IB 05-348

READ INSTRUCTIONS CAREFULLY BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

DATE STAMP & RETURN

Approved by OMB 3060-0589

(1) LOCKBOX #		SPECIAL USE ONLY
358115	FCC/MELLON DEC 13 2005	FCC USE ONLY

SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) Ulises R. Pin c/o Swidler Berlin LLP	(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) $895.00
(4) STREET ADDRESS LINE NO. 1 3000 K Street, N.W.	
(5) STREET ADDRESS LINE NO. 2 Suite 300	
(6) CITY Washington	(7) STATE DC / (8) ZIP CODE 20007
(9) DAYTIME TELEPHONE NUMBER (include area code) (202) 424-7500	(10) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) REQUIRED

(11) PAYER (FRN) 0004-3539-00	(12) FCC USE ONLY

IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)
COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(13) APPLICANT NAME Teleglobe America, Inc.	
(14) STREET ADDRESS LINE NO. 1 One Discovery Square, 4th Floor	
(15) STREET ADDRESS LINE NO. 2 12010 Sunset Hills Road	
(16) CITY Reston	(17) STATE VA / (18) ZIP CODE 20190-5856
(19) DAYTIME TELEPHONE NUMBER (include area code) (703) 766-3061	(20) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) REQUIRED

(21) APPLICANT (FRN) 0009-4803-02	(22) FCC USE ONLY

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE CUT	(25A) QUANTITY 1
(26A) FEE DUE FOR (PTC) $895.00	(27A) TOTAL FEE $895.00	FCC USE ONLY
(28A) FCC CODE 1	(29A) FCC CODE 2	
(23b) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY
(28B) FCC CODE 1	(29B) FCC CODE 2	

SECTION D - CERTIFICATION

CERTIFICATION STATEMENT

I, Ulises R. Pin, certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.

SIGNATURE _____ DATE 12/13/2005

SECTION E - CREDIT CARD PAYMENT INFORMATION

MASTERCARD ____ VISA ____ AMEX X DISCOVER ____

ACCOUNT NUMBER 3715-7435-59-11004 EXPIRATION DATE 05/09

I hereby authorize the FCC to charge my credit card for the service(s) authorization herein described.

SIGNATURE _____ DATE 12/13/2005

Approved by OMB
3060-0589

FEDERAL COMMUNICATIONS COMMISSION

REMITTANCE ADVICE (CONTINUATION SHEET)

Page No 2 of 3

SPECIAL USE

FCC ONLY

USE THIS SECTION ONLY FOR EACH ADDITIONAL APPLICANT
SECTION BB - ADDITIONAL APPLICANT INFORMATION

(13) APPLICANT NAME
Teleglobe International Holdings Ltd

(14) STREET ADDRESS LINE NO. 1
P.O. Box HM 1154

(15) STREET ADDRESS LINE NO. 2
10 Queen Street

(16) CITY
Hamilton HM EX

(17) STATE

(18) ZIP CODE

(19) DAYTIME TELEPHONE NUMBER (include area code)
(441)296-2248

(20) COUNTRY CODE (if not in U.S.A.)
Bermuda

FCC REGISTRATION NUMBER (FRN) REQUIRED

(21) APPLICANT (FRN)
0013-8281-32

(22) FCC USE ONLY

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE	(25A) QUANTITY
(26A) FEE DUE FOR (PTC)	(27A) TOTAL FEE	FCC USE ONLY
(28A) FCC CODE 1	(29A) FCC CODE 2	
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY
(28B) FCC CODE 1	(29B) FCC CODE 2	
(23C) CALL SIGN/OTHER ID	(24C) PAYMENT TYPE CODE	(25C) QUANTITY
(26C) FEE DUE FOR (PTC)	(27C) TOTAL FEE	FCC USE ONLY
(28C) FCC CODE 1	(29C) FCC CODE 2	
(23D) CALL SIGN/OTHER ID	(24D) PAYMENT TYPE CODE	(25D) QUANTITY
(26D) FEE DUE FOR (PTC)	(27D) TOTAL FEE	FCC USE ONLY
(28D) FCC CODE 1	(29D) FCC CODE 2	
(23E) CALL SIGN/OTHER ID	(24E) PAYMENT TYPE CODE	(25E) QUANTITY
(26E) FEE DUE FOR (PTC)	(27E) TOTAL FEE	FCC USE ONLY
(28E) FCC CODE 1	(29E) FCC CODE 2	
(23F) CALL SIGN/OTHER ID	(24F) PAYMENT TYPE CODE	(25F) QUANTITY
(26F) FEE DUE FOR (PTC)	(27F) TOTAL FEE	FCC USE ONLY
(28F) FCC CODE 1	(29F) FCC CODE 2	

Approved by OMB
3060-0589

FEDERAL COMMUNICATIONS COMMISSION

REMITTANCE ADVICE (CONTINUATION SHEET)

Page No 3 of 3

SPECIAL USE

FCC ONLY

USE THIS SECTION ONLY FOR EACH ADDITIONAL APPLICANT
SECTION BB - ADDITIONAL APPLICANT INFORMATION

(13) APPLICANT NAME
VSNL Telecommunications (Bermuda) Ltd. c/o VSNL International

(14) STREET ADDRESS LINE NO. 1
2100 Reston Parkway

(15) STREET ADDRESS LINE NO. 2
Suite 320

(16) CITY	(17) STATE	(18) ZIP CODE
Reston	VA	20191

(19) DAYTIME TELEPHONE NUMBER (include area code)	(20) COUNTRY CODE (if not in U.S.A.)
(703) 547-5900	

