

4.3. Irreparable Injury New GX agrees that the United States would suffer irreparable injury if for any reason a Domestic Communications Company failed to perform any of its material obligations under this Agreement, and that monetary relief would not be an adequate remedy. Accordingly, New GX agrees that, in seeking to enforce this Agreement against Domestic Communications Companies, the FBI, DOJ, DOD and DHS shall be entitled, in addition to any other remedy available at law or equity, to specific performance and immediate injunctive or other equitable relief. The obligations in Section 5.5 or 5.6 are material for the purpose of this Section. (Listing these sections does not imply that obligations in other sections are not material)

4.4. 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.

4.5. Forum Selection It is agreed by and among 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.

4.6. Effectiveness of Article 4 This Article 4, and the obligations imposed and rights conferred herein, shall be effective upon the execution of this Agreement by all the Parties.

#### **ARTICLE 5: AUDITING, REPORTING, NOTICE AND LIMITS**

5.1. Filings re *de jure* or *de facto* control of a Domestic Communications Company If any Domestic Communications Company makes any filing with the FCC or any other Governmental Authority relating to the *de facto* or *de jure* control of a Domestic Communications Company except for filings with the FCC for assignments or transfers of control to any Domestic Communications Company that are *pro forma*, New GX shall promptly provide to the FBI, DOJ, DOD and DHS written notice and copies of such filing. This Section 5.1 is effective upon execution of this Agreement by all the Parties.

5.2. Control of New GX If any member of the Security Committee or of the senior management of New GX or a Domestic Communications Company (including the Chief Executive Officer, President, General Counsel, Chief Technical Officer, Chief Financial Officer, Head of Network Operations, Head of Global Security, Security Officer, or other senior officer) acquires any information that reasonably indicates that any single foreign entity or individual, other than ST Telemedia has obtained or will likely obtain an ownership interest (direct or indirect) in New GX or a Domestic Communications Company above ten (10) percent, as determined in accordance with 47 C.F.R. § 63.09, or if any single foreign entity or individual has gained or will likely otherwise gain either (1) Control or (2) *de facto* or *de jure* control of New GX or a Domestic Communications Company, then

such member shall promptly cause to be notified the Security Officer or a Security Director, who in turn, shall promptly notify the DOJ, FBI, DOD and DHS in writing. Notice under this section shall, at a minimum

- (i) Identify the entity or individual(s) (specifying the name, addresses and telephone numbers of the entity);
- (ii) Identify the beneficial owners of the increased or prospective increased interest in New GX or a Domestic Communications Company by the entity or individual(s) (specifying the name, addresses and telephone numbers of each beneficial owner), and
- (iii) Quantify the amount of ownership interest in New GX or a Domestic Communications Company that has resulted in or will likely result in the entity or individual(s) increasing the ownership interest in or control of New GX or a Domestic Communications Company.

5.3 Joint Ventures A Domestic Communications Company may have entered into or may enter into joint ventures under which the joint venture or entity may provide Domestic Communications

- (i) To the extent that such Domestic Communications Company does not have *de facto* or *de jure* control over a joint venture or entity, such Domestic Communications Company shall in good faith (a) notify such entity of this Agreement and its purposes, (b) endeavor to have such entity comply with this Agreement as if it were a Domestic Communications Company, and (c) consult with the DOJ, FBI, DOD or DHS about the activities of such entity. Nothing in this Section 5.3 shall be construed to relieve Domestic Communications Companies of obligations under Article 2 of this Agreement.
- (ii) If a Domestic Communications Company enters into joint venture under which the joint venture or entity may provide Domestic Communications or transmission, switching, bridging, routing equipment (including software and upgrades), facilities used to provide, process, direct, control, supervise or manage Domestic Communications, the Domestic Communications Company must provide DHS with notice no later than 30 days before the joint venture offers Domestic Communications service. DHS will have 30 days from receipt of the notice to review and provide the Domestic Communications Company with any objection to the joint venture. Any objection shall be based on national security, law enforcement or public safety grounds. If the DHS objects, the joint venture shall not offer Domestic Communications service.

