UNCLASSIFIED//SENSITIVE BUT UNCLASSIFIED

TERMS AND CONDITIONS
BETWEEN
THE DEPARTMENT OF STATE
BUREAU OF CONSULAR AFFAIRS
AND

REGARDING
THE SHARING OF VISA AND PASSPORT RECORDS AND

I. PARTIES

(U) The Parties to this Terms and Conditions (T&C) document are the Department of State, Bureau of Consular Affairs (CA), and

II. PURPOSE

A. (U) This T&C (to include any Addenda, Appendices and Attachments) is the governing information sharing agreement between CA and [']. This T&C establishes the overarching agreement by which CA and ['] will share visa and passport records and [ ] and reiterates the basic mechanisms established to protect this data.

B. (U) Information sharing between the Parties is intended to support critical infrastructure protection, transportation and border security, counterterrorism and foreign policy objectives, and other national interests of the United States. This includes but is not limited to ensuring the proper administration of U.S. immigration and passport laws in the adjudication and issuance of visas, passports and other travel documentation; and strengthening the function of counterterrorism, intelligence, and fraud prevention responsibilities of ['] and CA.

C. (U) This T&C is intended to formalize the ongoing information-sharing relationship between ['] and CA and to clarify the Parties’ commitment to protecting applicable civil liberties and privacy rights of visa and passport applicants, as well as the confidentiality of all visa records shared between the Parties.

D. (U) This T&C and its Addenda A and B supersede existing passport record information sharing agreements between the Parties, specifically: 1) the Memorandum of Understanding (MOU) for the provision of access to certain Passport Services’ Data, dated September 14, 2009, and 2) the MOU for the provision of access to [ ] dated January 27, 2011.
E. (U) This T&C and its Addenda C and D supersede existing visa record information sharing agreements between the Parties, specifically: 1) the Letter of Intent (LOI) dated March 12, 2008 and Tabs 1 and 2 appended to that LOI; 2) the LOI dated February 4, 2010 and Tab 3 appended to that LOI; and 3) the LOI dated October 5, 2011.

III. BACKGROUND

A. (U) Fundamental to the mission of CA is to protect and assist U.S. citizens abroad, enhance U.S. border security, and facilitate legitimate international travel for persons eligible for U.S. visas and U.S. passports. CA specifically is committed to balancing border security needs, while encouraging travel to the U.S. CA has the responsibility for Department of State visa operations worldwide, the adjudication of visa applications, and the issuance of visas and other travel documents. In addition to issuing visas, CA also issues U.S. passports that enable U.S. nationals to travel internationally. Implementing the Immigration and Nationality Act, consular officers, both in domestic agencies and at consulates and embassies abroad, are responsible for issuing all U.S. passports. CA is committed to protecting the integrity of the U.S. passport as proof of U.S. citizenship at home and around the world.

B. (U)

IV. AUTHORITY

A. (U) CA enters this T&C under the authority provided by:

1. (U) Title 22 of the United States Code, Chapter 4, Section 211a, which grants the Secretary of State the authority to cause passports to be granted, issued, and verified; and the Immigration and Nationality Act (INA) including Sections 1104-1105, 1185, 1202(f) (INA § 222(f)), and 150a of Title 8 of the United State Code.

2. (U) The Privacy Act of 1974, 5 U.S.C. § 552a and the routine uses thereunder, including the DOS’s published Routine Uses under State-26, Passport Services’ System of Records Notice (SORN), which permits sharing data with
Visa Services SORN, which permits the release of information when consistent with INA § 222(f), including to other government agencies having a statutory or other lawful authority to use such information, and under the DOS's Prefatory Statement of Routine Uses, which permits sharing with appropriate government agencies to protect against terrorism and to support homeland security.

B. (U) [ ] enters this T&C under the authority provided by:

1. (U) [ ]

2. (U) [ ]

3. [ ]

(U) The Privacy Act of 1974, 5 U.S.C. § 552a and the routine uses thereunder, including the [ ] published Routine Uses under the [ ] T&C.
V. DATA SHARING AND RECIPROCITY

(U) In order to further the vital interests of the U.S. and consistent with each Party’s respective authorities, the Parties agree to share information relevant to supporting and enhancing each other’s missions and operations and comply with the following:

A. (U) CA Passport Data
   1. (SBU) CA will:
      a. (SBU) Provide appropriate and relevant passport data in a Sensitive But Unclassified (SBU) form to B7(E)
      b. (SBU) Provide access to Passport systems and data as outlined in the attached Addenda and in this T&C. B7(E)