FCC REGISTRATION NUMBER (FRN) REQUIRED

(21) APPLICANT (FRN)	(22) FCC USE ONLY
0013-9211-84	

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE	(25A) QUANTITY
(26A) FEE DUE FOR (PTC)	(27A) TOTAL FEE	FCC USE ONLY
(28A) FCC CODE 1	(29A) FCC CODE 2	
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY
(28B) FCC CODE 1	(29B) FCC CODE 2	
(23C) CALL SIGN/OTHER ID	(24C) PAYMENT TYPE CODE	(25C) QUANTITY
(26C) FEE DUE FOR (PTC)	(27C) TOTAL FEE	FCC USE ONLY
(28C) FCC CODE 1	(29C) FCC CODE 2	
(23D) CALL SIGN/OTHER ID	(24D) PAYMENT TYPE CODE	(25D) QUANTITY
(26D) FEE DUE FOR (PTC)	(27D) TOTAL FEE	FCC USE ONLY
(28D) FCC CODE 1	(29D) FCC CODE 2	
(23E) CALL SIGN/OTHER ID	(24E) PAYMENT TYPE CODE	(25E) QUANTITY
(26E) FEE DUE FOR (PTC)	(27E) TOTAL FEE	FCC USE ONLY
(28E) FCC CODE 1	(29E) FCC CODE 2	
(23F) CALL SIGN/OTHER ID	(24F) PAYMENT TYPE CODE	(25F) QUANTITY
(26F) FEE DUE FOR (PTC)	(27F) TOTAL FEE	FCC USE ONLY
(28F) FCC CODE 1	(29F) FCC CODE 2	

SWIDLER BERLIN LLP

The Washington Harbour
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
Phone 202.424.7500
Fax 202.424.7647
www.swidlaw.com

December 13, 2005

VIA COURIER

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
International Bureau – 214 Applications
P.O. Box 358115
Pittsburgh, PA 15251-5115

Re: Application of Teleglobe America Inc., Teleglobe International Holdings Ltd., and VSNL Telecommunications (Bermuda) Ltd. for Approval for Transfer Control of Cable Landing Licenses

Dear Ms. Dortch:

On behalf of **Teleglobe America Inc., ("TAI") Teleglobe International Holdings Ltd., ("TIHL") and VSNL Telecommunications (Bermuda) Ltd. ("VSNL Bermuda Telco")** (together, the "Applicants"), enclosed for filing are an original and six (6) copies of an application for Commission approval to transfer control of TAI from TIHL to VSNL Bermuda Telco.

Also enclosed is a completed Fee Remittance Form 159 containing American Express credit card information for payment, in the amount of $895.00, to the Federal Communications Commission, which satisfies the filing fee required for this Application under line 2.b of Section 1.1105 of the Commission's rules.

Please date-stamp the enclosed extra copy of this filing and return it in the envelope provided. Please do not hesitate to contact us if you have any questions regarding this filing.

Respectfully submitted,

Jean L. Kiddoo
Ulises R. Pin
Counsel to Applicants

Enclosure

AMENDMENT TO AGREEMENT

THIS AMENDMENT TO AGREEMENT (the "Amendment") is made as of the date of the last signature affixed hereto (the "Effective Date"), by and among VSNL America, Inc. ("VSNL America"), VSNL Telecommunications (U.S.), Inc. ("VSNL US"), Videsh Sanchar Nigam Limited ("VSNL"), on the one hand, and the U.S. Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), and the U.S. Department of Homeland Security ("DHS"), and the U.S. Department of Defense ("DOD"), on the other hand (referred to individually as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, VSNL, VSNL America, VSNL US, DOJ, FBI, DHS and DOD have heretofore entered into that certain Agreement dated as of April 7, 2005 (a copy of which is attached hereto as Exhibit A and referred to herein as the "Agreement") whereby such parties agreed to set forth certain rights, obligations and undertakings to be performed with respect to national security, law enforcement and public safety concerns (all terms defined in the Agreement shall have the same meanings ascribed to such terms therein, unless defined otherwise in this Amendment); and

WHEREAS, pursuant to an Agreement and Plan of Amalgamation dated as of July 25, 2005 among VSNL, VSNL Telecommunications (Bermuda) Ltd. ("VSNL Bermuda") and Teleglobe International Holdings Ltd. and affiliated entities ("Teleglobe") (the "Amalgamation Agreement"), one or more applications (hereinafter "Teleglobe Application(s)") will be filed with the FCC for authorization to assign and/or transfer control of certain licenses heretofore granted by the FCC, as such licenses are described on Exhibit B hereto; and

WHEREAS, the FCC's grant of the Teleglobe Applications may be made subject to conditions relating to national security, law enforcement, and public safety.

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 **Amendment to Definition of Domestic Communications Infrastructure.** The definition of "Domestic Communications Infrastructure" in Section 1.11 is hereby deleted in its entirety and replaced with the following:

> **1.11** "**Domestic Communications Infrastructure**" means (a) transmission, switching, bridging and routing equipment (including software and upgrades) used by or on behalf of VSNL America or VSNL US to provide, process, direct, control, supervise or manage Domestic Communications; (b) facilities and equipment used by or on behalf of VSNL America or VSNL US that are physically located in the United States; and (c) facilities used by or on behalf of VSNL America or VSNL US to control the equipment described in (a) and (b) above. Domestic Communications Infrastructure does not include equipment or facilities used by service providers other than VSNL or its Affiliates that are:

(1) interconnecting communications providers; or

(2) providers of services or content that are

(A) accessible using the communications services of VSNL America or VSNL US or their Affiliates, and

(B) available in substantially similar form and on commercially reasonable terms through communications services of companies other than VSNL America, VSNL US or their Affiliates.

