



**Telefónica International  
Wholesale Services  
USA, Inc.**

January 14, 2014

Mr. David Heyman  
Assistant Secretary  
Office of Policy  
U.S. Department of Homeland Security  
245 Murray Lane, SW  
Mail Stop: 0445  
Washington, D.C. 20528

Telefonica International Wholesale Services USA, Inc. ("TIWS USA") is providing this Letter of Assurance (LOA) to the U.S. Department of Homeland Security (DHS) on the express understanding that, promptly upon execution of this LOA, DHS will notify the FCC that they have no objection to the FCC's grant of the pending application for consent Land and Operate an Submarine Cable System Connecting the British Virgin Islands, Puerto Rico, Aruba, Colombia, Panama, Ecuador and the continental United States, and will request that the FCC's grant of that application be made subject to this LOA and its resolution of issues relating to national security, law enforcement, and public safety. For purposes of this LOA, the Pacific Caribbean Cable System (PCCS) includes any associated cable landing sites, Points of Presence (PoPs), or interconnected gateways in the U.S. (whether leased or owned). The PCCS will be a private, non-common carrier submarine cable system that will, as proposed in the pending application, directly connect the United States to points in the Caribbean, Central America and the northern part of South America, spanning an approximate 6,000 kilometers on an end-to-end basis.

TIWS USA has agreed to provide this LOA to DHS to address issues raised by DHS, and to jointly petition the FCC to condition the requested authorization on compliance with this LOA. Upon grant of the license, TIWS USA undertakes to comply with the following commitments to DHS:

1. Principal Equipment List

Within 60 days of this LOA, and thereafter upon request from DHS, TIWS USA shall provide an updated Principal Equipment list. For purposes of this LOA, "Principal Equipment" means the primary components of the Domestic Communications Infrastructure (DCI) and the PCCS, including, but not limited to, should they exist, servers; routers; switches; signal modulators and amplifiers; repeaters; submarine line terminal equipment (SLTE), including signal information element (SIE), network management system (NMS), system supervisory equipment, wavelength

division multiplexing/submarine line terminal equipment (WDM/SLTE), and communications toolbox (CTB), power feed equipment (PFE), optical distribution frames (ODF), and synchronous optical network (SONET) equipment, as applicable, and any non-embedded software (such as NMS) necessary for the proper monitoring, administration and provisioning of the PCCS. This list should include all available information on each item's manufacturer and the model and/or version number of any hardware or software. In addition, the list should identify any vendors, contractors, or subcontractors for the Principal Equipment, including those performing functions that would otherwise be performed by TIWS USA personnel to install, operate, manage, or maintain the Principal Equipment.

Where a new vendor or contractor for Principal Equipment does not appear on any list of Principal Equipment previously disclosed by TIWS USA pursuant to this Agreement, TIWS USA shall provide at least 30 days' advance written notice to DHS of the installation of Principal Equipment made by the new vendor or the initiation of work by the new contractor. TIWS USA need not comply with the advance notice requirement for any action that is undertaken pursuant to a bona fide emergency and is necessary to ensure the continued operability of the network; however, in such circumstances, TIWS USA shall provide advance notice of a new vendor or contractor for Principal Equipment if practicable, and if impracticable, within five business days after the installation of Principal Equipment made by a new vendor or the initiation of work by a new contractor as applicable. TIWS USA shall negotiate in good faith to resolve any national security, law enforcement, or public safety concerns DHS may raise in response to any disclosure made by TIWS USA pursuant to this requirement.

For purposes of this LOA, "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; and "Domestic Communications Infrastructure" (DCI) means: (a) transmission, switching, bridging, and routing equipment (including software and upgrades) used by or on behalf of TIWS USA to provide, process, direct, control, supervise, or manage Domestic Communications carried on the PCCS; or (b) facilities used by or on behalf of TIWS USA to control, provision, and activate the equipment described in (a) above. Domestic Communications Infrastructure does not include equipment or facilities used by service providers other than TIWS USA that are: (a) interconnecting communications providers; or (b) providers of services or content that are: (i) accessible using the communications services of TIWS USA and (ii) available in substantially similar form and on commercially reasonable terms through communications services of companies other than TIWS USA. The phrase "on behalf of" as used in this definition does not include entities with which TIWS USA has contracted for

peering, interconnection, roaming, long distance, or other similar arrangements. Domestic Communications Infrastructure also does not include equipment dedicated to the termination of international undersea cables outside the United States, provided that such equipment is utilized solely to effectuate the operation of such undersea transport network(s) and in no manner controls land-based transport network(s) or their associated systems in the United States. “Electronic Communication” has the meaning given it in 18 U.S.C. § 2510(12). “Wire Communication” has the meaning given it in 18 U.S.C. § 2510(1).

