c) raises a material concern with respect to the successful fulfillment by Verizon Business of its obligations under this Agreement;

then such officer or director shall within **ten (10) business days** notify DHS, DOD, and DOJ in writing of the timing and the nature of the Foreign Government's or entity's plans or actions.

6.6 Procedure and Process on Reporting. Within **forty-five (45) 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, DOD, or DOJ under Sections 6.2, 6.3, 6.5, and 6.8 of this Agreement. 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 Sections 6.2, 6.3, 6.5, and 6.8 of this Agreement 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 shall 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.

6.7 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 Sections 6.2, 6.3, 6.5 or 6.8 of this Agreement, 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, DOD, and DOJ under either Sections 6.2, 6.3, 6.5 or 6.8 of this Agreement or under Verizon Business' 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.

6.8 Reporting of Incidents. Verizon Business shall report to DHS, DOD, and DOJ if it learns of any information that reasonably indicates:

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

- (c) Access to or disclosure of TPE Transactional Data in violation of federal, state, or local law or regulation (except for violations of FCC regulations relating to improper commercial use of TPE Transactional Data or breach of customer proprietary network information); or
- (d) improper Access to or disclosure of Classified or Sensitive Information.

This report shall be promptly made in writing by an appropriate officer of Verizon Business to DHS, DOD, and DOJ 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.

6.9 Availability of Information and Facilities. DHS, DOD, or DOJ may visit, at any time upon reasonable request, any part of Verizon Business's Domestic TPE 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, DOD, or DOJ to verify compliance with the terms of this Agreement.

6.10 Personnel Interviews. Upon reasonable notice from DHS, DOD, or DOJ, Verizon Business shall make available for interview any and all knowledgeable personnel who are in a position to provide information to verify compliance with the terms of this Agreement.

6.11 Annual Report. On or before the last day of January 2009 and January of each year thereafter, an appropriate officer of Verizon Business shall submit to DHS, DOD, and DOJ 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, not otherwise reported under Section 6.8, 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 compliance with this Agreement.

6.12 Notices. Following the Effective Date, 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

facsimile; (c) sent by documented overnight courier service; or (d) 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

Department of Justice
Assistant Attorney General for National Security
950 Pennsylvania Avenue, NW
Washington, DC 20530
Fax: (202) 305-4211
Email: TTelecom@usdoj.gov

Verizon Business Global LLC
General Counsel Verizon Business
VC43E043
One Verizon Way
Basking Ridge, New Jersey 07920
Fax: (908) 696-2136
Email: randal.s.milch@verizonbusiness.com

With a copy to:

Defense Information Systems Agency, Office of the General Counsel
Deputy General Counsel for Regulatory and International Law
P.O. Box 4502, HQ DISA/GC
Arlington VA 22204-4502
Fax: (703) 607-4344
Email: generalcounseldisa@disa.mil

Department of Defense
Deputy Assistant Secretary of Defense for Information and Identity Assurance
Rm. 3D-239 Pentagon
Washington, DC 20301-6000
Fax: (703) 614-7484
Email: NII.CMO@osd.mil

Verizon Business
Director Network Engineering
Room D1311
2400 North Glenville
Richardson, Texas 75082
Fax: (972) 729-7730

Email: george.clutter@verizonbusiness.com

Notices shall be deemed received as of the date of personal delivery; the date of confirmed delivery printed on a facsimile confirmation; 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.

ARTICLE 7: FREEDOM OF INFORMATION ACT

7.1 **Protection from Disclosure.** DHS, DOD, and DOJ 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, DOD, or DOJ 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, DOD, or DOJ, as appropriate, 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, DOD, or DOJ as appropriate, 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.

7.2 **Use of Information for U.S. Government Purposes.** Nothing in this Agreement shall prevent DHS, DOD, or DOJ 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, DOD, and DOJ take all reasonable measures to protect from public disclosure the information marked as described in Section 7.1. Further, nothing in this Agreement shall limit the ability of DHS, DOD, or DOJ to disclose this Agreement or any information related to this Agreement to enforce or comply with any federal law or regulation.