The phrase "on behalf of" as used in this section does not include entities with which VSNL or any of its Affiliates has contracted for peering, interconnection, roaming, long distance, or other similar arrangements on which the Parties may agree. Domestic Communications Infrastructure does not include equipment dedicated to the termination of international undersea cables, provided that such equipment is utilized solely to effectuate the operation of undersea transport network(s) outside of the United States and in no manner controls land-based transport network(s) or their associated systems in the United States. Domestic Communications Infrastructure also does not include the TGN Network Operations Center located in the United Kingdom or the Teleglobe Network Operations Center ("**Teleglobe NOC**") currently located at 1441 Carrie-Derick in Montreal, Canada.

1.2 **New Definition**. The definition of "Teleglobe" is hereby added to the Agreement as a new Section 1.34 as follows:

"**Teleglobe**" means Teleglobe International Holdings Limited, a Bermuda corporation, and affiliated entities.

1.3 **New Sections 2.10 and 2.11.** The following new Sections 2.10 and 2.11 are hereby added to the Agreement as follows:

2.10 **Routing of Teleglobe Traffic**. VSNL shall ensure that all Domestic Communications routed over the Teleglobe network, including any associated network management transmissions, shall not be routed outside of the United States and/or Canada, except as and only to the extent it is necessary in emergency situations (*e.g.,* a natural disaster that removes the ability to route traffic over US and/or Canadian networks).

2.11 **Teleglobe Network Operations Center**. VSNL agrees to adopt (or cause the adoption of) security measures for the Teleglobe NOC located at 1441 Carrie-Derick, Montreal, Canada that are consistent with, and based upon, the provisions in Sections 3.2-3.3 (Visitation Policy), 3.9 (Information Security Plan) and 3.14 (Screening of Personnel). VSNL shall include such measures in a security plan that will be provided to DHS, DOJ, FBI and DOD for review and consultation within thirty (30) days after the date on which the FCC grants the applications filed by Teleglobe, VSNL and/or related entities for authorization to assign and/or

transfer all FCC-granted authorizations currently held by Teleglobe. This security plan shall include provisions regarding multicasting technology as agreed between VSNL and DHS, DOJ, FBI and DOD, and it shall include procedures and processes to implement Section 2.10. VSNL agrees to provide DHS, DOJ, FBI and DOD with written notice of any changes to this security plan as soon as reasonably practicable before such changes take effect. Network management information regarding the Teleglobe NOC will be accessible only to persons who have been screened pursuant to Section 3.14 or the employee screening provisions in the security plan for the Teleglobe NOC. In the event a new Network Operations Center is established for Domestic Communications routed over the Teleglobe network, or network functionalities of the current Teleglobe NOC are transferred to a new location, such new Network Operations Center or transferred Teleglobe NOC functionalities shall be located in the United States. In any such case, DHS, DOJ, FBI and DOD shall be consulted and receive at least ninety (90) days' advance notice.

1.4 **Modification to Section 5.10**. Section 5.10 of the Agreement is hereby deleted in its entirety and replaced with the following:

> **5.10** **Access to Information and Facilities**. DHS, DOJ, FBI, or DOD may visit any part of VSNL America's or VSNL US's Domestic Communications Infrastructure and security offices, as well as the current Teleglobe NOC located at 1441 Carrie-Derick, Montreal, Canada, the TGN Network Operations Center located in the United Kingdom, or any new Network Operations Center that may be established subject to the provisions in Section 2.11, 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 DHS, DOJ, FBI, or DOD to verify compliance with the terms of this Agreement.

ARTICLE 2: FCC CONDITION AND CFIUS

2.1 **FCC Approval**. Upon the execution of this Amendment by all the Parties hereto, DHS, DOJ, FBI, and DOD shall, on their own motion at an appropriate time or at the request of VSNL or Teleglobe, notify the FCC that, provided the FCC adopts a condition substantially the same as set forth in Exhibit C attached hereto (the "**Condition to FCC Authorization**"), DHS, DOJ, FBI, and DOD have no objection to the FCC's grant of the Teleglobe Applications. 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 Teleglobe Applications after the execution of this Amendment (i) the effectiveness of this Section may be suspended by DHS, DOJ, FBI, and DOD; or (ii) DHS, DOJ, FBI, and DOD may object, formally or informally, to the grant of the Teleglobe Applications 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 Teleglobe Applications.

2.2 **CFIUS**. Upon execution of this Amendment by all Parties hereto, DHS, DOJ, FBI, and DOD shall not object to termination of review under Exon-Florio concerning the acquisition of Teleglobe by VSNL, VSNL Bermuda and/or other companies affiliated with VSNL, unless:

(a) VSNL, VSNL America, or VSNL US fails to comply with the material terms of the Agreement, as amended hereby;

(b) DHS, DOJ, FBI, or DOD learns that the representations made to DHS, DOJ, FBI, or DOD by VSNL, VSNL America, or VSNL US during the negotiation of the Agreement or this Amendment itself are materially untrue or incomplete; or

(c) there is any material change in the circumstances associated with the acquisition of the Tyco Global Network or Teleglobe by VSNL and other companies affiliated with VSNL, where such change affects national security.

For the avoidance of doubt, nothing in this Article shall expand, limit, or otherwise affect in any way the rights and remedies available to DHS, DOJ, FBI, and DOD under Section 721 of the Defense Production Act of 1950 as amended, codified at 50 U.S.C. App. § 2170, or 31 C.F.R. Part 800.

ARTICLE 3: OTHER

3.1 **Miscellaneous**. This Amendment, and the obligations imposed and rights conferred herein, shall be effective upon the execution of this Agreement by all the Parties hereto. This Amendment may be executed in any number of counterparts, each of which when so executed shall be deemed an original, and all of which together shall constitute one and the same document. 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:

"VSNL"

Videsh Sanchar Nigam Limited

Date: December 12, 2005

By: /s/ Satish Ranade
Printed Name: Satish Ranade
Title: Company Secretary and VP (Legal)

"VSNL America"

VSNL America, Inc.

Date: December 12, 2005

By: /s/ Satish Ranade
Printed Name: Satish Ranade
Title: President

"VSNL US"

VSNL Telecommunications (US), Inc.