5.4 Outsourcing A Domestic Communications Company shall not outsource functions covered by this Agreement to an entity that is not a Domestic Communications Company except pursuant to an outsourcing policy to be negotiated with DHS. Such policy shall include prior notice of the proposed outsourcing and the right of DHS to object within thirty (30) days to the proposed outsourcing, the parties may agree in the outsourcing policy

to exclude classes of outsourcing contracts of a routine and nonsensitive nature from this notice and approval requirement. Further

- (i) the Domestic Communications Company shall ensure that the entity complies with the applicable terms of this Agreement
- (ii) the Domestic Communications Company shall include in its contracts with any such entities written provisions requiring that such entities comply with all applicable terms of this Agreement (and otherwise ensure that such entities are aware of, agree to, and are bound to comply with the applicable obligations of this Agreement),
- (iii) the Domestic Communications Company shall notify the DOJ, FBI, DOD and DHS within thirty (30) days of contracting out operation of the Domestic Communications Infrastructure to an entity that is not a Domestic Communications Company, which notice shall identify the name of the entity and the nature of the contract,
- (iv) if the Domestic Communications Company learns that the entity or the entity's employee has violated an applicable provision of this Agreement, the Domestic Communications Company will notify the DOJ, FBI, DOD and DHS promptly, and
- (v) with consultation and, as appropriate, cooperation with DOJ, FBI, DOD and DHS, the Domestic Communications Company will take reasonable steps necessary to rectify promptly the situation, which steps may (among others) include terminating the arrangement with the entity, including after notice and opportunity for cure, and/or initiating and pursuing litigation or other remedies at law and equity.

Peering, interconnection and purchase of local access service shall not constitute outsourced functions for purposes of this Agreement.

5.5. Notice of Foreign Influence. If any member of the Security Committee or of the senior management of New GX or a Domestic Communications Company (including the Chief Executive Officer, President, General Counsel, Chief Technical Officer, Chief Financial Officer, Head of Network Operations, Head of Global Security, Security Officer, or other senior officer) acquires any information that reasonably indicates that any foreign government, any foreign government-controlled entity, or any foreign entity

- (i) plans to participate or has participated in any aspect of the day-to-day management of New GX or a Domestic Communications Company in such a way that interferes with or impedes the performance by New GX or a Domestic Communications Company of its duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by New GX or a Domestic Communications Company of its rights under this Agreement, or

- (ii) plans to exercise or has exercised, as a direct or indirect shareholder of New GX or a Domestic Communications Company or their subsidiaries, any Control of New GX or a Domestic Communications Company in such a way that interferes with or impedes the performance by New GX or a Domestic Communications Company of its duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by New GX or a Domestic Communications Company of its rights under the terms of this Agreement, or in such a way that foreseeably concerns New GX's or a Domestic Communications Company's obligations under this Agreement,

then such member shall promptly cause to be notified the Security Officer or a Security Director, who in turn, shall promptly notify the FBI, DOJ, DOD and DHS in writing of the timing and the nature of the foreign government's or entity's plans and/or actions

5.6 Reporting of Incidents New GX and Domestic Communications Companies shall take practicable steps to ensure that, if any New GX or Domestic Communications Company officer, director, employee, contractor or agent acquires any information that reasonably indicates (a) a breach of this Agreement, (b) access to or disclosure of Domestic Communications, or the conduct of Electronic Surveillance, in violation of Federal, state or local law or regulation, (c) access to or disclosure of CPNI or Subscriber Information in violation of Federal, state or local law or regulation (except for violations of FCC regulations relating to improper commercial use of CPNI); or (d) improper access to or disclosure of Classified, Sensitive, or Controlled Unclassified Information, then the individual will notify the Security Officer or a Security Director, who will in turn notify the FBI, DOJ, DOD and DHS in the same manner as specified in Section 5.5. This report shall be made promptly and in any event no later than ten (10) calendar days after New GX or the Domestic Communications Company acquires information indicating a matter described in this Section 5.6(a)-(d) of this Agreement. New GX and the Domestic Communications Companies shall lawfully cooperate in investigating the matters described in this section of this Agreement. New GX or the Domestic Communications Company need not report information where disclosure of such information would be in violation of an order of a court of competent jurisdiction in the United States.

