

AGREEMENT

This AGREEMENT is made as of the date of the last signature affixed hereto, by and between Reach Ltd. ("Reach"), Telstra Corporation Limited ACN 051 775 556 ("Telstra"), and Pacific Century CyberWorks Limited ("PCCW"), on the one hand, and the Federal Bureau of Investigation ("FBI") and the U.S. Department of Justice ("DOJ"), on the other (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.*, Presidential Decision Directive 63 on Critical Infrastructure Protection);

WHEREAS, protection of Classified, Controlled Unclassified, and Sensitive Information is also critical to U.S. national security;

WHEREAS, Reach has filed with the Federal Communications Commission ("FCC") an application (FCC File Number ITC-214-20001228-00771) under Section 214 of the Communications Act of 1934, as amended, to provide facilities-based and resale telecommunications services between the United States and all authorized international points, except Kiribati;

WHEREAS, as disclosed to the FCC, Reach is a joint venture that is indirectly owned 50% by Telstra, an Australian corporation, and 50% by PCCW, a Hong Kong corporation, and Telstra, in turn, is 50.1% owned by the Federal Government of Australia, while the foreign government ownership of PCCW, if any, is not greater than 10%;

WHEREAS, upon FCC grant of the application in FCC File Number ITC-214-20001228-00771, Reach proposes to acquire 100% of the stock of Telstra Wholesale Trading, Inc. ("TWT"), an indirect wholly owned subsidiary of Telstra;

WHEREAS, the FCC's grant of the application in FCC File Number ITC-214-20001228-00771 may be made subject to conditions relating to national security, law enforcement, and public safety, and whereas Reach, Telstra, and PCCW have each agreed to enter into this Agreement with the FBI and the DOJ to address issues raised by the FBI and the DOJ, and to request that the FCC condition the authorizations and licenses granted by the FCC on their 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, Telstra and PCCW intend to submit a voluntary notice with CFIUS regarding the formation of Reach and Reach's acquisition of TWT and have each entered into this Agreement to resolve any national security issues that the DOJ and the FBI might raise, including in the CFIUS review process; and

WHEREAS, representatives of Telstra and PCCW have met with representatives of the FBI and the DOJ to discuss issues raised by the FBI and the DOJ. In these meetings, Telstra and PCCW represented that: (a) neither Telstra, PCCW, nor Reach has present plans, or is aware of present plans of any other entity, as a result of which a Domestic Communications Company will provide Domestic Communications through facilities located outside the United States (though the Parties recognize that Reach, Telstra, and PCCW may, for *bona fide* commercial reasons as provided in this Agreement, use such facilities); and (b) Telstra and PCCW are entities whose commercial operations are wholly separate from their respective Governments and whose activities are overseen by independent regulatory authorities in their respective countries. Further, Telstra represented that TWT's U.S. communication businesses operate in extremely competitive markets and, to Telstra's knowledge, control less than one percent of the total U.S. market for services, in terms of revenues.

NOW THEREFORE, the Parties are entering into this Agreement to address national security, law enforcement and public safety issues.

ARTICLE 1: DEFINITION OF TERMS

As used in this Agreement:

1.1 "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 dial digit extraction, in-band and out-of-band signaling, and party add, drop and hold.

1.2 "Classified Information" means any information that has been determined pursuant to Executive Order 12958, or any predecessor or successor order, or the Atomic Energy Act of 1954, or any statute that succeeds or amends the Atomic Energy Act, to require protection against unauthorized disclosure.

1.3 "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 1.3(a) through (d); or
- (f) Reach's, Telstra's and PCCW's obligations under this Agreement.

1.4 "Controlled Unclassified Information" means unclassified information, the export of which is controlled by 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.

1.5 "Domestic Communications" means (i) Wire Communications or Electronic Communications (whether stored or not) from one U.S. location to another U.S. location and (ii) the U.S. portion of a Wire Communication or Electronic Communication (whether stored or not) that originates or terminates in the United States.

1.6 "Domestic Communications Company" means all those subsidiaries, divisions, departments, branches and other components of Reach, Telstra and PCCW that provide Domestic Communications. If any subsidiary, division, department, branch or other component of Reach, Telstra and PCCW provides Domestic Communications after the date that all the Parties execute this Agreement, then such subsidiary, division, department, branch or other component of Reach, Telstra and PCCW shall be deemed to be a Domestic Communications Company. If Reach, Telstra and PCCW has or in the future obtains Control over a joint venture or other entity that provides Domestic Communications, then the joint venture or entity shall also be deemed to be a Domestic Communications Company.

