



December 4th, 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

Dear Sir:

This Letter of Assurances (“LOA”) modifies and updates the commitments originally made by Telxius Cable USA, Inc. (“Telxius”) to the U.S. Department of Homeland Security (“DHS”) and the U.S. Department of Defense (“DOD”) (collectively, the “USG Parties”) in an October 2, 2017 Letter of Assurances (“2017 LOA”) to address national security, law enforcement, and public safety concerns raised with regard to Telxius’ application to the Federal Communications Commission (“FCC”) for a license to land and operate a fiber-optic submarine cable network connecting the United States and its territories to Brazil, Argentina, Chile, Peru, Guatemala, Colombia, Ecuador and the Dominican Republic, the SAM-1 Cable System (“SAM-1”)¹.

Telxius understands that the 2017 LOA is being terminated in light of the modified and updated commitments provided through this LOA with respect to SAM-1. Telxius has agreed to provide this LOA to DHS, and Telxius understands that DHS will petition the FCC to condition the cable landing license and modification application for the SAM-1 Cable 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 or its territories.

¹ SCL-LIC-2000204-00003, Application for Cable Landing License, SCL-MOD-20180905-00032 Application to Modify Cable Landing License, and SCL-MOD-20190826-00028 Application to Modify Cable Landing License

- B. “Domestic Communications Infrastructure” or “DCI” means: (a) any portion of SAM-1 that physically is located in the United States or its territories, up to and including the submarine line terminating equipment, including (if any) transmission, switching, bridging, and routing equipment, and any associated software (with the exception of commercial-off-the-shelf (“COTS”) software used for common business functions, *e.g.*, Microsoft Office) used 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 Telxius for purposes of performing network management, monitoring, maintenance, or other operational functions for SAM-1.
- E. “Principal Equipment” means the primary electronic components of SAM-1, which includes the DCI 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 SAM-1 (with the exception of COTS software used for common business functions, *e.g.*, Microsoft Office).
- F. “Screened Personnel” has the meaning given it in Section 11 below.
- G. “Wet Infrastructure” means hardware components installed and residing on the undersea portion of SAM-1, including fiber optic cables, repeaters, branching units, and routers (if any). Wet Infrastructure includes all the components used to define the topology of the undersea portion of SAM-1.
- H. “Wire Communication” has the meaning given it in 18 U.S.C. § 2510(1).

Telxius undertakes to comply with the following commitments:

1. Security Point of Contact

Telxius agrees to maintain a Security Point of Contact (“POC”) for purposes of this LOA. The POC will be a U.S. citizen residing in the United States and will be eligible to hold a U.S. Government security clearance at the “Secret” level or higher. The POC will possess the appropriate authority, reporting lines, independence, skills and resources to

ensure compliance with the terms of this LOA. Telxius agrees to nominate any new proposed POC within thirty (30) business days of the execution of this LOA. Telxius understands that any new POC will be subject to DHS review and non-objection and will be subject to a background check at the sole discretion of DHS. In order to facilitate this, upon request by DHS, Telxius will provide personally identifiable information as needed by DHS.

The 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 SAM-1. Upon request by DHS, the POC will make himself/herself available in person within the United States within 72-hours, at a date and location, including in a classified setting, as deemed necessary by DHS. The POC will be responsible for receiving and promptly effectuating any lawful inquiries or requests for information and for otherwise ensuring compliance with obligations set forth in this LOA.

To the extent practicable, Telxius agrees to notify DHS of any proposed change to the POC at least ten (10) business days in advance of such proposed change. Telxius understands that any proposed 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 request by DHS, Telxius agrees to make available the following SAM-1 Cable Information to the extent not already submitted to DHS:

- (a) Network management information, including, 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 SAM-1; and (6) descriptions of interfaces and connections to SAM-1 for service offload, disaster recovery, or administrative functions;
- (b) A complete and current list of all contracts held by Telxius or its designee(s) for the maintenance, repair and security of SAM-1; and
- (c) A restoration plan for the Principal Equipment and the Wet Infrastructure for SAM-1.

3. Operational Requirements

With respect to the operation of SAM-1, Telxius agrees as follows:

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

If Telxius is required to interrupt traffic to or from the United States as a result of lawful U.S. process, Telxius 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, Telxius agrees to provide DHS with a list to include the following information to the extent not already reported to DHS:

- (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.

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

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

5. Modifications to Existing Principal Equipment

Telxius agrees to provide DHS at least fifteen (15) business days' advance notice prior to any maintenance, repair, or replacement that would result in any modification to the quantum, function, configuration, operation, or location of existing Principal Equipment for SAM-1.