5.7 Non-Retaliation New GX and each Domestic Communications Company shall, by duly authorized action of its respective Board of Directors, adopt and distribute an official corporate policy that strictly prohibits New GX or a Domestic Communications Company 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 5.2, 5.5 or 5.6 of this Agreement, or has notified or attempted to notify directly the Security Officer or a Security Director named in the policy to convey information that he or she believes in good faith would be required to be reported to the FBI, DOJ, DOD and DHS by the Security Officer or a Security Director under Sections 5.2, 5.5 or 5.6 of this Agreement. Such corporate policy shall set forth in a clear and prominent manner the contact information for the Security Officer or one or more Security Directors to whom such contacts may be made directly by any officer, director, employee, contractor or agent for the purpose of such report or notification. Any violation

by New GX or a Domestic Communications Company of any material term of such corporate policy shall constitute a breach of this Agreement.

5.8 Third Party Audits. New GX shall retain and pay for a neutral third party to audit objectively on an annual basis its compliance with agreed elements of this Agreement. New GX shall provide notice of its selected auditor to the DOJ, FBI, DOD and DHS, and the DOJ, FBI, DOD and DHS shall be able to review and approve or disapprove the selected auditor and terms of reference for that auditor within thirty (30) days of receiving notice. In addition, New GX shall provide to the DOJ, FBI, DOD and DHS a copy of its contract with the third party auditor, which shall include terms defining the scope and purpose of the audits. The DOJ, FBI, DOD and DHS shall have the right to review and approve the terms defining the scope and purpose of the audits. Through its contract with the third party auditor, New GX shall ensure that all reports generated by the auditor are provided promptly to the DOJ, FBI, DOD and DHS. Domestic Communications Companies also will provide the DOJ, FBI, DOD and DHS with access to facilities, information, and personnel consistent with Sections 5.9 and 5.10 below in the event that the DOJ, FBI, DOD or DHS wishes to conduct its own audit of a Domestic Communication Company. The terms defining the scope and purpose of the audits shall include, at a minimum, the following:

- (i) Development of an initial vulnerability and risk assessment based on this Agreement, and a detailed audit work plan based on such assessment, which work plan will be subject to review and approval by the DOJ, the FBI, DOD and the DHS,
- (ii) Authority for the auditor to review and analyze of New GX policies and procedures designed to implement this Agreement;
- (iii) Authority for the auditor to review and analyze relevant information related to the configuration of the New GX network,
- (iv) The Head of Network Operations will report periodically on technical advancements that enhance compliance with this Agreement;
- (v) Authority for the auditor to review and analyze minutes of New GX Board and other Board Committee meetings held in accordance with the terms of this Agreement,
- (vi) Authority for the auditor to review and analyze Security Director and Security Officer logs and records including, but not limited to, records relating to facility visits, employee screening data and any reports submitted in accordance with Section 5.6 of this Agreement,
- (vii) Authority for the auditor to conduct a reasonable number of unannounced inspections of New GX Network Operating Centers and other key facilities each year

- (viii) Authority for the auditor to conduct a reasonable volume of random testing of network firewalls, access points and other systems for potential vulnerabilities; and
- (ix) Authority for the auditor to conduct a reasonable number of confidential interviews of New GX employees concerning compliance with this Agreement.

5.9 Access to Information and Facilities. FBI, DOJ, DOD and DHS may visit with thirty (30) minutes notice, any part of Domestic Communications Companies' Domestic Communications Infrastructure and security offices to conduct on-site reviews concerning the implementation of the terms of this Agreement and may at any time require unimpeded access to information concerning technical, physical, management, or other security measures needed by the FBI, DOJ, DOD or DHS to verify compliance with the then-effective terms of this Agreement. Within sixty (60) days of the Effective Date, the parties will develop procedures for implementation of this Section 5.9

5.10 Access to Personnel. Upon reasonable notice from the FBI, DOJ, DHS or DOD Domestic Communications Companies will make available for interview officers or employees of Domestic Communications Companies, and will require contractors to make available appropriate personnel located in the United States who are in a position to provide information to verify compliance with the then-effective terms of this Agreement

5.11 Annual Report. On or before the last day of January of each year, the Head of Global Security shall submit to the FBI, DOJ, DOD and DHS a report assessing Domestic Communications Companies' compliance with the terms of this Agreement for the preceding calendar year. The report shall include

- (i) a copy of all audit reports compiled by the third party auditor conducted pursuant to Section 5.8 of this Agreement,
- (ii) a copy of the policies and procedures adopted to comply with this Agreement;
- (iii) a summary of the changes, if any, to the policies or procedures, and the reasons for those changes,
- (iv) a summary of any known acts of material noncompliance with the terms of this Agreement, 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
- (v) identification of any other issues that, to Domestic Communications Companies' knowledge, will or reasonably could affect the effectiveness of or compliance with this Agreement

New GX and all Domestic Communications Companies shall make available to the Security Officer, in a timely fashion, all information necessary to complete the report required by this Section

5.12 Notice of Establishment of Additional Network Operating Centers. In the event New GX establishes a new Network Operating Center, New GX shall provide prior written notice of such establishment to the DOJ, FBI, DOD and DHS at least ninety (90) days prior to the commencement of operations of such Network Operating Center.

