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RELEASE IN
PART B7(E)

**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 [REDACTED]

II. PURPOSE

A. (U) This T&C (to include any Addenda, Appendices and Attachments) is the governing information sharing agreement between CA and [REDACTED]. This T&C establishes the overarching agreement by which CA and [REDACTED] will share visa and passport records and [REDACTED] 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 [REDACTED] and CA.

C. (U) This T&C is intended to formalize the ongoing information-sharing relationship between [REDACTED] 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 [REDACTED] [REDACTED] dated January 27, 2011.

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- 45 E. (U) This T&C and its Addenda C and D supersede existing visa record information
46 sharing agreements between the Parties, specifically: 1) the Letter of Intent (LOI) dated
47 March 12, 2008 and Tabs 1 and 2 appended to that LOI; 2) the LOI dated February 4,
48 2010 and Tab 3 appended to that LOI; and 3) the LOI dated October 5, 2011.

50 **III. BACKGROUND**

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

- 64 B. (U) [REDACTED]

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77 **IV. AUTHORITY**

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

81 1. (U) Title 22 of the United States Code, Chapter 4, Section 211a, which grants the
82 Secretary of State the authority to cause passports to be granted, issued, and verified; and
83 the Immigration and Nationality Act (INA) including Sections 1104-1105, 1185, 1202(f)
84 (INA § 222(f)), and 1504 of Title 8 of the United State Code.

86 2. (U) The Privacy Act of 1974, 5 U.S.C. § 552a and the routine uses thereunder,
87 including the DOS's published Routine Uses under State-26, Passport Services' System
88 of Records Notice (SORN), which permits sharing data with [REDACTED]

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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) [redacted] enters this T&C under the authority provided by:

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1. (U) [redacted]

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[redacted]

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2. (U) [redacted]

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[redacted]

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3. [redacted]

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[redacted]

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

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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 [REDACTED]
- b. (SBU) Provide [REDACTED] access to Passport systems and data as outlined in the attached Addenda and in this T&C.

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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 [REDACTED]
- b. (SBU) Provide [REDACTED] users with access needs covered by this T&C and attached Addenda with access to the visa portion of the Consular [REDACTED] via a custom web interface. [The specific elements of data are identified in a Reports and Users document and an Interface Control Document (ICD) attached to the T&C.]
- c. (SBU) Establish a common format for addresses to receive terrorism information from [REDACTED] pursuant to Section C.1.b below.

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C. (U) [REDACTED]

1. (U) [REDACTED] will:

- a. [REDACTED]
- b. [REDACTED]

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VI. ADDENDA ON DATA SHARING, PROTECTION AND HANDLING

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

187
 188 B. (U) VISA DATA: This T&C, the Visa Records Accessed on Department of State
 189 Systems Addendum (Addendum C), and Replication of Visa Records Addendum
 190 (Addendum D), and any other Addendum specific to visa data that may be entered into
 191 by the Parties, establish standards and guidelines for sharing information related to visa
 192 records, as well as the confidentiality requirements, civil liberty and privacy protections
 193 afforded that data, and the applicable data security and handling requirements that will be
 194 followed. These standards and guidelines will be incorporated into all future visa record
 195 information sharing agreements between the Parties.

196 197 VII. LIMITATIONS ON THE DISCLOSURE AND USE OF INFORMATION

198
 199 A. (U) Except as provided in this T&C and the Addenda, [] will restrict access to CA
 200 data obtained pursuant to this T&C and Addenda to individual [] personnel who
 201 require access to the data to perform their official duties for []. When an individual
 202 no longer has a need to access CA data, access will be promptly disabled.

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203
 204 B. (U) Both Parties acknowledge that the data and other information provided by [] and
 205 CA under this T&C may be subject to various statutes and other authorities, to include
 206 INA § 222(f); 8 U.S.C. § 1367, and the Privacy Act, 5 U.S.C. § 552a; as well as relevant
 207 SORNs.

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208
 209 C. (U) NCTC's SORNs, including the []
 210 [], or any successor SORN, will apply to the maintenance, sharing, use,
 211 and disclosure of CA data determined to be terrorism information by [] consistent
 212 with other applicable authorities, including but not limited to INA § 222(f).

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213
 214 D. (U) For purposes of records disclosure under this T&C and the applicable SORNs, other
 215 bureaus within DOS are not considered third parties or agencies in relation to CA.
 216 Similarly, directorates, groups, branches or offices within [] are not considered third
 217 parties or agencies in relation to [] for record disclosure purposes under this T&C
 218 and the applicable SORNs. The Parties agree that neither CA nor [] is precluded
 219 from disclosing information under these T&Cs within each Party's respective offices,
 220 bureaus, directorates, groups, branches, or component agencies on an official need basis
 221 as authorized under this T&C, its Addenda, Appendices, and applicable privacy and
 222 confidentiality statutes and requirements.

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224 E. (U) The Parties are [REDACTED] B7(E)
 225 [REDACTED] Each Party will conduct its activities under B7(E)
 226 this T&C in accordance with its own [REDACTED] B7(E)
 227 and any other applicable privacy or civil liberties protections.