## 2. Information Available Upon Request

Upon request by DHS, TIWS USA agrees to make available updated information within 15 days relating to the development, operation and management of the PCCS, including, but not limited to, the following:

- a. Network Management Information, including: network topology descriptions or maps; network and telecommunications architecture descriptions and associated descriptions of interconnection points and controlled gateways to the DCI; network operational plans, processes and procedures; locations and functions of any network operations centers (NOCs), data centers, and main distribution facilities; and descriptions of interfaces and connections to the PCCS for service offload, disaster recovery, or administrative functions;
- b. Physical and logical security policies, procedures and hardware or software products or appliances maintained to protect the PCCS;
- c. Architecture Interconnect Diagrams (AID) that shows major system/subsystem components, data flow/control, and actors outside the cable system that could interact with the PCCS; and
- d. Any policies or procedures adopted to implement this LOA.

## 3. Point of Contact

TIWS USA hereby designates Mr. Guillermo Cañete, a resident U.S. citizen or permanent resident alien, as Point of Contact (POC) for DHS for purposes of this LOA. Mr. Gerardo Salgado also a resident U.S. citizen or permanent resident alien, will serve as an alternate point of contact in the event the primary Point of Contact cannot be reached. TIWS USA may also designate such additional alternate points of contact, also resident U.S. citizens or permanent



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resident aliens. All such designated points of contact shall be subject to DHS's review and non-objection. The POC, or alternate, shall be available 24 hours per day, 7 days per week to address any national security, law enforcement or public safety concerns that may be raised by DHS with respect to the PCCS. The POC, and any alternates, shall be responsible for receiving service of process for assisting with lawfully authorized electronic surveillance, and shall comply with all statutes, regulations, and requirements regarding lawful electronic surveillance requests. In addition, the POC and alternates shall be responsible for receiving and promptly effectuating any requests for information from DHS pursuant to this LOA.

TIWS USA will notify DHS of any change to the POC or alternates within 10 business days of such change and such POC or alternates shall be subject to DHS's review and non-objection. TIWS USA will cooperate with any request by DHS that a background check be completed for a designated POC or alternate.

#### 4. Operations and Security Policies

Within 60 days of this LOA, TIWS USA will propose for DHS's approval an internal compliance policy and/or procedure for purposes of implementing the requirements of this LOA. Such policy and/or procedure shall include, inter alia, training and annual certification procedures. TIWS USA will 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, periodic internal network security and switch audits, and physical security for access to DCI.

#### 5. USG Visitation

TIWS USA agrees that upon reasonable advance notice, DHS may visit its landing stations, NOCs, PoPs, or other facilities under its control to conduct on-site visits concerning the implementation of the terms of this LOA. During such visits, TIWS USA will cooperate fully with DHS in making available requested information, facilities and personnel.

#### 6. Annual Report

On or before each anniversary of the effective date of this LOA, TIWS USA shall submit to DHS a report including the following information:

- a. An updated list of Principal Equipment used within the PCCS and by related primary vendors, contractors or subcontractors, including but not limited to any material changes or upgrades to system components or applications since the list was most recently provided to DHS;
- b. The names and contact information of the POC and alternates for the company for purposes of this LOA;
- c. Operations and security policies or procedures adopted for purposes of implementation of the requirements of this LOA, or material updates to policies and procedures previously disclosed to DHS;
- d. Architecture Interconnect Diagrams (AID) that show major system/subsystem components as defined above, data flow/control, and outside system components (people or machine) that could interact with the PCCS, or material updates to such documents that were previously disclosed to DHS.
- e. Report all security violations and breaches (physical/logical) involving the PCCS and TIWS USA facilities/network used in connection with the PCCS.
- f. Report any changes in current NOC locations.
- g. Report any changes in the consortium ownership/members.
- h. Report any changes in PCCS and TIWS USA services provided using the PCCS.