1.7 "Domestic Communications Infrastructure" means facilities and equipment used by or on behalf of a Domestic Communications Company: (a) to provide, process, direct, control, supervise or manage Domestic Communications; (b) that are physically located in the United States; or (c) to control the equipment described in (a) above. Domestic Communications Infrastructure does not include equipment or facilities used by service providers that are not Domestic Communications Companies and that are:

- (a) interconnecting communications providers; or
- (b) providers of services or content that are
 - (i) accessible using the communications services of Domestic Communications Companies, and

- (ii) available in substantially similar form and on commercially reasonable terms through communications services of companies other than Domestic Communications Companies.

1.8 “Effective Date” means the date on which Reach consummates the acquisition of the stock of TWT.

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

1.10 “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 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 or interception of, or preservation of communications or information as described in (a) through (e) above and comparable State laws.

1.11 “Foreign” where used in this Agreement, whether capitalized or lower case, means non-U.S.

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

1.13 “Reach” means Reach Ltd., a Bermuda corporation.

1.14 “Lawful U.S. Process” means lawful U.S. federal, state or local Electronic Surveillance court orders or authorizations, and other lawful orders, processes or authorizations for access to or disclosure of Domestic Communications, Call Associated Data, Transactional Data or Subscriber Information authorized by U.S. federal, state or local law.

1.15 “Party” and “Parties” have the meanings given them in the Preamble.

1.16 “PCCW” means Pacific Century CyberWorks Limited, a Hong Kong corporation.

1.17 “*Pro forma* assignments or *pro forma* transfers of control” are transfers that do not result in a change in the entity's ultimate control as defined by Section 63.24 of the FCC's Rules (47 C.F.R. § 63.24).

1.18 “Sensitive Information” means unclassified 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, (e) the type(s) of service, telephone number(s), records, communications, or facilities subjected to Lawful U.S. Process, and (f) other unclassified information 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." Domestic Communications Companies may dispute pursuant to Article 4 whether information is Sensitive Information under subparagraph 1.14(f). Such information shall be treated as Sensitive Information unless and until the dispute is resolved in the Domestic Communications Companies' favor.

1.19 "Subscriber Information" means information relating to subscribers of Domestic Communications Companies 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.

1.20 "Telstra" means Telstra Corporation Limited ACN 051 775 556, an Australian corporation.

1.21 "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) Internet address or similar identifying designator associated with a Domestic Communication;
- (c) the time, date, size, and duration of a Domestic Communication;
- (d) any information possessed by the provider of Domestic Communications relating specifically to the identity and physical address of the provider's subscriber, user, or account payer;
- (e) to the extent associated with such subscriber, user, or account payer, any information possessed by the Domestic Communications provider relating to all telephone numbers, Internet addresses, or similar identifying designators; the physical location of equipment, if known and if different from the location information provided under (f) below; types of services; length of service; fees; and usage, including billing records; and
- (f) 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 does not include the content of any communication.

1.22 "United States" 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.

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

1.24 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 Except to the extent and under conditions concurred in by the FBI and the DOJ in writing:

(a) in the absence of a strictly *bona fide* commercial reason, all Domestic Communications Infrastructure shall at all times be located in the United States and will be directed, controlled, supervised and managed by the Domestic Communications Company; 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 a Domestic Communications Company and physically located in the United States, from which Electronic Surveillance can be conducted pursuant to Lawful U.S. Process. The Domestic Communications Company will provide technical or other assistance to facilitate such Electronic Surveillance.

2.2 Domestic Communications Companies shall ensure at all times that their Domestic Communications Infrastructure is configured such that it will be capable of complying, and Domestic Communications Company 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 Domestic Communications Companies shall have the ability to provide in the United States the following:

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

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

(d) Subscriber Information, if such information is stored by or on behalf of a Domestic Communications Company 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; and

(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 as long as such records are required to be kept pursuant to applicable U.S. law or this Agreement.

2.4 Domestic Communications Companies shall ensure that the data and communications described in Section 2.3(a)-(e) of this Agreement are stored in a manner not subject to mandatory destruction under any foreign laws, if such data and communications are stored by or on behalf of a Domestic Communications Company for any reason. Domestic Communications Companies shall ensure that the data and communications described in Section 2.3(a)-(e) of this Agreement shall not be stored by or on behalf of a Domestic Communications Company outside of the United States unless such storage is strictly for *bona fide* commercial reasons weighing in favor of storage outside the United States.