228
 229 F. PASSPORT RECORDS

230
 231 1. (U) The access, use, disclosure, disposition and dissemination of passport records,
 232 including to third parties, are subject to the provisions of the Privacy Act of 1974. In
 233 recognition that the records pertaining to USPs are protected by the Privacy Act
 234 requirements of 5 U.S.C. § 552a and other requirements, both Parties will follow the
 235 Replication of [REDACTED] B7(E)
 236 and Passport Records Accessed on Department of State Systems Addendum
 237 (Addendum B), as well as the applicable SORNs (as set forth herein), and their
 238 agency's internal procedures for meeting those requirements.

239
 240 2. (U) The Parties acknowledge that the Department of State SORN for Passport
 241 Records [State-26, published at 76 Fed. Reg. 39466, 39466-39470 (July 6, 2011)]
 242 allows CA to share passport records with [REDACTED] B7(E)
 243 [REDACTED] B7(E)

244
 245 3. (U) The Parties acknowledge that any sharing by CA of passport records with [REDACTED] B7(E)
 246 under the T&C is consistent with Passport SORN (State-26) and the "Prefatory
 247 Statement of Routine Uses" or other permissible dissemination as provided for in the
 248 Privacy Act itself. The Parties further acknowledge that any use by [REDACTED] of those B7(E)
 249 passport records not determined to be [REDACTED] B7(E)
 250 [REDACTED] B7(E)
 251 [REDACTED] (and subsequent versions thereof), and that [REDACTED] will not B7(E)
 252 disclose, reproduce, transmit, or copy a passport record, or any portion of information
 253 from a passport record, to any third party (including, but not limited to, any other
 254 USG agency or office, any state or local government agency or office, Congress, the
 255 Government Accountability Office, courts, the media and the general public), unless
 256 [REDACTED] has first notified CA of its intent to share such records with a third party and
 257 obtained consent from CA's Office of Passport Services, [REDACTED] B7(E)
 258 [REDACTED] prior to any sharing B7(E)

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 260 4. (U//FOUO) [REDACTED] B7(E)
 261 [REDACTED] B7(E)
 262 [REDACTED]
 263 [REDACTED]
 264 [REDACTED]
 265 [REDACTED]
 266 [REDACTED]

267 G. VISA RECORDS
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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 Accessed 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 sharing¹, 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

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¹ Section IV.B of the []

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

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320
 321 5. (U) [] will not disclose, disseminate, reproduce, transmit, or copy a visa record,
 322 or any portion of information from a visa record, for sharing with a foreign
 323 government unless such sharing is consistent with INA § 222(f) and has been
 324 approved by CA, except as provided in Section VIII. K.1 below.

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325
 326 6. (SBU) [] will not disclose, disseminate, reproduce, transmit or copy a visa
 327 record, or any portion of information from a visa record marked as visa class T
 328 (Victims of Human Trafficking) or U (Victims of Criminal Activity), for sharing with
 329 external agencies (in accordance with Section VII.D) unless such sharing is consistent
 330 with INA § 222(f) and 8 U.S.C. § 1367 and has been approved by CA.

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331
 332 7. (U) [] will annotate any visa records, or any portion of information from a visa
 333 record, approved for disclosure or dissemination under this T&C, with instructions
 334 that it is protected under INA § 222(f), and may not be further disseminated without
 335 CA's consent.

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336 337 **VIII. RESPONSIBILITIES**

338
 339 A. (U) DATA. The Parties will adhere to the technical standards, business processes,
 340 confidentiality requirements, and privacy protection mechanisms required under the
 341 Privacy Act that are related to the sharing of USG data maintained in a Privacy Act
 342 System of Records, as detailed in the attached Addenda.

343
 344 B. (U) TECHNOLOGY. The Parties are committed to updating the information
 345 technologies employed to implement this T&C and to ensure that the system remains
 346 efficient as data volumes increase and more advanced technologies become available.

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347
 348 C. (U) SUPPORT. The Parties will assist each other with inquiries on data through liaisons.
 349 The Parties will notify each other of points of contact for this purpose.

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

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354 [redacted] that would violate relevant provisions of that Act. [redacted]
 355 assumes all legal responsibility in the event it violates the Act with respect to data it has
 356 obtained under this T&C.

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357
 358 E. (U) THIRD PARTY REQUESTS: If [redacted] receives a request for information,
 359 including under the Freedom of Information Act, 5 U.S.C. § 552, the Privacy Act, 5
 360 U.S.C. §552a, or pursuant to any judicial or administrative process, and [redacted]
 361 determines that CA data is responsive to that request, [redacted] must immediately refer the
 362 request to CA for coordination on whether the responsive data is releasable. The Parties
 363 agree that any documents or records based upon or incorporating information provided
 364 pursuant to this T&C which are to be released to third parties (including under FOIA,
 365 Privacy Act or any legal or administrative proceeding), except as authorized in the T&C,
 366 will be coordinated with the other Party prior to release.

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 368 F. (U) TRAINING ON DATA HANDLING².