Telxius may request a waiver of 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 SAM-1; however, in such circumstances, Telxius agrees to provide advance notice to DHS of the modification, if practicable, and, if impracticable, Telxius agrees to provide notice within ten (10) business days after the modification of the Principal Equipment. Where providing notice is impracticable, Telxius shall provide a detailed description of the equipment replaced and the circumstances surrounding the need to replace the Principal Equipment without prior notice.

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

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

Telxius agrees to provide at least thirty (30) business days' advance notice prior to any change to the list of vendors, contractors, or subcontractors involved in providing, installing, operating, managing, repairing, or maintaining the Principal Equipment.

In addition, Telxius agrees to provide at least thirty (30) business days' advance notice prior to any change to the service offerings or support from a previously-listed vendor, contractor, subcontractor (*i.e.*, where a previously-listed provider will be offering support in a previously unidentified way).

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

7. Equipment Testing

Telxius agrees to provide at least thirty (30) business days' advance notice prior to initiating the testing of any new Principal Equipment connected to SAM-1 by any vendor not already on the approved Principal Equipment List. Objections to any testing proposed pursuant to this Section will be handled pursuant to Section 8.

8. Objection Resolution

DHS will notify Telxius of any objection, including the basis for DHS' objection, to a notice submitted pursuant to Sections 4, 5, 6, or 7 above within sixty (60) business days of receipt of such notice. DHS 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 DHS to grant approval. In the event of such an objection, Telxius will not expand the existing deployment or enhance the capabilities of any Principal Equipment to which DHS has objected, and Telxius agrees to meet, confer and otherwise attempt in good faith to resolve DHS' objection. Until the objection is resolved, Telxius will not upgrade, install, replace, or service any objectionable Principal Equipment without written authorization from DHS.

9. Measures to Prevent Improper Use and Unauthorized Logical Access

Telxius agrees to take practicable measures to prevent unauthorized logical access to SAM-1 and to prevent any unlawful use or disclosure of information carried on the same, and Telxius will include these measures in the policies that it will develop and implement pursuant to this LOA. For purposes of this Section, such "practicable measures," at a minimum, include effectuating compliance with all applicable U.S. laws and regulations governing cybersecurity, information security, and privacy and will be measures consistent with best practices and guidelines, including but not limited to the Cybersecurity Framework of the National Institute of Standards and Technology ("NIST") 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.

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

Telxius agrees 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.

Telxius submitted its logical security measures policy to DHS as a part of its annual report due on October 2, 2019. DHS will approve or disapprove the policy within sixty (60) business days of receipt or as otherwise agreed to by Telxius and DHS, with the right of approval not waived unless provided in writing by DHS.

10. Physical Security Measures

Telxius agrees to take practicable measures to physically secure SAM-1, including the DCI. Telxius will screen appropriate persons in accordance with Section 11 below, and Telxius will require that all persons who physically access the DCI are escorted at all times by Screened Personnel, as defined herein. Telxius submitted its physical security measures policy to DHS as part of its annual report due on October 2, 2019. DHS will approve or disapprove the policy within sixty (60) business days of receipt or as

otherwise agreed to by Telxius and DHS, with the right of approval not waived unless provided in writing by DHS.

11. Screening of Personnel

Telxius agrees to implement, either directly or through a vendor or service provider, a process to screen any existing or newly hired Telxius personnel (or any personnel performing under an agreement or arrangement with Telxius) 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.

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

Telxius submitted its personnel screening policy to DHS as part of its annual report due on October 2, 2019. DHS will approve or disapprove the policy within sixty (60) business days of receipt or as otherwise agreed to by Telxius and DHS, with the right of approval not waived unless provided in writing by DHS. Telxius agrees to cooperate with any request by DHS to provide additional identifying information regarding Screened Personnel.

12. Reporting Incidents and Breaches

Telxius agrees to report to DHS in writing within 48-hours if it learns of information that reasonably indicates:

- (a) Unauthorized third-party access to, or disruption or corruption of, SAM-1 or any information being carried on SAM-1;
- (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.

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

13. Instruction of Obligations

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

14. Change in Services or Cable Operations

Telxius agrees to notify DHS in writing at least thirty (30) business days prior to implementing any changes to the communications services or operations of SAM-1. Telxius agrees to provide a detailed description of the proposed change including the terms, conditions, individuals and/or entities involved in making the change to the communications services or operations.