B. (U) CA Visa Data
   1. (SBU) CA will:
      a. (SBU) Provide appropriate and relevant visa data in a Sensitive But Unclassified (SBU) form to B7(E)
      b. (SBU) Provide users with access needs covered by this T&C and attached Addenda with access to the visa portion of the Consular document and an Interface Control Document (ICD) attached to the T&C. B7(E)
      c. (SBU) Establish a common format for addresses to receive terrorism information from pursuant to Section C.1.b below. B7(E)

C. (U) will:
   1. (SBU) will:
      a. B7(E)

VI. ADDENDA ON DATA SHARING, PROTECTION AND HANDLING
A. (U) PASSPORT DATA: This T&C and the Replication of Consular Lost and Stolen Passport Data Addendum (Addendum A), the Passport Records Accessed on Department of State Systems Addendum (Addendum B), and any other Addendum specific to passport data that may be entered into by the Parties, establish standards and guidelines for sharing information related to passports, as well as the civil liberty and privacy protections afforded that data, and the applicable data security and handling requirements that will be followed. These standards and guidelines will be incorporated into all future passport record information sharing agreements between the Parties.

B. (U) VISA DATA: This T&C, the Visa Records Accessed on Department of State Systems Addendum (Addendum C), and Replication of Visa Records Addendum (Addendum D), and any other Addendum specific to visa data that may be entered into by the Parties, establish standards and guidelines for sharing information related to visa records, as well as the confidentiality requirements, civil liberty and privacy protections afforded that data, and the applicable data security and handling requirements that will be followed. These standards and guidelines will be incorporated into all future visa record information sharing agreements between the Parties.

VII. LIMITATIONS ON THE DISCLOSURE AND USE OF INFORMATION

A. (U) Except as provided in this T&C and the Addenda, CA data obtained pursuant to this T&C and Addenda to individual personnel who require access to the data to perform their official duties for will restrict access to CA data to personnel who no longer has a need to access CA data, access will be promptly disabled.

B. (U) Both Parties acknowledge that the data and other information provided by and under this T&C may be subject to various statutes and other authorities, to include INA § 222(f); 8 U.S.C. § 1367, and the Privacy Act, 5 U.S.C. § 552a; as well as relevant SORNs.

C. (U) NCTC’s SORNs, including the , or any successor SORN, will apply to the maintenance, sharing, use, and disclosure of CA data determined to be terrorism information by consistent with other applicable authorities, including but not limited to INA § 222(f).

D. (U) For purposes of records disclosure under this T&C and the applicable SORNs, other bureaus within DOS are not considered third parties or agencies in relation to CA. Similarly, directorates, groups, branches or offices within are not considered third parties or agencies in relation to for record disclosure purposes under this T&C and the applicable SORNs. The Parties agree that neither CA nor is precluded from disclosing information under these T&Cs within each Party’s respective offices, bureaus, directorates, groups, branches, or component agencies on an official need basis as authorized under this T&C, its Addenda, Appendices, and applicable privacy and confidentiality statutes and requirements.
E. (U) The Parties are Each Party will conduct its activities under this T&C in accordance with its own and any other applicable privacy or civil liberties protections.

F. PASSPORT RECORDS

1. (U) The access, use, disclosure, disposition and dissemination of passport records, including to third parties, are subject to the provisions of the Privacy Act of 1974. In recognition that the records pertaining to USPs are protected by the Privacy Act requirements of 5 U.S.C. § 552a and other requirements, both Parties will follow the Replication of Passport Records Accessed on Department of State Systems Addendum (Addendum B), as well as the applicable SORNs (as set forth herein), and their agency’s internal procedures for meeting those requirements.

2. (U) The Parties acknowledge that the Department of State SORN for Passport Records [State-26, published at 76 Fed. Reg. 39466, 39466–39470 (July 6, 2011)] allows CA to share passport records with

3. (U) The Parties acknowledge that any sharing by CA of passport records with under the T&C is consistent with Passport SORN (State-26) and the “Prefatory Statement of Routine Uses” or other permissible dissemination as provided for in the Privacy Act itself. The Parties further acknowledge that any use by of those passport records not determined to be (and subsequent versions thereof), and that will not disclose, reproduce, transmit, or copy a passport record, or any portion of information from a passport record, to any third party (including, but not limited to, any other USG agency or office, any state or local government agency or office, Congress, the Government Accountability Office, courts, the media and the general public), unless has first notified CA of its intent to share such records with a third party and obtained consent from CA’s Office of Passport Services prior to any sharing

4. (U//FOUO)

G. VISA RECORDS
1. (U) The Parties recognize that the visa data to be provided by CA under the T&C constitute visa records of CA within the scope of INA § 222(f). Such records, including extracts from and portions of such records, are considered “confidential” under INA § 222(f) for purposes of preserving the authorized use, disclosure and dissemination protections under this provision, and may be used “only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States,” as determined by CA. See the Visa Records Access on Department of State Systems Addendum (Addendum C) and the Replication of Visa Records Addendum (Addendum D) for details on the responsibilities of the Parties with regard to visa data confidentiality, handling, disclosure, conditions of access, oversight and system security and safeguard requirements.