2.5 Domestic Communications Companies shall store for at least two years all billing records maintained by Domestic Communications Companies for their customers and subscribers.

2.6 Upon a request made pursuant to 18 U.S.C. § 2703(f) by a governmental entity within the United States to preserve any information in the possession, custody, or control of Domestic Communications Companies that relates to (a) a customer or subscriber of a Domestic Communications Company, (b) any communication of such customer or subscriber described in (a) above, or (c) any Domestic Communication, Domestic Communications Companies shall store such preserved records or other evidence in the United States.

2.7 Nothing in this Agreement shall excuse a Domestic Communications Company from any obligation it may have to comply with U.S. legal requirements for the retention, preservation, or production of such information or data.

2.8 Except strictly for *bona fide* commercial reasons, Domestic Communications Companies shall not route a Domestic Communication outside the United States.

2.9 Domestic Communications Companies 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).

ARTICLE 3: SECURITY

3.1 Domestic Communications Companies shall take all reasonable measures to prevent the use of or access to the Domestic Communications Infrastructure to conduct Electronic Surveillance in violation of any U.S. federal, state, or local laws or the terms of this Agreement. These measures shall take the form of detailed technical, organizational, personnel related policies and written procedures, necessary implementation plans, and physical security measures.

3.2 Domestic Communications Companies 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 Domestic Communications Companies 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 the DOJ or the authorization of a court of competent jurisdiction in the United States. Any requests made to an officer of a Domestic Communications Company or submission of legal process described in this Section 3.2 of this Agreement shall be reported by executive officers of Domestic Communications Companies to the DOJ as soon as possible and in no event later than five (5) business days after such request or legal process is received by and personally known to the executive officers of Domestic Communications Companies. Domestic Communications Companies shall take reasonable measures to ensure that their executive officers will promptly learn of all such requests or submission of legal process described in this Section 3.2 of this Agreement.

3.3 Domestic Communications Companies shall not, directly or indirectly, disclose or permit disclosure of, or provide access to:

(a) Classified or Sensitive Information; or

(b) Subscriber Information, Transactional Data, Call Associated Data, or a copy of any Wire Communications or Electronic Communication intercepted or acquired pursuant to Lawful U.S. Process to any foreign government, identified representative, component or subdivision thereof without satisfying all applicable U.S. federal, state and local legal requirements pertinent thereto, and obtaining the express written consent of the DOJ or the authorization of a court of competent jurisdiction in the United States. Any requests or any legal process submitted by a foreign government, an identified representative, a component or subdivision thereof to Domestic Communications Companies for the communications, data or information identified in this Section 3.3 of this Agreement that is maintained by Domestic Communications Companies shall be referred to the DOJ as soon as possible and in no event later than five (5) business days after such request or legal process is received by and personally known to the executive officers of Domestic Communications Companies 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. Domestic Communications Companies shall take reasonable measures to ensure that their executive officers will promptly learn of all such requests or submission of legal process described in this Section 3.3 of this Agreement.

3.4 At least every three (3) months, Domestic Communications Companies shall notify DOJ in writing of legal process or requests by foreign nongovernmental entities to Domestic Communications Companies for access to or disclosure of Domestic Communications carried by or through, in whole or in part, the Domestic Communications Infrastructure unless the disclosure of the legal process or request would be in violation of an order of a court of competent jurisdiction within the United States.

3.5 Within sixty (60) days after the Effective Date, Domestic Communications Companies shall designate points of contact within the United States with the authority and responsibility for accepting and overseeing the carrying out of Lawful U.S. Process to conduct Electronic Surveillance of or relating to Domestic Communications carried by or through, in whole or in part, the Domestic Communications Infrastructure; or relating to customers or subscribers of Domestic Communications Companies. The points of contact shall be assigned to Domestic Communications Companies 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 Information and any Lawful U.S. Process for Electronic Surveillance of or relating to Domestic Communications carried by or through, in whole or in part, the Domestic Communications Infrastructure, or relating to customers or subscribers of Domestic Communications Companies, in accordance with the requirements of U.S. law. Promptly after designating such points of contact, Domestic Communications Companies shall notify the FBI and the DOJ in writing of the points of contact, and thereafter shall promptly notify the FBI and the DOJ of any change in such designation. The points of contact shall be resident U.S. citizens who are eligible for appropriate U.S. security clearances. Domestic Communications Companies shall cooperate with any request by a government entity within the United States that a background check and/or security clearance process be completed for a designated point of contact.