5.13 Information and Reports Concerning Network Architecture New GX shall provide to the DOJ, FBI, DHS and DOD, on a quarterly basis, the following information regarding the interconnections and control of the Domestic Communications Infrastructure:

- (i) A description of the plans, processes and/or procedures, relating to network management operations, that prevent the Domestic Communications Infrastructure from being accessed or controlled from outside the United States.
- (ii) A description of the placement of Network Operations Centers and interconnection (for service offload or administrative activities) to other domestic and international carriers, ISPs and critical U.S. financial, energy, and transportation infrastructures
- (iii) A description of New GX's IP networks and operations processes, procedures for management control and relation to the backbone infrastructures of other service providers
- (iv) A description of any unique or proprietary control mechanisms of New GX as well as of New GX's operating and administrative software
- (v) A report of Network Management Information that includes an assurance that network performance satisfies FCC rules and reporting requirements.

New GX shall promptly report any material changes, upgrades and/or modifications to the items described in (i) - (v) above, including the installation of critical equipment and software. For the purposes of this section, critical equipment and software shall include: routers, switches, gateways, network security appliances, network management/test equipment, operating systems and network and security software (including new versions, patches, upgrades, and replacement software), and other hardware, software, or systems performing similar functions. Monitors, desktop computers, desktop computer applications, disk drives, power supplies, printers, racks and the like are not "critical equipment or software" unless they perform functions similar to those of the items described in (i) - (v) above. Similarly, "material" shall refer to those changes, modifications and upgrades that alter network operating characteristics or architecture--it does not apply to spare parts replacement, the one-for-one swapping of identical equipment or the related re-loading of system software or backups, provided, however, that network security configuration and capabilities remain unchanged.

5.14 Notices Effective upon execution of this Agreement by all the Parties, all notices and other communications given or made relating to this Agreement, such as a proposed modification, shall be in writing and shall be deemed to have been duly given or made as of the date of receipt and shall be (a) delivered personally, or (b) sent by facsimile, or (except as noted below) (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 other addresses as the Parties may designate in accordance with this Section

Department of Justice  
Assistant Attorney General  
Criminal Division  
Main Justice  
950 Pennsylvania Avenue, N W  
Washington, DC 20530

Federal Bureau of Investigation  
General Counsel  
935 Pennsylvania Avenue, N W  
Washington, DC 20535

Department of Defense

Office of General Counsel  
Attn Deputy General Counsel  
for Acquisition and Logistics  
The Pentagon, Room 3D973  
1600 Defense Pentagon  
Washington, DC 20301-1600

Department of Homeland Security  
Washington, D C 20528  
Attn General Counsel, Office of the General Counsel  
Telephone 202-692-4237  
Fax 202-282-8415  
(By Personal Delivery or E-mail Only)

Global Crossing Ltd  
200 Park Avenue, Third Floor  
Florham Park, NJ 07932  
Attn General Counsel  
Telephone: (973) 937-0312  
Fax (973) 360-0538

GC Acquisition Limited  
200 Park Avenue, Third Floor  
Florham Park, NJ 07932  
Attn General Counsel  
Telephone (973) 937-0312  
Fax (973) 360-0538

Singapore Technologies Telemedia Pte Ltd  
51 Cuppage Road  
#10-11/17, StarHub Centre  
Singapore 229469  
Attn General Counsel  
Telephone. (65) 6723-8777  
Fax (65) 6720-7277

With a copy to

GC Acquisition Limited  
Wessex House, 1st Floor  
45 Reid Street  
Hamilton HM 12, Bermuda

Federal Bureau of Investigation  
The Assistant Director  
National Security Division  
935 Pennsylvania Avenue, N W  
Washington, DC 20535