2. (U) The Parties further recognize that a visa bearer’s immigration status may change from that of nonimmigrant to immigrant, lawful permanent resident, or U.S. citizen. In recognition that the records of lawful permanent residents and U.S. citizens are subject to the Privacy Act requirements at 5 U.S.C. § 552a, both Parties are to follow their agency’s internal procedures for meeting those requirements, including verification of status with DHS as appropriate.

3. (U) will refer to CA any requests for information on the visa decision process received from third parties (including, but not limited to, inquiries from any USG agency, any state or local government agency or office, Congress, the Government Accountability Office, courts, the media and the general public), for a determination of whether such information may be released.

4. (U) will not disclose, reproduce, transmit, or copy a visa record, or any portion of information from a visa record, to any third party (including, but not limited to, any other USG agency or office, any state or local government agency or office, Congress, the Government Accountability Office, courts, the media and the general public), unless NCTC has first notified CA of its intent to share such records with a third party and obtained CA consent prior to any sharing \(^1\), except as provided in subparagraph 4a. below:

   a. (U) CA provides advance consent to to share visa records, or any portion of information from a visa record, as outlined in Section VIII.K.1, 2, 3 and 4 DISSEMINATION and Annex 1 below, provided that such disclosure is for the purpose of formulating, amending, administering or enforcing U.S. law within the meaning of INA § 222(f). CA has previously determined that disclosure of visa records to Congress and the

---

\(^1\) Section IV.B of the
UNCLASSIFIED/SENSITIVE BUT UNCLASSIFIED

USG entities named in Annex 1, and pursuant to the visa data limitations and access controls outlined in Section VIII.K.2 and Section VIII.K.4, is consistent with INA § 222(f) for purposes of administering its legal authorities in furtherance of its counterterrorism mission. Additionally, CA has determined that these entities, consistent with INA § 222(f), require visa data for formulating, amending, administering or enforcing the immigration, nationality, or other laws of the U.S. related to the exercise of their own legal authorities for purposes of counterintelligence, counterterrorism, counterproliferation, counter narcotics, anti-trafficking, criminal investigations and other operations and activities promoting national and border security.

5. (U) [ ] will not disclose, disseminate, reproduce, transmit, or copy a visa record, or any portion of information from a visa record, for sharing with a foreign government unless such sharing is consistent with INA § 222(f) and has been approved by CA, except as provided in Section VIII. K.1 below. B7(E)

6. (SBU) [ ] will not disclose, disseminate, reproduce, transmit or copy a visa record, or any portion of information from a visa record marked as visa class T (Victims of Human Trafficking) or U (Victims of Criminal Activity), for sharing with external agencies (in accordance with Section VII.D) unless such sharing is consistent with INA § 222(f) and 8 U.S.C. § 1367 and has been approved by CA. B7(E)

7. (U) [ ] will annotate any visa records, or any portion of information from a visa record, approved for disclosure or dissemination under this T&C, with instructions that it is protected under INA § 222(f), and may not be further disseminated without CA’s consent. B7(E)

VIII. RESPONSIBILITIES

A. (U) DATA. The Parties will adhere to the technical standards, business processes, confidentiality requirements, and privacy protection mechanisms required under the Privacy Act that are related to the sharing of USG data maintained in a Privacy Act System of Records, as detailed in the attached Addenda. B7(E)

B. (U) TECHNOLOGY. The Parties are committed to updating the information technologies employed to implement this T&C and to ensure that the system remains efficient as data volumes increase and more advanced technologies become available. B7(E)

C. (U) SUPPORT. The Parties will assist each other with inquiries on data through liaisons. The Parties will notify each other of points of contact for this purpose. B7(E)

D. (U) PRIVACY ACT: Any records provided by CA pursuant to this T&C and subject to the Privacy Act will be handled by accordingly. [ ] will not take any steps regarding records subject to the Privacy Act and I

UNCLASSIFIED/SENSITIVE BUT UNCLASSIFIED
UNCLASSIFIED//SENSITIVE BUT UNCLASSIFIED

[Redacted text]

that would violate relevant provisions of that Act.

assumes all legal responsibility in the event it violates the Act with respect to data it has obtained under this T&C.