3.6 Domestic Communications Companies shall protect the confidentiality and security of all Lawful U.S. Process served upon them and the confidentiality and security of Classified Information and Sensitive Information in accordance with U.S. federal and state law or regulation and this Agreement.

3.7 Domestic Communications Companies shall, within security office(s) in the United States:

- (a) take appropriate measures to prevent unauthorized access to data or facilities that might contain Classified Information or Sensitive Information;
- (b) assign U.S. citizens, who meet high standards of trustworthiness for maintaining the confidentiality of Sensitive Information, to positions that handle or that regularly deal with information identifiable to such person as Sensitive Information;
- (c) upon request from the DOJ or FBI, provide the name, social security number and date of birth of each person who regularly handles or deals with Sensitive Information;
- (d) require that personnel handling Classified Information shall have been granted appropriate security clearances;

(e) provide that the points of contact described in Section 3.5 of this Agreement shall have sufficient authority over any of Domestic Communications Companies' employees who may handle Classified Information or Sensitive Information to maintain the confidentiality and security of such information in accordance with applicable U.S. legal authority and the terms of this Agreement; and

(f) maintain appropriately secure facilities (e.g., offices) for the handling and storage of any Classified Information and Sensitive Information.

3.8 Domestic Communications Companies shall instruct appropriate officials, employees, contractors, and agents as to their obligations under this Agreement and shall issue periodic reminders to them of such obligations.

3.9 Nothing contained in this Agreement shall limit or affect the authority of a U.S. government agency to deny, limit or revoke Domestic Communications Companies' access to Classified, Controlled Unclassified, and Sensitive Information under that agency's jurisdiction.

ARTICLE 4: DISPUTES

4.1 The Parties shall use their best efforts to resolve any disagreements that may arise under this Agreement. Disagreements shall be addressed, in the first instance, at the staff level by the Parties' designated representatives. Any disagreement that has not been resolved at that level shall be submitted promptly to the Chief Executive Officers of Reach, Telstra, and PCCW, the General Counsel of the FBI, and the Deputy Attorney General, Criminal Division, DOJ, or their designees, unless the FBI or the DOJ believes that important national interests can be protected, or a Domestic Communications Company believes that its paramount commercial interests can be resolved, only by resorting to the measures set forth in Section 4.2 of this Agreement. If, after meeting with higher authorized officials, any of the Parties determines that further negotiation would be fruitless, then that Party may resort to the remedies set forth in Section 4.2 of this Agreement. If resolution of a disagreement requires access to Classified Information, the Parties shall designate a person or persons possessing the appropriate security clearances for the purpose of resolving that disagreement.

4.2 Subject to Section 4.1 of this Agreement, if any of the Parties believes that any other of the Parties has breached or is about to breach this Agreement, that Party may bring an action against the other Party for appropriate judicial relief.

4.3 Reach, Telstra, and PCCW agree that the United States would suffer irreparable injury if for any reason a Domestic Communications Company failed to perform any of its significant obligations under this Agreement, and that monetary relief would not be an adequate remedy. Accordingly, Reach, Telstra, and PCCW agree that, in seeking to enforce this Agreement against Domestic Communications Companies, the FBI and the DOJ shall be entitled, in addition to any other remedy available at law or equity, to specific performance and injunctive or other equitable relief.

4.4 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 Reach, Telstra and PCCW agree that, to the extent that a Domestic Communications Company or any of its property (including FCC licenses and authorizations and intangible property) is or becomes entitled at any time to any immunity on the ground of sovereignty or otherwise based upon a status as an agency or instrumentality of government from any legal action, suit or proceeding or from setoff or counterclaim relating to this Agreement from the jurisdiction of any competent court or the FCC, from service of process, from attachment prior to judgment, from attachment in aid of execution of a judgment from execution pursuant to a judgment or arbitral award, or from any other legal process in any jurisdiction, it, for itself and its property expressly, irrevocably and unconditionally waives, and agrees not to plead or claim, any such immunity with respect to matters arising with respect to this Agreement or the obligations herein (including any obligation for the payment of money) in any proceeding brought by a U.S. federal, state or local governmental authority. Reach, Telstra, and PCCW agree 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. Section 1602 et seq. The foregoing waiver shall constitute a present waiver of immunity at any time any action is initiated by a U.S. federal, state or local governmental authority against any Domestic Communications Company with respect to compliance with this Agreement.