#### **ARTICLE 6: FREEDOM OF INFORMATION ACT**

6.1. Protection from Disclosure. The DOJ, FBI, DOD and DHS shall take all reasonable measures to protect from public disclosure all information submitted by a Domestic Communications Company or other entities in accordance with the terms of this Agreement to the DOJ, FBI, DOD or DHS 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 the company'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. 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, the DOJ, FBI, DOD or DHS, as appropriate, shall notify the company of the intended disclosure as provided by Executive Order 12600, 52 Fed Reg 23781 (June 23, 1987). If the Domestic Communications Company objects to the intended disclosure and its objections are not sustained, the DOJ, FBI, DOD or DHS, as appropriate, shall notify the company of its intention to release (as provided by Section 5 of Executive Order 12600) not later than five business days prior to disclosure of the challenged information. The Parties note that information submitted by a Domestic Communications Company or other entities in accordance with the terms of this Agreement may be protected from disclosure under the Critical Information Infrastructure Act of 2002.

6.2. Use of Information for U S. Government Purposes. Nothing in this Agreement shall prevent the FBI, DOJ, DOD or DHS 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 agencies to protect public safety, law enforcement, or national security interests, provided that the FBI, DOJ, DOD or DHS take all reasonable measures to protect from public disclosure the information marked as described in Section 6.1

6.3 Unlawful Disclosure of Information. The DOJ, FBI, DOD and DHS acknowledge that officers and employees of the United States and of any department or agency thereof are subject to liability under 18 U.S.C. § 1905 for unlawful disclosure of information provided to them by other Parties to this Agreement.

## ARTICLE 7: FCC CONDITION AND CFIUS

7.1 FCC Approval. Upon the execution of this Agreement by all the Parties, the DOJ, FBI, DOD and DHS shall promptly 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"), the DOJ, FBI, DOD and DHS have no objection to the FCC's grant of the applications filed with the FCC in FCC IB Docket No. 02-286. This Section 7.1 is effective upon execution of this Agreement by all the Parties.

7.2 Future Applications. New GX agrees that, in any application or petition by any Domestic Communications Company to the FCC for licensing or other authority filed with or granted by the FCC after the Effective Date, except with respect to *pro forma* assignments or *pro forma* transfers of control, the Domestic Communications Company shall request that the FCC condition the grant of such licensing or other authority on compliance with the terms of this Agreement. Notwithstanding Section 8.10, the FBI, the DOJ, DOD and DHS reserve the right to object, formally or informally, to the grant of any other FCC application or petition of a Domestic Communications Company for a license or other authorization under Titles II or 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 their ability to enforce the laws, preserve the national security, and protect the public safety raised by the transactions underlying such applications or petitions.

7.3 CFIUS. Provided that the FCC adopts the Condition to FCC Authorization, the Attorney General, the Secretary of Defense and the Secretary of Homeland Security shall not make any objection to the CFIUS or the President concerning ST Telemedia's investment in New GX or grant of the applications filed with the FCC in FCC IB Docket No. 02-286. This commitment, however, does not extend to any objection the Attorney General, the Secretary of Defense or the Secretary of Homeland Security may wish to raise with the CFIUS or the President in the event that (a) New GX fails to comply with the terms of this Agreement, (b) the Attorney General, the Secretary of Defense or the Secretary of Homeland Security learns that the representations of New GX made to the DOJ, the FBI, the DOD, the DHS or the FCC above are materially untrue or incomplete, (c) there is a material increase in the authority of a foreign entity to exercise Control of New GX or a Domestic Communications Company, or (d) there is any other material change in the circumstances associated with the transactions at issue.

**ARTICLE 8: OTHER**

8.1 Role of GCL. GCL is a Party on account of its central role in both the negotiation of this Agreement and the establishment of New GX. Notwithstanding the foregoing, New GX and GCL stipulate that, upon the Effective Date, GCL will not Control New GX or any of the Domestic Communications Companies, and consequently will have no ability or obligation to ensure compliance by New GX or the Domestic Communications Companies after the Effective Date.

8.2 Obligations of New GX. New GX shall cause Domestic Communications Companies to comply with this Agreement and, where appropriate, shall act through its subsidiaries to discharge its obligations under this Agreement.

8.3 Right to Make and Perform Agreement. GCL, New GX and ST Telemedia each represent that they have 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 GCL, New GX and ST Telemedia enforceable in accordance with its terms.

8.4 Headings. The Article 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.

8.5 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 GCL, New GX or any Domestic Communications Company, (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 GCL, New GX or any Domestic Communications Company located within or outside the United States. Nothing in this Agreement is intended to or is to be interpreted to require the Parties to violate any applicable U.S. law.