E. (U) THIRD PARTY REQUESTS: If receives a request for information, including under the Freedom of Information Act, 5 U.S.C. § 552, the Privacy Act, 5 U.S.C. §552a, or pursuant to any judicial or administrative process, and determines that CA data is responsive to that request, must immediately refer the request to CA for coordination on whether the responsive data is releasable. The Parties agree that any documents or records based upon or incorporating information provided pursuant to this T&C which are to be released to third parties (including under FOIA, Privacy Act or any legal or administrative proceeding), except as authorized in the T&C, will be coordinated with the other Party prior to release.

F. (U) TRAINING ON DATA HANDLING.

1. (U) The Parties will ensure that personnel with access to data are appropriately informed and trained regarding the proper treatment of personal information, including specific passport data and proper use of the information systems to ensure overall safeguarding of the information. Each Party will ensure that its employees, including contractors and detailers from third agencies with access to any of the other Party’s data, have completed privacy and disclosure training as provided or approved by each Party, including on the handling of personal information contained within CA records, as well as visa record confidentiality training on the handling and disclosure of visa records.

2. [Redacted text]. The Parties will ensure that relevant personnel (to include permanent staff, detailers, and assignees) with access to any visa and passport data will complete annual refresher training to understand the authorities and role of in the integration of[redacted]and the federal statutes, regulations, and policies governing the access to, retention, use and dissemination of such data, including CA data accessed or received pursuant to this T&C and its Addenda. Additional dataset specific training requirements will be set forth in more detail in the appropriate Addendum.

G. (U) OTHER TRAINING. CA will also train designated users on techniques to effectively query for data that is accessible pursuant to this T&C. The training will include an explanation of data fields and be closely coordinated by the Parties.

UNCLASSIFIED//SENSITIVE BUT UNCLASSIFIED
H. (U) RECORDS STORAGE. The Parties will store all information shared in systems that ensure protection of the information. All information will be retained in accordance with the Parties’ own internal retention schedules and authorities.

I. (U/FOUO) CLASSIFICATION: The fact of access, ingestion, and use of CA passport and visa records will be considered UNCLASSIFIED//FOR OFFICIAL USE ONLY by the Parties.

J. (U) UNAUTHORIZED ACTIVITY.

1. (U) Will be responsible for preventing, detecting, and reporting all unauthorized activity related to CA data on behalf of personnel. Proper handling of unauthorized activity involving passport data accessed on CA systems is detailed in Addendum B to this T&C. For all other cases, if there has been or may have been unauthorized access, use, dissemination, storage or disposal of data shared under this T&C or its Addenda, the Party discovering the unauthorized activity will report the incident in accordance with its own privacy and security procedures. However, the Parties must notify each other by telephone and e-mail as soon as practicable after learning of such incident, in accordance with notification policy. will make such notification in accordance with ODNI, and will promptly take appropriate disciplinary or remedial actions.

2. (U) The Parties acknowledge that the term “unauthorized activity” includes (but is not limited to) unauthorized or accidental access, use, dissemination, disclosure, storage, or disposal of CA’s data.

3. (U) acknowledges its requirement to report any suspected or confirmed unauthorized activity involving CA’s data to shall also promptly provide such information to

4. (U) In the event of confirmed unauthorized access, will conduct an examination of the unauthorized activity related to CA data, and inform CA of the results of that examination.

5. (U) The Parties will also take other action as required in compliance with applicable laws and regulations and in accordance with the Addenda.

K. (U) DISSEMINATION:
IX. POINTS OF CONTACT

(U) For CA:

(U)

6.

(X) INTERPRETATION AND SEVERABILITY

(U) Nothing in this T&C is intended to conflict with current law or regulation. If a term of this T&C is inconsistent with such authority, then that term will be invalid to the extent of the
UNCLASSIFIED/SENSITIVE BUT UNCLASSIFIED

inconsistency, but the remaining terms and conditions of this T&C will remain in full force and effect.

XI. NO PRIVATE RIGHT OR CAUSE OF ACTION

(U) This T&C is an internal agreement between the Department of State, Bureau of Consular Affairs. It does not create or confer any right or benefit, of any kind, either substantive or procedural, that may be enforceable by any third party against the Parties, the U.S., or the officers, employees, agents, or associated personnel thereof. Nothing in this T&C or its Addenda is intended to restrict the authority of either Party to act as provided by law, statute, or regulation, or to restrict any Party from administering or enforcing any laws within its authority or jurisdiction.