Date: December 12, 2005

By: /s/ N. Srinath
Printed Name: N. Srinath
Title: President

"FBI"

Federal Bureau of Investigation

Date: December 12, 2005

By: /s/ Elaine N. Lammert
Printed Name: Elaine N. Lammert
Title: Deputy General Counsel

"DHS"

Department of Homeland Security

Date: December 12, 2005

By: /s/ Stewart Baker
Printed Name: Stewart Baker
Title: Assistant Secretary for Policy

"DOJ"

United States Department of Justice

Date: December 12, 2005

By: /s/ Laura H. Parsky
Printed Name: Laura H. Parsky
Title: Deputy Assistant Attorney General, Criminal Division

"DOD"

United States Department of Defense

Date: December 9, 2005

By: /s/ John G. Grimes
Printed Name: John G. Grimes
Title: Assistant Secretary of Defense (Networks and Integration)

EXHIBIT A
AGREEMENT
[ATTACH A SIGNED COPY OF THE AGREEMENT]

AGREEMENT

THIS AGREEMENT (the "Agreement") is made as of the date of the last signature affixed hereto, by and between VSNL America, Inc. ("VSNL America"), VSNL Telecommunications (U.S.), Inc. ("VSNL US"), and Videsh Sanchar Nigam Limited ("VSNL"), on the one hand, and the U.S. Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), and the U.S. Department of Homeland Security ("DHS"), and the U.S. Department of Defense ("DOD"), 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, Controlled Unclassified, and Sensitive Information is also critical to U.S. national security;

WHEREAS, VSNL America and VSNL US have an obligation to protect from unauthorized disclosure the contents of wire and electronic communications;

WHEREAS, VSNL America plans to provide Internet Protocol-based Virtual Private Network and other communications and related services in the United States, while VSNL US plans to own and operate the U.S. portion of the former Tyco Global Network ("TGN");

WHEREAS, VSNL America and VSNL US may provide or facilitate electronic communication services, remote computing services, and interactive computer services, all of which are subject to U.S. privacy and electronic surveillance laws;

WHEREAS, VSNL America and VSNL US will have direct physical or electronic access to a variety of customer and end-user information that is subject to U.S. privacy and electronic surveillance laws;

WHEREAS, VSNL America has received pursuant to Section 214 of the Communications Act of 1934, as amended, an authorization from the Federal Communications Commission ("FCC") in File No. ITC-214-20030728-00376 on August 26, 2004 (DA 04-2668) to provide U.S. international telecommunications services to all international points;

WHEREAS, VSNL and VSNL America entered into an agreement with the FBI, DOJ and DHS dated May 24, 2004, compliance with which is a condition of the Section 214 authorization held by VSNL America;

WHEREAS, pursuant to a Stock and Asset Purchase Agreement dated November 1, 2004 among Tycom (US) Holdings, Inc., Tyco Global Networks Ltd., Tyco International Group, S.A., VSNL Bermuda LTD. and VSNL (the "Acquisition Agreement"), VSNL US and Tyco Telecommunications (US) Inc., Tyco International Ltd., and Tyco Networks (Guam) L.L.C. (hereinafter "Tyco") plan to file with the FCC one or more applications [hereinafter "Tyco/VSNL Application"] for authorization to assign and/or transfer the FCC-granted cable landing licenses for the Tyco Atlantic and Tyco Pacific cable systems;

WHEREAS, VSNL America is a direct wholly-owned subsidiary of, and VSNL US is an indirect wholly-owned subsidiary of, VSNL, which is a foreign telecommunications carrier in which the Government of India holds an approximate 26 percent ownership interest;

WHEREAS, the FCC's grant of the Tyco/VSNL Application may be made subject to conditions relating to national security, law enforcement, and public safety, and whereas VSNL America and VSNL US have agreed to enter into this Agreement with DHS, DOJ, FBI, and DOD to address issues raised by DHS, DOJ, FBI, and DOD, and to jointly petition that the FCC condition the requested authorization on compliance with this Agreement;

WHEREAS, by Executive Order 12661, the President, pursuant to Section 721 of the Defense Production Act, as amended, authorized the Committee on Foreign Investment in the United States ("CFIUS") to review, for national security purposes, foreign acquisitions of U.S. companies;

WHEREAS, Tyco and VSNL have submitted a voluntary notice with CFIUS regarding the acquisition of the TGN by VSNL and other companies affiliated with VSNL and the Parties have entered into this Agreement to address national security issues that DHS, DOJ, FBI, and/or DOD might raise, including in the CFIUS review process; and

WHEREAS, representatives of VSNL, VSNL America and VSNL US have held discussions with U.S. Government officials. During those discussions, VSNL, VSNL America and VSNL US have represented that: (a) neither VSNL, VSNL America nor VSNL US has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL, VSNL America or VSNL US providing Domestic Communications through facilities located outside the United States; (b) neither VSNL, VSNL America nor VSNL US has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL, VSNL America or VSNL US providing Web hosting services in the United States, including but not limited to shared or dedicated Web or application server hosting, Web or application server collocation or management, or other similar services; and (c) neither VSNL, VSNL America nor VSNL US has any present plans, nor is either Party aware of present plans of any other entity, that would result in VSNL, VSNL America or VSNL US providing Domestic Communications or Web hosting services in the United States through any Affiliate other than VSNL America, VSNL US, or their subsidiaries, divisions, departments, or branches;

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 "**Affiliate**" means any entity that VSNL America, VSNL US or VSNL Controls.

1.2 "**Call Associated Data**" or "**CAD**" means any information related to a Domestic Communication or related to the sender or recipient of that Domestic Communication and includes 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.

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 nonfulfillment of contracts of the entity;

(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) VSNL America's or VSNL US's obligations under this Agreement.