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

8.7 Non-Parties. Nothing in this Agreement is intended to confer or does confer any rights on any person other than the Parties and any Governmental Authorities entitled to effect Electronic Surveillance pursuant to Lawful U.S. Process.

8.8 Modifications. This Agreement may only be modified by written agreement signed by all of the Parties. The DOJ, FBI, DOD and DHS agree to consider in good faith and promptly possible modifications to this Agreement if GCL or the New GX believes that the obligations imposed on GCL, New GX or the Domestic Communications Companies 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

8.9. Changes in Circumstances for New GX or Domestic Communications Companies The DOJ, FBI, DOD and DHS agree to negotiate in good faith and promptly with respect to any request by New GX or a Domestic Communications Company for relief from application of specific provisions of this Agreement (a) if a Domestic Communications Company provides Domestic Communications solely through the resale of transmission or switching facilities owned by third parties, or (b) as regards future Domestic Communications Company activities or services, if those provisions become unduly burdensome or adversely affect New GX's or a Domestic Communications Company's competitive position

8.10 Changes in Circumstances for the DOJ, FBI, DHS or the DOD. If after the date that all the Parties have executed this Agreement the DOJ, FBI, DOD or DHS finds that the terms of this Agreement are inadequate to address national security, law enforcement, or public safety concerns presented, then the other Parties will negotiate in good faith to modify this Agreement to address those concerns. In the event that improvements in technology may enhance the efficacy of this agreement to protect the national security, enforce the laws or protect the safety of the public, the parties will work promptly to amend the Agreement to implement such advances

8.11 Periodic Review To ensure that this Agreement and the policies implemented in furtherance of this Agreement continue to adequately preserve the national security, law enforcement and public safety objectives, the terms of this Agreement and those policies shall be reviewed by the parties at least every 18 months from the Execution Date

8.12 Sovereign Immunity ST Telemedia stipulates that it operates as a commercial entity and its commercial operations are wholly separate from the government of the Republic of Singapore. Nevertheless, to resolve any ambiguity regarding its status as a commercial entity operating wholly separate from any governmental entity, ST Telemedia agrees that, to the extent that it or any of its 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 government from any legal action, suit or proceeding or from setoff or counterclaim arising from compliance with this Agreement from the jurisdiction of any competent court from service of process, from attachment prior to judgment, from attachment in and of execution of a judgment from execution pursuant to a judgment or arbitral award, or from any other legal process in any jurisdiction, to the extent allowable by law, it, for itself and its property expressly, irrevocably and unconditionally waives, and agrees not to plead or claim, any immunity with respect to matters arising with respect to compliance with this Agreement or the obligations herein (including any obligation for the payment of money) in any proceeding brought by a Party. ST Telemedia 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 at any time any action is initiated by a Party with respect to or relating to this Agreement.

8 13 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.

8 14 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

8 15 Successors and Assigns This Agreement shall inure to the benefit of, and shall be binding upon, the Parties and their respective successors and assigns

8 16 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

8 17 Termination of Agreement If the Purchase Agreement is terminated prior to the Effective Date, GCL shall promptly provide written notification of such termination to the FBI, DOJ, DHS and DOD, and upon receipt of such written notice, this Agreement shall automatically terminate. After the Effective Date, this Agreement shall terminate upon thirty (30) days prior written notice from New GX to the FBI, DOJ, DHS and DOD, provided that at such time there is no Domestic Communications Company

8 18 Suspension of Agreement With Respect to a Domestic Communications Company This Agreement shall be suspended upon thirty (30) days notice to the DOJ, FBI, DOD and DHS with respect to any covered New GX entity if said entity is no longer a Domestic Communications Company