4.6 It is agreed by and between the Parties that a civil action among the Parties for judicial relief with respect to any dispute or matter whatsoever arising under, in connection with, or incident to, this Agreement shall be brought, if at all, if jurisdiction can be obtained, in the United States District Court for the District of Columbia.

4.7 Nothing in this Agreement shall limit or affect the right of a U.S. government agency to:

- (a) seek revocation by the FCC of any license, permit, or other authorization granted or given by the FCC to Domestic Communications Companies, or any other sanction by the FCC against Domestic Communications Companies;
- (b) seek civil sanctions for any violation by Domestic Communications Companies of any U.S. law or regulation or term of this Agreement; or
- (c) pursue criminal sanctions against Domestic Communications Companies, or any director, officer, employee, representative, or agent of Domestic Communications Companies, or against any other person or entity, for violations of the criminal laws of the United States.

4.8 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 If any Domestic Communications Company makes any filing with the FCC or any other governmental agency relating to the 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*, Reach, Telstra, or PCCW shall promptly provide to the FBI and the DOJ written notice and copies of such filing. This Section 5.1 is effective upon execution of this Agreement by all the Parties.

5.2 Effective upon execution of this Agreement by all the Parties, Reach, Telstra, and PCCW shall provide to the FBI and the DOJ written notice within fourteen (14) days after its executive officers have personal knowledge that any foreign government, any foreign government controlled entity, or any other foreign entity obtains or seeks to obtain an ownership interest or increase its existing ownership interest (direct or indirect) in Reach, Telstra, and PCCW to a level such that the foreign government or entity is itself entitled to (i) Board of Directors representation (including representation on the Management Board or Supervisory Board), (ii) special voting or veto rights, or (iii) minority shareholder rights under applicable Articles of Incorporation, bylaws (or equivalent documents), or other constituent agreements; or in the case of a foreign entity, obtains Control of Reach, Telstra, and PCCW. To the extent known to Reach, Telstra, and PCCW, such notice shall, at a minimum, (a) identify the foreign government or foreign entity, (b) quantify the amount of ownership interest in Reach, Telstra, and PCCW that the entity holds or will likely hold, and (c) include a description of the transaction that has resulted in or through which the foreign government or foreign entity seeks to obtain Control of Reach, Telstra, and PCCW.

5.3 Domestic Communications Companies shall provide to the FBI and the DOJ thirty (30) days advance notice if a Domestic Communications Company plans to store or have stored on its behalf any data or communications as defined in Section 2.3(a)-(e) outside the United States. Such notice shall, at a minimum, (a) include a description of the type of information to be stored outside the United States, (b) identify the custodian of the information if other than a Domestic Communications Company, (c) identify the location where the information is to be located, and (d) identify the factors considered in deciding to store the information outside of the United States (see Section 2.4 of this Agreement). This Section 5.3 is effective 30 days after execution of this Agreement by all the Parties.

5.4 Reach, Telstra, and PCCW have entered into or may enter into joint ventures under which the joint venture or entity may provide Domestic Communications. To the extent Reach, Telstra, and PCCW does not have Control over such joint venture or entity, Reach, Telstra, and PCCW 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 FBI or the DOJ about the activities of such entity. This Section 5.4 is effective upon execution of this Agreement by all the Parties. Nothing in this Section 5.4 does nor shall it be construed to relieve Domestic Communications Companies of obligations under Sections 2.3 and 2.4 of this Agreement. The obligations of Reach, Telstra, and PCCW under this Section 5.4 shall not be considered "significant obligations" for purposes of Section 4.3 of this Agreement.

5.5 If a Domestic Communications Company outsources functions covered by this Agreement to a third party that is not a Domestic Communications Company, that Domestic

Communications Company shall take reasonable steps to ensure that the third party complies with the applicable terms of this Agreement. Such steps shall include the following:

- (a) the Domestic Communications Company shall include in its contracts with any such third parties written provisions requiring that such third parties comply with all applicable terms of this Agreement or take other reasonable, good-faith measures to ensure that such third parties are aware of, agree to, and are bound to comply with the applicable obligations of this Agreement;
- (b) if the Domestic Communications Company learns that the outsourcing third party or the outsourcing third party's employee has violated an applicable provision of this Agreement, the Domestic Communications Company will notify the DOJ and the FBI promptly; and
- (c) with consultation and, as appropriate, cooperation with the DOJ and the FBI, 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 outsourcing third party, including after notice and opportunity for cure, and/or initiating and pursuing litigation or other remedies at law and equity.