1.5 "**Controlled Unclassified Information**" means any information that does not qualify as 'Classified Information' pursuant to Section 1.3 of this Agreement, and that cannot be exported from the United States or reexported without authorization from the U.S. Government, pursuant to the International Traffic in Arms Regulations (ITAR), 22 C.F.R., Chapter I, Subchapter M, or the Export Administration Regulations (EAR), 15 C.F.R., Chapter VII, Subchapter C. Notwithstanding the reference to the ITAR and the EAR in this definition, nothing in this definition or any other provision in this Agreement shall in any way impose, remove, limit, alter or otherwise have any effect on VSNL America's or VSNL US's obligations that otherwise exist under the ITAR and the EAR, to the extent that the ITAR or the EAR have any application to

VSNL America and VSNL US, and if there is any conflict or perceived conflict between the terms of this Agreement and any obligations thereunder and the obligations imposed by either the ITAR or the EAR, the ITAR and the EAR shall control.

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

1.7 "**DHS**" means the U.S. Department of Homeland Security.

1.8 "**DOJ**" means the U.S. Department of Justice.

1.9 "**DOD**" means the U.S. Department of Defense.

1.10 "**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.

1.11 "**Domestic Communications Infrastructure**" means (a) transmission, switching, bridging and routing equipment (including software and upgrades) used by or on behalf of VSNL America or VSNL US to provide, process, direct, control, supervise or manage Domestic Communications; (b) facilities and equipment used by or on behalf of VSNL America or VSNL US that are physically located in the United States; and (c) facilities used by or on behalf of VSNL America or VSNL US to control the equipment described in (a) and (b) above. Domestic Communications Infrastructure does not include equipment or facilities used by service providers other than VSNL or its Affiliates that are:

(1) interconnecting communications providers; or

(2) providers of services or content that are

(A) accessible using the communications services of VSNL America or VSNL US or their Affiliates, and

(B) available in substantially similar form and on commercially reasonable terms through communications services of companies other than VSNL America, VSNL US or their Affiliates.

The phrase "on behalf of" as used in this section does not include entities with which VSNL or any of its Affiliates has contracted for peering, interconnection, roaming, long distance, or other similar arrangements on which the Parties may agree. Domestic Communications Infrastructure does not include equipment dedicated to the termination of international undersea cables, provided that such equipment is utilized solely to effectuate the operation of undersea transport network(s) outside of the United States and in no manner controls land-based transport network(s) or their associated systems in the United States. Domestic Communications Infrastructure also does not include the TGN Network Operations Center located in the United Kingdom.

1.12 "**Effective Date**" means the date on which the FCC grants the Tyco/VSNL Application.

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

1.14 "**Electronic Surveillance**" means (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.

1.15 "**FBI**" means the Federal Bureau of Investigation.

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

1.17 "**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.

1.18 "**Intercept**" or "**Intercepted**" has the meaning defined in 18 U.S.C. § 2510(4).

1.19 "**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, production of tangible things, or access to or disclosure of Domestic Communications, Call Associated Data, Transactional Data or Subscriber Information.

1.20 "**Network Management Information**" means network management operations plans, processes and procedures; descriptions of the placement of Network Operating Center(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.

1.21 "**Outsourcing Contract**" means a contract between VSNL America or VSNL US and an individual or entity to perform functions covered by this Agreement.

1.22 "**Party**" and "**Parties**" have the meanings given them in the Preamble.

1.23 "***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).

1.24 "**Security Officer**" means the person(s) designated pursuant to Section 3.10 of this Agreement.

1.25 "**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 agency or agencies 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 pursuant to Lawful U.S. Process, (d) the means of carrying out Electronic Surveillance pursuant to Lawful U.S. Process, or (e) the type(s) of service, telephone number(s), records, communications, or facilities subjected to Lawful U.S. Process; or is other information that is not Classified Information but is 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. The designation of sensitive in this paragraph may reference "Official Use Only," "Limited Official Use Only," "Law Enforcement Sensitive," "Sensitive Security Information," or other similar terms, and, shall be deemed "Sensitive Information" for purposes of this Agreement. VSNL America and VSNL US may dispute pursuant to Article 4 whether information is Sensitive Information under this subparagraph. Such information shall be treated as Sensitive Information unless and until the dispute is resolved in VSNL America's favor.

1.26 "**Subscriber Information**" means information relating to subscribers or customers of VSNL America or VSNL US 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 Subscriber Information when it is sought pursuant to the provisions of other Lawful U.S. Process.

1.27 "**Transactional Data**" means:

(a) "call identifying information," as defined in 47 U.S.C. § 1001(2), including without limitation the telephone number or similar identifying designator associated with a Domestic Communication;

(b) any information possessed by VSNL America or VSNL US, or an entity acting on behalf of VSNL America or VSNL US, 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 (d) below;

(c) 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 associated with any Domestic Communication, including electronic mail headers showing From: and To: addresses; and

(d) 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 Communication is transmitted.

The term includes all records or other information of the type referred to and accessible subject to procedures specified in 18 U.S.C. § 2703(c)(1) and (d) but does not include the content of any communication. The phrase "on behalf of" as used in this section does not include entities with which VSNL or any of its Affiliates has contracted for peering, interconnection, roaming, long distance, or other similar arrangements on which the Parties may agree.

1.28 "**United States**," "**US**," 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.

1.29 "**VSNL**" means Videsh Sanchar Nigam Limited, a corporation organized under the laws of India.

1.30 "**VSNL America**" means VSNL America, Inc., a Delaware corporation.

1.31 "**VSNL US**" means VSNL Telecommunications (US), Inc., a Delaware corporation.

1.32 "**Wire Communication**" has the meaning given it in 18 U.S.C. § 2510(1).

