SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the General Services Administration and those entities purchasing services under the Contracts defined in II.C. below (collectively the "United States") and MCI Communications Services, Inc. d/b/a Verizon Business Services on behalf of itself, parent Verizon Communications Inc., affiliated companies, and predecessor and successor companies (collectively "Verizon" or "Defendant"); (hereafter collectively referred to as "the Parties"), acting through their authorized representatives.

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Defendant Verizon, a Delaware corporation with its principal place of business in Virginia, is a broadband, wireline and wireless communication services provider.


C. The United States contends that it has certain civil claims, as specified in this paragraph, against Verizon for engaging in the following alleged conduct: From April 20, 2004 through September 30, 2010, in connection with the provision of services and products to any department, agency, branch, or institution of the United States through Verizon's General Services Administration (GSA) Contract No. GS00T99NRD2002 (also known as FTS2001) and Contract No. GS00T06NSD0001 (also known as FTS2001 Bridge Contract), and any delivery and task orders issued thereunder (hereinafter collectively referred to as "Contracts"), Verizon
submitted false claims for payment under the Contracts for reimbursement or credit of the following taxes, duties or surcharges — Ad Valorem Surcharge (a/k/a Property Tax Surcharge); Federal Regulatory Fee Surcharge (a/k/a Carrier Cost Recovery Charge (CCRC)); all taxes, duties or surcharges applied to the GSA Management Service Fee, except the Federal Universal Service Fund (FUSF); State Telecommunications Relay Service Surcharge; Deaf Equipment Acquisition Fund (DEAF) Tax Surcharge; High Cost Fund Surcharge; Lifeline Surcharge; Public Utility Commission Fee Surcharge; Tele Relay Service (M); CCRC Interconnected Voice Over Internet Protocol; State Universal Service Fund; and FUSF applied to unallowable surcharges. The conduct is referred to below as the "Covered Conduct".

D. Verizon denies the allegations of the United States set forth in Paragraph C and the claims and allegations made by the Relators in the Civil Action. This Agreement represents a compromise to avoid continued litigation and associated risks and is neither an admission of liability by Verizon nor a concession by the United States that its claims are not well founded.

E. Relators claim entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of the Civil Action and to Relators' reasonable expenses, attorney fees and costs. These issues are not resolved by this agreement.

III. TERMS AND CONDITIONS

In consideration of the mutual promises, covenants and obligations set forth below, the Parties agree as follows:

1. Verizon agrees to pay the United States the principal amount of $92.7 million, plus simple interest of 3.125% on the principal amount of $92.7 million accruing from November 6, 2010 until payment is made (the "Settlement Amount"). Defendant agrees to pay the Settlement Amount to the United States by electronic funds transfer pursuant to written instructions to be provided by the Department of Justice within two (2) business days of the Effective Date of this Agreement. Verizon agrees to make these electronic funds transfers within seven (7) business days after receipt of the wire instructions.
2. Subject to the exceptions in Paragraph 3 (concerning excluded claims), below, in consideration of the obligations of the Defendant in this Agreement, and conditioned upon the Defendant's full payment of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release Defendant and its current and former parents, partners, subsidiaries, affiliates, divisions, subdivisions, shareholders, directors, officers, employees, agents, attorneys, predecessors, successors, and assigns from any civil or administrative monetary claims that the United States has or may have for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729 et seq.; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 et seq.; the Contract Disputes Act, 41 U.S.C. §§ 7101-09 (formerly 41 U.S.C. §§ 601-613); the Truth in Negotiations Act, 10 U.S.C. § 2306a; or any other statute creating causes of action for civil damages or civil penalties which the Civil Division has actual and present authority to assert and compromise pursuant to 28 C.F.R. Part O, Subpart I, §0.45(d) (1999); or the common law theories of breach of contract, payment by mistake, unjust enrichment, misrepresentation, and fraud, including fraud in the inducement and promissory fraud.

3. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Defendant and Relators) are the following claims of the United States:

   a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);

   b. Any criminal liability;

   c. Except as explicitly stated in this Agreement, any administrative liability, including the suspension and debarment rights of any federal agency;

   d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

   e. Any liability based upon such obligations as are created by this Agreement;
f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

g. Any liability for failure to deliver goods or services due; and

h. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

4. Defendant waives and shall not assert any defenses Defendant may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by any of the parties concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

5. Defendant fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney fees, costs, and expenses of every kind and however denominated) that Defendant has asserted, could have asserted, or may assert in the future against the United States, and its agencies, employees, servants, and agents, related to the Covered Conduct, the Civil Action, and the United States' investigation and prosecution thereof.