5.6 If any member of the Reach, Telstra, or PCCW Board of Directors or member of the senior management of Reach, Telstra, and PCCW (including the Chief Executive Officer, President, General Counsel, Chief Technical Officer, Chief Financial Officer or other senior officer) learns that any foreign government

- (a) plans to participate or has participated in any aspect of the day-to-day management of Domestic Communications Companies in such a way that interferes with or impedes the performance by Domestic Communications Companies of duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by Domestic Communications Companies of its rights under the Agreement, or
- (b) plans to exercise or has exercised, as a direct or indirect shareholder of Reach, Telstra, and PCCW or their subsidiaries, any Control of Domestic Communications Companies in such a way that interferes with or impedes the performance by Domestic Communications Companies of duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by Domestic Communications Companies of rights under the terms of this Agreement, or in such a way that foreseeably concerns Domestic Communications Companies' obligations under this Agreement,

then such member shall promptly cause to be notified the Vice President for Legal Affairs or other designated representative of a Domestic Communications Company located in the United States, who in turn, shall promptly notify the FBI and the DOJ in writing of the timing and the nature of the government's plans and/or actions. This Section 5.6 is effective upon the execution of this Agreement by all the Parties.

5.7 Domestic Communications Companies shall take practicable steps to ensure that, if any Domestic Communications Companies official, employee, contractor or agent acquires any information that reasonably indicates: (a) a breach of this Agreement; (b) Electronic Surveillance

conducted 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 use of CPNI); or (d) improper access to or disclosure of Classified Information or Sensitive Information, then Domestic Communications Companies shall notify the FBI and the DOJ in the same manner as specified in Section 5.6 of this Agreement. This report shall be made promptly and in any event no later than 10 calendar days after Domestic Communications Companies acquired information indicating a matter described in Section 5.7(a)-(d) of this Agreement. Domestic Communications Companies shall lawfully cooperate in investigating the matters described in Sections 5.6 and 5.7(a)-(d) of this Agreement. Domestic Communications Companies 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. This Section 5.7 is effective thirty (30) days after execution of this Agreement by all the Parties.

5.8 In response to reasonable requests made by the FBI or the DOJ, Domestic Communications Companies shall provide access to information concerning technical, physical, management, or other security measures and other reasonably available information needed by the DOJ or the FBI to assess compliance with the then-effective terms of this Agreement. This Section 5.8 is effective upon execution of this Agreement by all the Parties.

5.9 Upon reasonable notice and during reasonable hours, the FBI and the DOJ may visit and inspect any part of Domestic Communications Companies' Domestic Communications Infrastructure and security offices for the purpose of verifying compliance with the terms of this Agreement. Domestic Communications Companies may have appropriate Domestic Communications Companies employees accompany U.S. government representatives throughout any such inspection.

5.10 Upon reasonable notice from the FBI or the DOJ, Domestic Communications Companies will make reasonably available for interview officers or employees of Domestic Communications Companies, and will seek to 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. This Section 5.10 is effective upon execution of this Agreement by all the Parties.

5.11 On or before the last day of January of each year, a designated senior corporate officer of Domestic Communications Companies shall submit to the FBI and the DOJ a report assessing Domestic Communications Companies' compliance with the terms of this Agreement for the preceding calendar year. The report shall include:

- (a) a copy of the policies and procedures adopted to comply with this Agreement;
- (b) a summary of the changes, if any, to the policies or procedures, and the reasons for those changes;
- (c) a summary of any known acts of noncompliance with the terms of this Agreement, whether inadvertent or intentional, with a discussion of what steps have been or will be taken to prevent such acts from occurring in the future; and

(d) identification of any other issues that, to Domestic Communications Companies' knowledge, will or reasonably could affect the effectiveness of or compliance with this Agreement.