1.33 **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: FACILITIES, INFORMATION STORAGE AND ACCESS

2.1 **Domestic Communications Infrastructure**. Except to the extent and under conditions concurred in by DHS, DOJ, FBI, and DOD in writing:

(a) all Domestic Communications Infrastructure shall at all times be located in the United States and will be directed, controlled, supervised and managed by VSNL America or VSNL US; and

(b) all Domestic Communications that are carried by or through, in whole or in part, the Domestic Communications Infrastructure shall pass through a facility under the control of VSNL America or VSNL US and physically located in the United States, from which Electronic Surveillance can be conducted pursuant to Lawful U.S. Process. VSNL America and VSNL US will provide technical or other assistance to facilitate such Electronic Surveillance.

2.2 **Compliance with Lawful U.S. Process.** VSNL America and VSNL US shall take all practicable steps to configure their Domestic Communications Infrastructure to be capable of

complying, and VSNL America and VSNL US employees in the United States will have unconstrained authority to comply, in an effective, efficient, and unimpeded fashion, with:

(a) Lawful U.S. Process;

(b) the orders of the President 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.*).

2.3 **Information Storage and Access**. VSNL America and VSNL US, effective upon execution of this Agreement by all the Parties, shall store exclusively in the United States the following:

(a) stored Domestic Communications, if such communications are stored by or on behalf of VSNL America or VSNL US for any reason;

(b) any Wire Communications or Electronic Communications (including any other type of wire, voice or electronic communication not covered by the definitions of Wire Communication or Electronic Communication) received by, intended to be received by, or stored in the account of a customer or subscriber of VSNL America or VSNL US, if such communications are stored by or on behalf of VSNL America or VSNL US for any reason;

(c) Transactional Data and Call Associated Data relating to Domestic Communications, if such data are stored by or on behalf of VSNL America or VSNL US for any reason;

(d) Subscriber Information, if such information is stored by or on behalf of VSNL America or VSNL US for any reason, concerning customers who are U.S.-domiciled, customers who hold themselves out as being U.S.-domiciled, and customers who make a Domestic Communication;

(e) billing records of customers who are U.S.-domiciled, customers who hold themselves out as being U.S.-domiciled, and customers who make a Domestic Communication, for so long as such records are kept and at a minimum for so long as such records are required to be kept pursuant to applicable U.S. law or this Agreement; and

(f) Network Management Information.

The phrase "on behalf of" as used in this section does not include entities with which VSNL or any of its Affiliates has contracted for peering, interconnection, roaming, long distance, or other similar arrangements on which the Parties may agree.

2.4 **Billing Records**. VSNL America and VSNL US shall store for at least two years all billing records described in Section 2.3(e) above. Nothing in this paragraph shall require VSNL America or VSNL US to store such records for longer than two years.

2.5 **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 possession, custody, or control of VSNL America or VSNL US that is listed in Section 2.3 above, VSNL America or VSNL US shall store such preserved records or other evidence in the United States.

2.6 **Compliance with U.S. Law**. Nothing in this Agreement shall excuse VSNL America or VSNL US from any obligation they may have to comply with U.S. legal requirements for the retention, preservation, or production of information, records or data. Similarly, in any action to enforce Lawful U.S. Process, VSNL America and VSNL US have not waived any legal right they might have to resist such process.

2.7 **Routing of Domestic Communications**. VSNL America and VSNL US shall not route Domestic Communications outside the United States, except as and only to the extent it is necessary in emergency situations (*e.g.*, a natural disaster that removes the ability to route traffic over US networks).

2.8 **CPNI**. VSNL America and VSNL US shall comply, with respect to Domestic Communications, with all applicable FCC rules and regulations governing access to and storage of Customer Proprietary Network Information ("CPNI"), as defined in 47 U.S.C. § 222(h)(1).

2.9 **Storage of Protected Information**. The storage of Classified, Controlled Unclassified, and Sensitive Information by VSNL America or VSNL US or their contractors at any location outside of the United States is prohibited, unless the storage is in an appropriately secured location within the offices of a U.S. military facility, a U.S. Embassy or Consulate or other U.S. Government Authority, except that ***Controlled Unclassified Information*** may be stored in any manner not inconsistent with (a) the terms of a license or authorization issued under the U.S. International Traffic in Arms Regulations ("ITAR") or the U.S. Export Administration Regulations ("EAR"), or (b) the other terms of this Agreement.

ARTICLE 3: SECURITY

3.1 **Measures to Prevent Improper Use or Access**. VSNL America and VSNL US shall take all reasonable measures to prevent the use of or access to the Domestic Communications Infrastructure to conduct Electronic Surveillance, or to obtain or disclose Domestic Communications, Classified Information, Sensitive Information, or Controlled Unclassified Information, in violation of any U.S. federal, state, or local laws or the terms of this Agreement. These measures shall include creating and complying with detailed technical, organizational, operational, and personnel controls, policies and written procedures, necessary implementation plans, a visitation policy, and physical security measures. On or before the Effective Date, documents constituting and describing all such controls, policies, procedures, plans, and measures shall be provided to DHS, DOJ, FBI, and DOD for review and consultation. Thereafter VSNL America or VSNL US shall provide written notice to DHS, DOJ, FBI, and

DOD of any material changes in the documents or in such controls, policies, procedures, plans, and measures, as soon as reasonably practicable before the changes take effect.

3.2 **Visitation Policy**. No later than thirty (30) days after the Effective Date, VSNL America and VSNL US shall adopt and implement a visitation policy. The policy shall apply to all visits by non-U.S. persons to Domestic Communications Infrastructure, except for Routine Business Visits, as defined in Section 3.3. The visitation policy shall require that:

(a) The Security Officer shall review and either approve or deny on security or related grounds any requests for visits by non-U.S. persons to any Domestic Communications Infrastructure (provided that, with respect to carrier hotels and other shared facilities, the policy will apply solely to that portion of the facility controlled by VSNL America or VSNL US).