369
 370 1. (U) The Parties will ensure that personnel with access to data are appropriately
 371 informed and trained regarding the proper treatment of personal information, including
 372 specific passport data and proper use of the information systems to ensure overall
 373 safeguarding of the information. Each Party will ensure that its employees, including
 374 contractors and detailees from third agencies with access to any of the other Party's
 375 data, have completed privacy and disclosure training as provided or approved by each
 376 Party, including on the handling of personal information contained within CA records,
 377 as well as visa record confidentiality training on the handling and disclosure of visa
 378 records.

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379
 380 2. [redacted] personnel (to include permanent staff, detailees, and assignees) with access to
 381 any visa and passport data will complete annual refresher training to understand the
 382 authorities and role of [redacted] in the integration of [redacted] and the
 383 federal statutes, regulations, and policies governing the access to, retention, use and
 384 dissemination of such data, including CA data accessed or received pursuant to this
 385 T&C and its Addenda. Additional dataset specific training requirements will be set
 386 forth in more detail in the appropriate Addendum.

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387
 388 G. (U) OTHER TRAINING. CA will also train [redacted] designated users on techniques to
 389 effectively query for data that is accessible pursuant to this T&C. The training will
 390 include an explanation of data fields and be closely coordinated by the Parties.
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392 [redacted]

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392 H. (U) RECORDS STORAGE. The Parties will store all information shared in systems that
 393 ensure protection of the information. All information will be retained in accordance with
 394 the Parties' own internal retention schedules and authorities.

395
 396 I. (U//FOUO) CLASSIFICATION: The fact of [REDACTED] access, ingestion, and use of CA
 397 passport and visa records will be considered UNCLASSIFIED//FOR OFFICIAL USE
 398 ONLY by the Parties.

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399
 400 J. (U) UNAUTHORIZED ACTIVITY.

401
 402 1. (U) [REDACTED] will be responsible for preventing, detecting, and reporting all
 403 unauthorized activity related to CA data on behalf of [REDACTED] personnel. Proper
 404 handling of unauthorized activity involving passport data accessed on CA systems is
 405 detailed in Addendum B to this T&C. For all other cases, if there has been or may
 406 have been unauthorized access, use, dissemination, storage or disposal of data shared
 407 under this T&C or its Addenda, the Party discovering the unauthorized activity will
 408 report the incident in accordance with its own privacy and security procedures.
 409 However, the Parties must notify each other by telephone and e-mail as soon as
 410 practicable after learning of such incident, in accordance with its own breach
 411 notification policy. [REDACTED] will make such notification in accordance with ODNI
 412 [REDACTED] and will promptly take appropriate disciplinary or remedial actions.

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

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417
 418 3. (U) [REDACTED] acknowledges its requirement to report any suspected or confirmed
 419 unauthorized activity involving CA's data to [REDACTED]

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420 [REDACTED]
 421 [REDACTED] shall also promptly provide such information to [REDACTED]
 422 [REDACTED]
 423 [REDACTED]
 424 [REDACTED]
 425 [REDACTED]
 426 [REDACTED]

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

430
 431 5. (U) The Parties will also take other action as required in compliance with applicable
 432 laws and regulations and in accordance with the Addenda.

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 434 K. (U) DISSEMINATION:
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1. (U) [Redacted]

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2. (U//FOUO) [Redacted]

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3. a. (SBU) [Redacted]
(SBU) [Redacted]

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4. (U//FOUO) [Redacted]

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[REDACTED]

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[REDACTED]

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IX. POINTS OF CONTACT

(U) For CA:

[REDACTED]

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(U) [REDACTED]:

[REDACTED]

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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

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

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524 **XI. NO PRIVATE RIGHT OR CAUSE OF ACTION**

525

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

533

534 **XII. FUNDING**

535

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

545

546 **XIII. DISPUTE RESOLUTION**

547

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

550

551 **XIV. EFFECTIVE DATE**

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

554

555 **XV. ENTIRE AGREEMENT**

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

559

560 **XVI. MODIFICATION**

561

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

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567 **XVII. PERIODIC REVIEW**

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

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572 **XVIII. TERMINATION**

573

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

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579 **XIX. APPROVAL**

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581 (U) The foregoing represents the agreement reached by and the Department of State,
582 Bureau of Consular Affairs.

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584 SIGNED:

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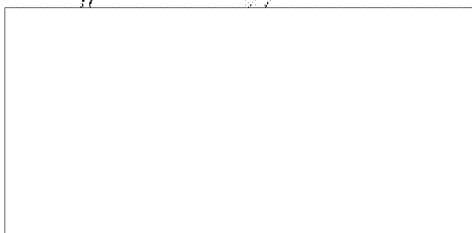
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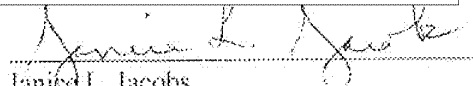
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Janice L. Jacobs

Assistant Secretary

Bureau of Consular Affairs

U.S. Department of State

Nov 14, 2013
Date

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November 27, 2013
Date

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Annex I

Pre-Approval of Dissemination⁴

(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 [REDACTED] advance consent to disseminate CA data determined to constitute terrorism information, consistent with [REDACTED] 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-trafficking; 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:

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

⁴ 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.

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