ARTICLE 8: FCC CONDITION

8.1 **FCC Approval.** Upon the execution of this Agreement by all the Parties, DHS, DOD, and DOJ shall, on their 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, DOD, and DOJ have 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, DOD, or DOJ, and any such FCC filing is subject to the right to object reserved in Section 8.2.

8.2 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 TPE Cable Network 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 9.9, DHS, DOD, and DOJ reserve 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 9: OTHER

9.1 Right to Make and Perform Agreement. Each Party hereby 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.

9.2 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.

9.3 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.

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

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

9.6 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, DOD, and DOJ agree 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) days** after approval in writing by the Parties.

9.7 **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.

9.8 **Changes in Circumstances for Verizon Business.** DHS, DOD, and DOJ agree 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.

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

9.10 **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.

9.11 **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.

9.12 **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.

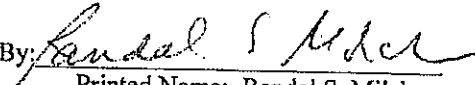
9.13 **Notice of Additional Services.** Verizon Business shall provide a minimum of **thirty (30) days** advanced notice to DHS, DOD, and DOJ in the event that Verizon Business or any Affiliate changes or intends to change the technical or operation plans set forth in the Recitals of this Agreement such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

[Signature Page Follows]

This Agreement is executed on behalf of the Parties:

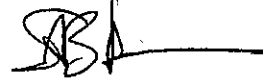
Verizon Business

Date: 12 December 2007

By: 
Printed Name: Randal S. Milch
Title: Senior Vice President &
General Counsel

United States Department of Homeland Security

Date: 14 Dec 2007

By: 
Printed Name: Stewart A. Baker
Title: Assistant Secretary for Policy

United States Department of Defense

Date: _____

By: _____
Printed Name: John G. Grimes
Title: Assistant Secretary of Defense for
Networks and Information Integration (ASD
NII) / Department of Defense Chief
Information Officer (CIO)

United States Department of Justice

Date: _____

By: _____
Printed Name: Kenneth L. Wainstein
Title: Assistant Attorney General for
National Security

This Agreement is executed on behalf of the Parties:

Verizon Business

Date: _____

By: _____

Printed Name: Randal S. Milch

Title: Senior Vice President &
General Counsel

United States Department of Homeland Security

Date: _____

By: _____

Printed Name: Stewart A. Baker

Title: Assistant Secretary for Policy

United States Department of Defense

Date: 12/20/2007

By: 

Printed Name: John G. Grimes

Title: Assistant Secretary of Defense for
Networks and Information Integration (ASD
NII) / Department of Defense Chief
Information Officer (CIO)

United States Department of Justice

Date: _____

By: _____

Printed Name: Kenneth L. Wainstein

Title: Assistant Attorney General for
National Security

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Verizon Business

Date: _____

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Printed Name: Randal S. Milch
Title: Senior Vice President &
General Counsel

United States Department of Homeland Security

Date: _____

By: _____

Printed Name: Stewart A. Baker
Title: Assistant Secretary for Policy

United States Department of Defense

Date: _____

By: _____

Printed Name: John G. Grimes
Title: Assistant Secretary of Defense for
Networks and Information Integration (ASD
NII) / Department of Defense Chief
Information Officer (CIO)

United States Department of Justice

Date: 12-17-07

By: Kenneth L. Wainstein — by C. Steele

Printed Name: Kenneth L. Wainstein
Title: Assistant Attorney General for
National Security Chief of Staff

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**”), the Department of Defense (“**DOD**”), and the Department of Justice (“**DOJ**”), on the other, dated December 20, 2007, which Agreement is designed to address national security, law enforcement, and public safety concerns of DHS, DOD, and DOJ 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.

EXHIBIT B
CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses granted, transferred or assigned thereunder are subject to compliance with the provisions of the agreement, between Verizon Business Global LLC, for itself, its Affiliates and subsidiaries, on the one hand, and the Department of Homeland Security, (“DHS”), the Department of Defense (“DOD”), and the Department of Justice (“DOJ”) on the other, dated December 20, 2007, as amended pursuant to an amendment dated May 11, 2009 (the “Agreement”), which Agreement is designed to address national security, law enforcement and public safety concerns of DHS, DOD and DOJ 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.