(b) A written request for approval of a visit must be submitted to the Security Officer no less than seven (7) days prior to the date of the proposed visit. If a written request cannot be provided within seven (7) days before the proposed visit because of an unforeseen exigency, the request may be communicated via telephone to the Security Officer and confirmed in writing.

(c) Every request shall set forth the purpose and justification for the visit in sufficient detail to enable the Security Officer to make an informed decision concerning the appropriateness of the visit. The Security Officer may refuse to accept any request due to lack of information. Each visit must be reviewed even for persons approved for prior visits. For multiple visits for the same purpose, the Security Officer may approve such visits by the same person or persons for a period not to exceed 60 days.

(d) After evaluating a request, the Security Officer shall, as soon as practicable, either approve or disapprove the request, pending the submission of additional information from the requester. The Security Officer shall inform the requester of the decision at least one (1) day prior to the requester's proposed visit. The Security Officer's decision shall also be confirmed in writing as soon as practicable.

(e) The Security Officer shall keep a record of all visit requests, including the decision to approve or disapprove, and of all consummated visits, including the name, address, business affiliation, and dates of birth of the vistor(s) and the VSNL, VSNL America or VSNL US personnel involved. In addition, a chronological file of all documents associated with such visits shall be maintained by VSNL America and VSNL US for at least two (2) years from the date of the visits.

(f) All visitors shall be escorted at all times by a VSNL America or VSNL US employee, and visits shall be subject to conditions determined by the Security Officer that are commensurate with the place and purpose of the visit.

3.3 **Routine Business Visits**. Notwithstanding Section 3.2, Routine Business Visits, as defined below, may occur without prior approval by the Security Officer. "Routine Business Visits": (1) are made in connection with the regular day-to-day business operations of VSNL America or VSNL US; (2) do not involve the transfer or receipt of any information regarding the security of the facilities; and (3) pertain only to the commercial aspects of VSNL America or VSNL US business. Records of such visits shall be maintained by VSNL America and VSNL US for at least two (2) years from the date of the visits. Routine Business Visits may include:

(a) visits for the purpose of discussing or reviewing commercial subjects such as company performance and business plans, budgets, inventory, accounts receivable, accounting and financial controls;

(b) visits by customers or commercial suppliers regarding, for example, solicitation of orders, price quotes, or the provision of products or services; and

(c) visits concerning fiscal, financial, or legal matters.

3.4 **Access by Foreign Government Authorities**. VSNL America and VSNL US shall not, directly or indirectly, disclose or permit disclosure of, or provide access to Domestic Communications, Call Associated Data, Transactional Data, or Subscriber Information stored by or on behalf of VSNL America or VSNL US in the United States to any person if the 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 the express written consent of DHS, DOJ, FBI, or DOD or the authorization of a court of competent jurisdiction in the United States. Any such requests or submission of legal process shall be reported to DHS, DOJ, FBI, and DOD as soon as possible and in no event later than five (5) business days after such request or legal process is received by and known to the Security Officer. VSNL America and VSNL US shall take reasonable measures to ensure that the Security Officer will promptly learn of all such requests or submission of legal process.

3.5 **Disclosure to Foreign Government Authorities**. VSNL America and VSNL US shall not, directly or indirectly, disclose or permit disclosure of, or provide access to:

(a) Classified, Sensitive, or Controlled Unclassified Information;

(b) Subscriber Information, Transactional Data, Call Associated Data, or a copy of any Wire or Electronic Communications, 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.

to any foreign government, identified representative, component or subdivision thereof without satisfying all applicable U.S. federal, state and local legal requirements, and obtaining the express written consent of the DHS, DOJ, FBI, or DOD or the authorization of a court of competent jurisdiction in the United States, provided that the provision of Controlled Unclassified Information shall be permitted in accordance with the terms of a license received under the ITAR or EAR, as applicable. Any requests or any legal process submitted by a foreign government, an identified representative, a component or subdivision thereof to VSNL America

or VSNL US for the communications, data or information identified in this Section 3.5 that is maintained by VSNL America or VSNL US shall be referred to DHS, DOJ, FBI, and DOD as soon as possible and in no event later than five (5) business days after such request or legal process, 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. VSNL America and VSNL US shall take reasonable measures to ensure that the Security Officer will promptly learn of all such requests or submission of legal process described in this Section 3.5.

3.6 **Notification of Access or Disclosure Requests from Foreign Non-Governmental Entities**. Within one month after receiving legal process or requests from foreign non-governmental entities for access to or disclosure of Domestic Communications, VSNL America or VSNL US shall notify DOJ in writing of such legal process or requests, unless such disclosure would be in violation of an order of a court of competent jurisdiction within the United States.

3.7 **Security of Lawful U.S. Process**. VSNL America and VSNL US shall protect the confidentiality and security of all Lawful U.S. Process served upon it and the confidentiality and security of Classified, Sensitive, and Controlled Unclassified Information in accordance with U.S. federal and state law or regulation and this Agreement. Information concerning Lawful U.S. Process, Classified Information, Sensitive Information, or Controlled Unclassified Information shall be under the custody and control of the Security Officer.