5.12 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, (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 others addresses as the Parties may designate in accordance with this Section:

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

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

With a copy to:

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

Reach Ltd.
Secretary
Clarendon House
Two Church Street
Hamilton HM11
Bermuda

Telstra Corporation Limited
Level 26
242 Exhibition Street
Melbourne, Victoria 3000
Australia
Attention: Deputy Group General Counsel

Pacific Century CyberWorks Limited

38th Floor
Citibank Tower
Citibank Plaza
3 Garden Road
Central
Hong Kong

With a copy to:

Vinson & Elkins L.L.P.
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1008
Attention: Gregory C. Staple

and

Kelley Drye & Warren L.L.P.
1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2423
Attention: Robert J. Aamoth

ARTICLE 6: FREEDOM OF INFORMATION ACT

6.1 The DOJ and FBI shall take all reasonable measures to protect from public disclosure all information submitted by Telstra, PCCW, or Reach to the DOJ or FBI in connection with this Agreement and clearly marked with the legend "Business Confidential; subject to protection under 5 U.S.C. § 553(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). 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 or FBI, as appropriate, shall notify the company of the intended disclosure as provided by Executive Order 12600, 52 Fed. Reg. 23781 (June 25, 1987). If the company objects to the intended disclosure and its objections are not sustained, the DOJ or FBI, as appropriate, shall notify the company of its intention to release (as provided by Section 5 of E.O. 12600) not later than five business days prior to disclosure of the challenged information.

6.2 Nothing in this Agreement shall prevent the FBI or the DOJ from lawfully disseminating information as appropriate to seek enforcement of this Agreement, provided that the FBI and the DOJ take all reasonable measures to protect from public disclosure the information marked as described in Section 6.1.

6.3 The DOJ and FBI 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 Upon the execution of this Agreement by all the Parties, the FBI and the DOJ 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 FBI and the DOJ have no objection to the FCC's grant of the application filed with the FCC in FCC File Number ITC-214-20001228-00771.

7.2 Reach, Telstra, and PCCW agree that in any application or petition by any Domestic Communications Company to the FCC for licensing or other authority filed with the FCC after the Effective Date, except with respect to *pro forma* assignments or *pro forma* transfers of control, they shall request that the FCC condition the grant of such licensing or other authority on compliance with the terms of this Agreement. The FBI and the DOJ reserve the right 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 Provided that the FCC adopts the Condition to FCC Authorization, the Attorney General shall not make any objection to the CFIUS or the President concerning the formation of Reach, Reach's acquisition of TWT, or grant of the application filed with the FCC in FCC File Number ITC-214-20001228-00771. This commitment, however, does not extend to any objection the Attorney General may wish to raise with the CFIUS or the President in the event that (a) Reach, Telstra, and PCCW fail to comply with the terms of this Agreement, (b) the Attorney General learns that the representations of Telstra, PCCW, and Reach made to the DOJ, the FBI, 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 a Domestic Communications Company such that it might threaten to impair the national security, law enforcement, or public safety objectives of this Agreement, or (d) there is any other material change in the circumstances associated with the transactions at issue.

ARTICLE 8: OTHER

8.1 Telstra, PCCW, and Reach 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 their obligations hereunder and that this Agreement is a legal, valid, and binding obligation of Telstra, PCCW, and Reach enforceable in accordance with its terms.

8.2 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.

8.3 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 Telstra, PCCW, Reach, 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 over the activities of Telstra, PCCW, Reach, or any Domestic Communications Company located within or outside the United States.

8.4 All references in this Agreement to statutory provisions shall include any future amendments to such statutory provisions.

8.5 Nothing in this Agreement is intended to confer or does confer any rights on any person other than the Parties and any U.S. governmental authorities entitled to effect Electronic Surveillance pursuant to Lawful U.S. Process.

8.6 None of the terms of this Agreement shall apply to (a) any services that a Telstra entity or PCCW entity other than Reach provides in the United States exclusively pursuant to Section 214 of the Communications Act of 1934, as currently construed, or (b) any non-communications services provided by a Telstra or PCCW entity unrelated to the provision of Domestic Communications.

8.7 This Agreement may only be modified by written agreement signed by all of the Parties. The FBI and the DOJ agree to consider in good faith and promptly possible modifications to this Agreement if Telstra, PCCW, and Reach believe that the respective obligations imposed on them 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.

8.8 The DOJ and the FBI agree to negotiate in good faith and promptly with respect to any request by Reach, Telstra, and PCCW for relief from application of specific provisions of this Agreement: (a) if the Federal Government of Australia reduces its ownership interest in Telstra below twenty-five (25) percent; (b) if Reach, Telstra, or PCCW provide Domestic Communications solely through the resale of transmission or switching facilities owned by third parties, or (c) as regards future Reach, Telstra, and PCCW activities or services, if those provisions become unduly burdensome or adversely affect Reach, Telstra, and PCCW's competitive position.