8 19 Suspension of Agreement If No Significant Foreign Ownership. This Agreement shall be suspended in its entirety with respect to New GX and all Domestic Communications Companies thirty (30) days after receipt from New GX of notice and documentation reasonably satisfactory to the DOJ, FBI, DOD, and DHS that neither ST Telemedia nor any other foreign entity either Controls New GX or a Domestic Communications Company or holds, directly or indirectly, a ten (10) percent or greater interest in New GX or a Domestic Communications Company, unless the DOJ, FBI, DOD and DHS notify New GX within said thirty (30) day period that this Agreement shall not be suspended in order to protect U S national security, law enforcement, and public safety concerns. If this Agreement is not suspended pursuant to this provision, the DOJ, FBI, DOD and DHS agree to consider promptly and in good faith possible modifications to this Agreement. Notwithstanding anything to the contrary in this Section 8.19, this Agreement shall remain in effect with respect to New GX and the Domestic Communications Companies for so long as (and the obligations of New GX and the Domestic Communications Companies shall not be suspended and any suspension of the obligations of New GX and the Domestic Communications Companies shall terminate if) ST Telemedia or any other foreign entity shall either Control or hold, at any time does hold, or is a party to an agreement to hold, directly or indirectly, a ten (10) percent or greater ownership interest in New GX or any

Domestic Communications Company or any transferee or assignee of the FCC licenses or authorizations held by New GX or a Domestic Communications Company

8.20 Pledging of Stock or Assets of Domestic Communications Companies. Nothing in this Agreement shall be interpreted to prevent New GX from pledging the stock or assets of any Domestic Communications Company in connection with the borrowing of funds and similar financial activities by New GX, nor shall such pledging of stock or assets excuse performance of the obligations in this Agreement by New GX or any Domestic Communications Company

8.21 Effectiveness of Article 8. This Article 8, and the obligations imposed and rights conferred herein, shall be effective upon the execution of this Agreement by all the Parties.

This Agreement is executed on behalf of the Parties

**Global Crossing Ltd.**

Date \_\_\_\_\_

By \_\_\_\_\_  
Printed Name:  
Title:

**GC Acquisition Limited**

Date \_\_\_\_\_

By \_\_\_\_\_  
Printed Name  
Title.

**Singapore Technologies Telemedia Pte Ltd**

Date \_\_\_\_\_

By \_\_\_\_\_  
Printed Name.  
Title.

**United States Department of Justice**

Date \_\_\_\_\_

By \_\_\_\_\_  
Printed Name  
Title

**Federal Bureau of Investigation**

Date \_\_\_\_\_

By \_\_\_\_\_  
Printed Name  
Title:

**United States Department of Defense**

Date. \_\_\_\_\_

By \_\_\_\_\_

Printed Name:

Title:

**United States Department of Homeland Security**

Date \_\_\_\_\_

By: \_\_\_\_\_

Printed Name:

Title

This Agreement is executed on behalf of the Parties:

Date Sept 8 2003

**Global Crossing Ltd.**

By: [Signature]  
Printed Name: John J. Legere  
Title: Chief Executive Officer

Date Sept 8 2003

**GC Acquisition Limited**

By: [Signature]  
Printed Name: John J. Legere  
Title: Attorney-in-Fact

Date 8 September 2003

**Singapore Technologies Telemedia Pte Ltd**

By: [Signature]  
Printed Name: Lee Theng Kiat  
Title: President and Chief Executive Officer

Date Sept. 23, 2003

**United States Department of Justice**

By: [Signature]  
Printed Name: John G. Malcolm  
Title: Deputy Assistant Attorney General

Date Sept 23, 2003

**Federal Bureau of Investigation**

By: [Signature]  
Printed Name: Patrick W. Kelley  
Title: Deputy General Counsel

Date: \_\_\_\_\_

**United States Department of Defense**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date \_\_\_\_\_

**United States Department of Homeland Security**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

United States Department of Defense

Date: 9/29/03

By 

Printed Name: LINTON WELLS II

Title: Principal Deputy Asst Secretary  
(Homeland and International Integration)

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 Homeland Security**

Date: 22 Jan 03

By:   
Printed Name: Robert P. Lisowski  
Title: Assistant Secretary for Infrastructure Protection

**EXHIBIT A**

**CONDITION TO FCC AUTHORIZATION**

IT IS FURTHER ORDERED, that consent to the transfer of control of New GX and grant of a declaratory ruling pursuant to 47 U.S.C. § 310(b)(4) are subject to compliance with the provisions of the Agreement attached hereto among GCL, New GX and ST Telemedia, on the one hand, and the United States Department of Justice (the "DOJ"), the Federal Bureau of Investigation (the "FBI"), the United States Department of Defense ("DOD") and the United States Department of Homeland Security ("DHS"), on the other, dated \_\_\_\_\_, which Agreement is designed to address national security, law enforcement, and public safety issues of the DOJ, the FBI, the DOD and the DHS regarding the authority granted herein. Nothing in this 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.