6. Within seven (7) business days of the receipt of the payment described in Paragraph 1, above, Verizon and the United States shall sign and file in the Civil Action a Stipulation of Dismissal with prejudice of the Civil Action in the form attached as Exhibit 1. The stipulation shall reserve the issues of the entitlement, if any, of the Relators to a share of the settlement of the Civil Action under 31 U.S.C. § 3730(d)(1) or to attorney fees and costs pursuant to 31 U.S.C. § 3730(d).
7. The Parties agree that, if the United States District Court for the District of Columbia declines to enter an Order dismissing the Civil Action against Verizon, this Agreement may, at the election of Verizon, be null and void and the United States, within a reasonable amount of time after receipt of written demand from Verizon to the Department of Justice or U.S. Attorney for the District of Columbia, shall repay to Verizon by electronic funds transfer, according to written instructions accompanying the demand, all sums paid to the United States pursuant to paragraph 1 above.

8. Defendant agrees to the following:
   a. **Unallowable Costs Defined:** that all costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Defendant, and its present or former officers, directors, employees, shareholders, and agents in connection with:
      (1) the matters covered by this Agreement;
      (2) the United States’ audit(s) and civil investigation(s) of the matters covered by this Agreement;
      (3) Defendant’s investigation, defense, and corrective actions undertaken in response to the United States’ audit(s) and civil investigation(s) in connection with the matters covered by this Agreement;
      (4) the negotiation and performance of this Agreement;
      (5) the payment Defendant makes to the United States pursuant to this Agreement and any payments that Defendant may make to Relators, including costs and attorney fees, are "Unallowable Costs" for government contracting purposes (hereafter referred to as "Unallowable Costs").
   b. **Future Treatment of Unallowable Costs:** Unallowable Costs will be separately determined and accounted for by Defendant, and Defendant shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States.
   c. **Treatment of Unallowable Costs Previously Submitted for Payment:** Defendant further agrees that, within 90 days of the Effective Date of this Agreement, Defendant
shall identify and repay by adjustment to future claims for payment or otherwise any unallowable costs (as defined in this Paragraph) included in payments previously sought by Defendant or any of its subsidiaries or affiliates from the United States. Defendant agrees that the United States, at a minimum, shall be entitled to recoup from Defendant any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs in any such payments. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine Defendant’s books and records and to disagree with any calculations submitted by Defendant or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Defendant, or the effect of any such Unallowable Costs on the amount of such payments.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Defendant’s books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

9. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity.

10. Defendant warrants that it has reviewed its financial situations and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Defendant, within the meaning of 11 U.S.C. § 547(c)(1), and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which Defendant was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).
11. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

12. Defendant represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

13. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the District of Columbia.

14. For purposes of construction, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

15. This Agreement constitutes the complete agreement between the Parties with respect to the subject matter of this Agreement, and there are no other agreements, understandings, representations, warranties, inducements, or considerations except as expressly recited herein. This Agreement may not be amended except by written consent of the Parties.

16. The individuals signing this Agreement on behalf of Defendant represent and warrant that they are authorized by Defendant to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

17. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

18. This Agreement is binding on Defendant's successors, transferees, heirs, and assigns.

19. Each of the Parties has independently investigated the facts relating to the Civil Action, and except as expressly set forth in this Agreement, each of the Parties disclaims any reliance upon any representations by the other Parties or their agents relating to the negotiation of, or entry into, this Agreement.
20. All Parties consent to the United States’ disclosure of this Agreement, and information about this agreement, to the public.

21. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.
DATED: 2/18/11 BY: Arnold Auerhan
Arnold M. Auerhan
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 2/17/11 BY: Doris Coles-Huff
Doris D. Coles-Huff
Assistant United States Attorney
for the District of Columbia, Civil Division
United States Department of Justice
MCI COMMUNICATIONS SERVICES, INC. d/b/a
VERIZON BUSINESS SERVICES - DEFENDANT

DATED: 2/8/11
BY: 
Craig L. Silliman
Senior Vice President and General Counsel
MCI Communications Services, Inc. d/b/a
Verizon Business Services

DATED: 2/10/11
BY:  
Rand L. Allen
Roderick L. Thomas
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
Counsel for Defendant