8.9 If after the date that all the Parties have executed this Agreement the DOJ or the FBI finds that the terms of this Agreement are inadequate to address national security, law enforcement, or public safety concerns presented, then Telstra, PCCW and Reach will negotiate in good faith to modify this Agreement to address those concerns.

8.10 If any portion of this Agreement is declared invalid by a U.S. court of competent jurisdiction, this Agreement shall be construed as if such portion had never existed, unless such construction would constitute a substantial deviation from the Parties' intent as reflected in this Agreement.

8.11 This Agreement may be executed in one or more counterparts, including by facsimile, each of which shall together constitute one and the same instrument.

8.12 This Agreement shall inure to the benefit of, and shall be binding upon, the Parties, and their respective successors and assigns.

8.13 This Article 8, and the obligations imposed and the rights conferred herein, is effective upon the execution of this Agreement by all the Parties.

8.14 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.

8.15 Nothing in this Agreement is intended to or is to be interpreted to require the Parties to violate any applicable U.S. law.

8.16 This Agreement shall terminate upon fifteen (15) days notice to the FBI and the DOJ:

(a) if Reach withdraws the above-referenced application to the FCC (FCC File Number ITC-214-20001228-00771); or

(b) if, upon grant of the FCC application referenced in subparagraph (a) of this Section 8.16, Reach later surrenders said grant and does not engage in Domestic Communications.

8.17 This Agreement shall be suspended upon thirty (30) days notice to the FBI and DOJ with respect to any covered PCCW, Telstra, or Reach entity, if said entity is no longer a Domestic Communications Company.

This Agreement is executed on behalf of the Parties:

Telstra Corporation Limited

Date: _____

By: _____
Printed Name:
Title:

Pacific Century CyberWorks Limited

Date: _____

By: *AA* _____ *AA*
Printed Name: Alex Arena
Title: Executive Director

Reach Ltd.

Date: _____

By: _____
Printed Name:
Title:

Federal Bureau of Investigation

Date: 11-29-01

By: *Larry R. Parkinson* _____
Printed Name: Larry R. Parkinson
Title: General Counsel

United States Department of Justice

Date: 11/29/01

By: *John G. Malcolm* _____
Printed Name: John G. Malcolm
Title: Deputy Attorney General
Assistant

This Agreement is executed on behalf of the Parties:

Telstra Corporation Limited

Date: _____

By: _____
Printed Name:
Title:

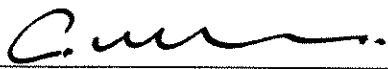
Pacific Century CyberWorks Limited

Date: _____

By: _____
Printed Name:
Title:

Reach Ltd.

Date: 06 OCTOBER 2001

By: 
Printed Name: ALISTAIR GRIENE
Title: CHIEF EXECUTIVE OFFICER

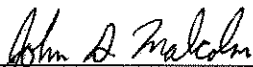
Federal Bureau of Investigation

Date: _____

By: _____
Printed Name: Larry R. Parkinson
Title: General Counsel

United States Department of Justice

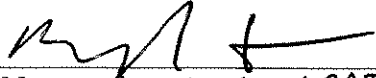
Date: 11/29/01

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

This Agreement is executed on behalf of the Parties:

Telstra Corporation Limited

Date: 4.10.01

By: 
Printed Name: DOUGLAS GRATTON
Title: COMPANY SECRETARY

Pacific Century CyberWorks Limited

Date: _____

By: _____
Printed Name: _____
Title: _____

Reach Ltd.

Date: _____

By: _____
Printed Name: _____
Title: _____

Federal Bureau of Investigation

Date: _____

By: _____
Printed Name: Larry R. Parkinson
Title: General Counsel

United States Department of Justice

Date: 11/29/01

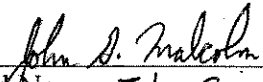
By: 
Printed Name: John G. Malcolm
Title: Deputy Attorney General
Assistant

EXHIBIT A

CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that the authorization is subject to compliance with the provisions of the Agreement attached hereto between Telstra, PCCW, and Reach on the one hand, and the Department of Justice (the "DOJ") and the Federal Bureau of Investigation (the "FBI") on the other, dated *November 29*, 2001, which Agreement is designed to address national security, law enforcement, and public safety issues of the FBI and the DOJ 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.