XII. FUNDING

(U) Except as provided otherwise in the Addenda and Appendices, this T&C is not an obligation or commitment of funds, nor a basis for transfer of funds. Any costs associated with goods or services provided by the servicing agency that may require reimbursement from the requesting agency under the Economy Act (31 U.S.C. §1535 and §1536) will be addressed, as necessary, under a separate arrangement. Unless otherwise agreed to in writing, each Party will bear its own costs in relation to this T&C. Expenditures by each Party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The Parties expressly acknowledge that this in no way implies that Congress will appropriate funds for such expenditures.

XIII. DISPUTE RESOLUTION

(U) Disagreements between the Parties arising under or related to this T&C will be resolved only by consultation between the Parties.

XIV. EFFECTIVE DATE

(U) The terms of this T&C will become effective upon date of the last signature of the Parties.

XV. ENTIRE AGREEMENT

(U) This T&C (including all Addenda, Annexes, and Appendices) constitutes the entire agreement between the Parties.

XVI. MODIFICATION

(U) This T&C and its Addenda may be modified, amended, or additional Addenda, Annexes, and Appendices may be added, by the mutual written consent of the Parties. The specific terms of the Addenda can be individually negotiated and modified without requiring a modification to the terms of this T&C.
XVII. PERIODIC REVIEW

(U) The Parties are to designate responsible officials to meet annually, or at the request of either Party, to discuss and review the implementation of this T&C.

XVIII. TERMINATION

(U) Either Party may terminate this T&C by providing thirty (30) days written notice to the other Party. However, all provisions regarding the protection of records, including data privacy and confidentiality, remain in effect as long as either Party remains in possession of any such records or any information obtained from the other party.

XIX. APPROVAL

(U) The foregoing represents the agreement reached by [Redacted] and the Department of State, Bureau of Consular Affairs.

SIGNED:

[Signature]

[Date: November 21, 2013]

[Signature]

[Date: November 21, 2013]

Jane L. Jacobs
Assistant Secretary
Bureau of Consular Affairs
U.S. Department of State
Annex 1
Pre-Approval of Dissemination

(U/FOUO) Per Section VIII.K of the T&C, and consistent with applicable SORNs and the dissemination provisions in Sections VII.F and G, CA provides advance consent to disseminate CA data determined to constitute terrorism information, consistent with authorities, to personnel with a need to know such information as it necessarily relates to the administration and enforcement of their own legal authorities for purposes of carrying out official functions to include immigration, nationality and citizenship program responsibilities; counterterrorism; intelligence; counterintelligence; counterproliferation; counternarcotics; anti-terrorism; criminal law enforcement; homeland defense and combat operations; transportation security and infrastructure protection; and, other operations and activities promoting U.S. national and border security at the following USG entities:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Agency</th>
<th>Agency</th>
<th>Agency</th>
<th>Agency</th>
<th>Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CIA</td>
<td>DNI</td>
<td>FRB</td>
<td>NASA</td>
<td>USSS</td>
<td>USDA</td>
</tr>
<tr>
<td>Commerce</td>
<td>DoD</td>
<td>GSA</td>
<td>NGA</td>
<td>State</td>
<td>USPS</td>
</tr>
<tr>
<td>US Congress</td>
<td>DOE</td>
<td>HHS/FDA</td>
<td>NRC</td>
<td>Transportation/FAA</td>
<td>USTR</td>
</tr>
<tr>
<td>DEA</td>
<td>EPA</td>
<td>Interior</td>
<td>NRO</td>
<td>Treasury</td>
<td>EOP</td>
</tr>
<tr>
<td>DHS</td>
<td>FBI</td>
<td>DOJ</td>
<td>NSA</td>
<td>US Capitol Police</td>
<td>DIA</td>
</tr>
<tr>
<td>FCC</td>
<td>Labor</td>
<td>OMB</td>
<td>USAID</td>
<td>Supreme Court Marshal and Deputy</td>
<td>Supreme Court Policy Chief and Deputy</td>
</tr>
</tbody>
</table>

Section IV.B of the NCTC AG Guidelines provides for "Dissemination of United States Person Information Acquired Under Tracks 1, 2, or 3," Section IV.C for "Dissemination of United States Person Information Acquired Under Track 3" and Section IV.D for "Foreign Disseminations." For the purposes of this Agreement, the Parties agree that dissemination will be further limited according to the terms of this Annex.