3.8 **Points of Contact**. Within five (5) business days after the Effective Date, VSNL America and VSNL US shall each designate in writing to DHS, DOJ, FBI, and DOD, one or more nominees already holding U.S. security clearances or which VSNL has a reasonable basis to believe is eligible to receive U.S. security clearances to serve as points of contact within the United States with the authority and responsibility for accepting and overseeing the carrying out of Lawful U.S. Process on behalf of VSNL America or VSNL US. VSNL America and VSNL US shall each provide in writing, in accordance with Section 5.14 of this Agreement, to DHS, DOJ, FBI, and DOD, the name and contact information for each point of contact. The points of contact shall be assigned to VSNL America's or VSNL US's security office(s) 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 and maintaining the security of Classified, Sensitive, and Controlled Unclassified Information and any Lawful U.S. Process in accordance with the requirements of U.S. law and this Agreement. The points of contact shall undergo the screening process defined in Section 3.14 of this Agreement. If there is any change in the designated points of contact, VSNL America or VSNL US shall notify DHS, DOJ, FBI, and DOD immediately in writing, providing updated identifying and contact information. Persons serving as points of contact shall be resident U.S. citizens who hold or are eligible to receive U.S. security clearances (which may include interim clearances), as outlined in Executive Order 12968. VSNL America and VSNL US shall comply with any request by a Government Authority in the United States that a background check and/or security clearance process be completed for a designated point of contact.

3.9 **Information Security Plan**. VSNL America and VSNL US shall each develop, document, implement, and maintain an information security plan to:

(a) ensure that the disclosure of or access to Classified, Sensitive, or Controlled Unclassified Information is limited to those who have the appropriate security clearances and authority;

(b) take appropriate measures to prevent unauthorized access to data or to the section(s), if any, of the facilities that might contain Classified, Sensitive, or Controlled Unclassified Information;

(c) assign U.S. citizens to positions for which screening is contemplated pursuant to Section 3.14;

(d) upon written request from DHS, DOJ, FBI, or DOD, provide the name, social security number and date of birth of each person who regularly handles or deals with Sensitive Information;

(e) require that personnel handling Classified Information shall have been granted appropriate security clearances pursuant to Executive Order 12968;

(f) provide that the points of contact described in Section 3.8 shall have sufficient authority over any of VSNL America's or VSNL US's employees who may handle Classified, Sensitive, or Controlled Unclassified Information to maintain the confidentiality and security of such information in accordance with applicable U.S. legal authorities and the terms of this Agreement;

(g) maintain appropriately secure facilities (*e.g.,* offices) within the United States for the handling and storage of any Classified, Sensitive or Controlled Unclassified Information;

(h) establish a formal incident response capability with reference to OMB Circular A-130 and NIST Special Publications 800-18, 800-47 and 800-61; and

(i) *identify the types of positions that require screening pursuant to Section 3.14,* the required rigor of such screening by type of position, and the criteria by which VSNL America and VSNL US will accept or reject screened persons ("Screened Personnel").

On or before the Effective Date, each information security plan shall be provided to DHS, DOJ, FBI, and DOD for review and consultation. Thereafter VSNL America or VSNL US shall provide written notice to DHS, DOJ, FBI, and DOD of any material changes in either plan, as soon as reasonably practicable before the changes take effect.

3.10 **Security Officer Responsibilities and Duties**. Within 14 calendar days after the Effective Date, VSNL America and VSNL US shall each designate, from among the points of contact selected pursuant to Section 3.8, a Security Officer within the United States with the primary responsibility for carrying out VSNL America's or VSNL US's obligations under Articles 2, 3 and 5 of this Agreement.

3.11 **Nondisclosure of Protected Data**. The Security Officer shall not directly or indirectly disclose information concerning Lawful U.S. Process, Classified Information, Sensitive

Information, or Controlled Unclassified Information to any third party, or officer, director, shareholder, employee, agent, or contractor of VSNL, VSNL America or VSNL US, including those who serve in a supervisory, managerial or officer role with respect to the Security Officer, unless disclosure has been approved by prior written consent obtained from DHS, DOJ, FBI, or DOD or there is an official need for disclosure of the information in order to fulfill an obligation consistent with the purpose for which the information is collected or maintained, provided that the disclosure of Controlled Unclassified Information not related to the subject matter of this Agreement need only be consistent with the ITAR or EAR, as applicable.

3.12 **Notice of Obligations**. VSNL America and VSNL US shall instruct appropriate officials, employees, contractors, and agents as to VSNL America's or VSNL US's obligations under this Agreement, including the individuals' duty to report any violation of this Agreement and the reporting requirements in Sections 5.2, 5.5, and 5.9 of this Agreement, and shall issue periodic reminders to them of such obligations.

3.13 **Access to Classified, Controlled Unclassified, 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 VSNL America or VSNL US might have to Classified, Controlled Unclassified, and Sensitive Information under that Government Authority's jurisdiction.

3.14 **Screening of Personnel**. VSNL America and VSNL US shall implement a thorough screening process through the Security Officer or a reputable third party to ensure that (1) all security personnel, (2) all personnel whose positions involve access to the Domestic Communications Infrastructure that enables those persons to monitor the content of Wire or Electronic Communications (including in electronic storage) or to access Network Management Information, Transactional Data, Call Associated Data, or Subscriber Information, and (3) all personnel who have access to Sensitive Information, meet personnel screening requirements commensurate with the risk posed to national security by their access to facilities, equipment, or information subject to this Agreement.

(a) VSNL America and VSNL US shall consult with DHS, DOJ, FBI, and DOD on the screening procedures required under this Section. DHS, DOJ, FBI, and DOD shall take into consideration VSNL America's and VSNL US's current and proposed screening procedures in its determination of the required screening procedures, which shall be consistent with the guidance to U.S. government agencies under Executive Order 10450. VSNL America and VSNL US agree to provide a list of positions subject to screening under this Section to DHS, DOJ, FBI, and DOD. The Parties shall categorize the positions according to the risk posed to national security by the level of access to facilities, equipment, and information subject to this Agreement and shall agree upon the level of screening necessary to satisfy this Section for each access level. Upon request, VSNL America or VSNL US shall provide to the investigation services of DHS, DOJ, FBI, and DOD, or in the alternative, to the investigation service of the United States Office of Personnel Management ("OPM"), all the information it collects in its screening process of each candidate. Candidates for these positions shall be informed, and shall consent, that the information collected during the screening process may be provided to the U.S. government. Current and newly hired