15. Change in Control

If Telxius learns of any information that reasonably indicates that any single foreign entity or individual, other than those already identified, has or likely will obtain an ownership interest, whether direct or indirect, in Telxius or SAM-1 above ten (10) percent, or if any foreign entity or individual, singly or in combination with other foreign entities or individuals, has or likely otherwise will gain either: (i) control, as determined in accordance with 47 C.F.R. § 63.09(b); or (ii) *de facto* or *de jure* control of Telxius, Telxius agrees 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 Telxius or SAM-1 by the entity or individual(s) (specifying the name, addresses, and telephone numbers of each beneficial owner); and
- (c) Quantify the amount of ownership interest that the entity or individual(s) has or likely will obtain in Telxius or SAM-1 and, if applicable, the basis for their prospective control of Telxius or SAM-1.

16. Annual Report

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

- (a) The names and contact information of the then-current POCs;

- (b) Cable System Information, as described in Section 2 above, noting any changes during the reporting period;
- (c) An updated Principal Equipment List containing all information described in Section 4 above, identifying any 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 (Section 9), physical security (Section 10), personnel screening (Section 11), incident reporting (Section 12), and employee training (Section 13), and a summary of any changes during the reporting period and the reasons therefore;
- (e) 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. Third-Party Audit

At its sole discretion, DHS may request a third-party audit of Telxius' compliance with the terms of this LOA. In connection with the audit:

- (a) Telxius agrees to nominate two (2) third-party auditors, subject to the approval of the DHS. If DHS does not object within thirty (30) business days, the third-party auditor selected by Telxius will be deemed approved unless otherwise agreed to by Telxius and DHS.
- (b) If DHS objects to the nominated third-party auditors, Telxius agrees to nominate another third-party auditor within twenty (20) business days of such objection. If DHS objects to the nominated third-party auditor candidate, Telxius will provide to DHS three (3) additional candidates to be considered for third-party auditor from which DHS may choose at its discretion.
- (c) As part of the auditor nomination and approval process, DHS may condition approval of a nominated auditor on Telxius providing information regarding Telxius' and the nominated auditor's pre-existing relationship (if any).
- (d) Telxius will be solely responsible for any costs associated with any third-party audit carried out pursuant to this Section. DHS, however, will consider avoidance of unreasonable costs as a factor when exercising its rights under this Section.

- (e) Telxius will ensure the selected third-party auditor submits a methodology and proposed scope of audit, both of which will be subject to DHS' approval.
- (f) Telxius will ensure that its complete, executed engagement agreement with the third-party auditor is provided to DHS within five (5) days of execution.
- (g) The third-party auditor will promptly deliver all reports and related information generated or gathered during its review that relate directly to Telxius' compliance with the terms of this LOA to DHS and agrees to meet independently with DHS upon request.

18. DHS Consultation and Visitation

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

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

Telxius agrees that, upon advance notice, DHS may visit Telxius and/or any part of the DCI to conduct on-site reviews to verify the implementation of the terms of this LOA and Telxius' compliance with its terms. Subject to applicable law, during such reviews, Telxius will provide unimpeded access to relevant personnel and business records including but not limited to technical, physical, management, or security records that, at the discretion of DHS, are necessary to verify compliance with the terms of the LOA.

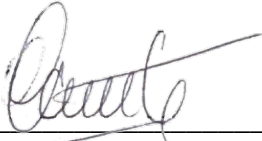
This LOA shall inure to the benefit of, and shall be binding upon, Telxius and its successors, assigns, subsidiaries, and affiliates.

Telxius agrees that, in the event that Telxius breaches the commitments set forth in this LOA, 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 to Telxius or any successors-in-interest, in addition to any other remedy available at law or equity.

If, after this LOA takes effect, DHS or Telxius believes that changed circumstances warrant modifying or terminating this LOA (including if DHS determines that the terms of this LOA are inadequate or no longer necessary to address national security, law enforcement, or public safety concerns), Telxius agrees to 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 excuses Telxius from its obligations to comply with any and all applicable legal requirements and obligations, including all applicable statutes, regulations, requirements, or orders.

For and on behalf of Telxius Cable USA, Inc.

A handwritten signature in black ink, appearing to read 'Guillermo Cañete', written over a horizontal line.

Guillermo Cañete

President

Telxius Cable USA, Inc.

1111 Brickell Avenue, Suite 1800

Miami, Florida 33131-3122

+1 305 925 5433

guillermo.canete@telxius.com