## 7. Services

TIWS USA agrees that it will notify DHS in writing at least 30 calendar days prior to implementing any significant changes to its provision of telecommunications services in the U.S. that are provided using the PCCS, including but not limited to the provision of services directly to end-user (i.e., non-carrier) customers, either residential, business, or enterprise.

## 8. Dispute Resolution

TIWS USA understands that DHS may request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization in the event the commitments set forth in this letter are breached by TIWS USA or in the event DHS determine that the terms of this LOA are inadequate to address national security, law enforcement or public



safety concerns. TIWS USA will promptly negotiate in good faith to address any such concerns. DHS will promptly negotiate in good faith with respect to any reasonable request by TIWS USA for relief from the application of specific provisions of this LOA if such provisions become unduly burdensome or adversely affect the competitive position of TIWS USA.

Notwithstanding the foregoing, TIWS USA understands that DHS reserves the right to object, formally or informally, to the grant of any other FCC application or petition of TIWS USA or an entity controlled by TIWS USA for a license, other authorization, or assignment or transfer of control of a license or other authorization under the Cable Landing License Act or 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, or protect the public safety raised by the services and transactions underlying any such application or petition.

#### 9. Good Faith Negotiation; Request for Relief

This letter is based on TIWS USA's understanding that DHS will negotiate in good faith and promptly with respect to a request by TIWS USA for relief from application of a specific provision of this LOA or relief from a specific request of DHS made pursuant to this LOA where such a provision or request is unduly burdensome or adversely affects TIWS USA's competitive position.

#### 10. Exempt from Disclosure

TIWS USA is providing this LOA on the express understanding that all notices, reports and information provided to DHS pursuant to this LOA shall be treated as confidential business information exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(4).

TIWS USA understands that DHS will take reasonable measures to protect from public disclosure all information submitted by Company to DHS in connection with this LOA and clearly marked with the legend "Confidential; Subject to Protection Under 5 U.S.C. section 552(b)" or similar designation. Such markings shall signify that it is TIWS USA's position that the information so marked constitutes "trade secrets" and/or "commercial or financial information obtained from person and privileged or confidential," or otherwise warrants protection within the meaning of 5 U.S.C. section 552(b). If a request is made under 5 U.S.C.



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section 552(a)(3) for information so marked, and disclosure of any information (including disclosure in redacted form) is contemplated, TIWS USA understands that DHS will notify Company of the intended disclosure as provided by Executive Order 12600, 52 Fed. Reg. 23781 (June 25, 1987). If TIWS USA objects to the intended disclosure and its objections are not sustained, TIWS USA understands that DHS will notify TIWS USA of its intention to release not later than ten business days prior to disclosure of the challenged information.

#### 11. Binding Upon Successors

The LOA shall inure to the benefit of, and shall be binding upon, TIWS USA and its respective successors, assigns, subsidiaries, and affiliates.

#### 12. USG Contacts

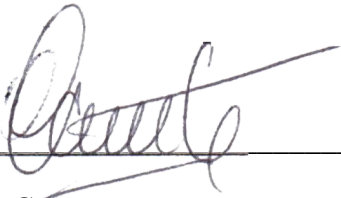
All correspondence to DHS under the LOA will be directed to the addressees listed on the first page of this LOA. In addition, an electronic copy of all correspondence will be provided to DHS at IP-FCC@hq.dhs.gov.

Nothing in this Letter of Assurances is intended to excuse TIWS USA from any obligation it may have to comply with U.S. legal requirements for the retention, preservation, or production of information, records or data, nor shall it constitute a waiver of: (a) any obligation imposed by any U.S. federal, state or local laws on TIWS USA; (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 (including without limitation authority pursuant to International Emergency Economic Powers Act) over the activities of TIWS USA located within or outside the United States. Nothing in this Letter of Assurances is intended to or is to be interpreted to require the parties to violate any applicable U.S. law. Likewise, nothing in this Letter of Assurances limits the right of the United States Government to pursue criminal sanctions or charges against TIWS USA, and nothing in this Letter of Assurances provides TIWS USA with any relief from civil liability.

For and on behalf of Telefonica International Wholesale Services USA, Inc.

Telefonica

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