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CHAPTER FOURTEEN
TELECOMMUNICATIONS

ARTICLE 14.1: SCOPE AND COVERAGE

1. This Chapter applies to measures affecting trade in telecommunications services, including:
 - (a) measures relating to access to and use of public telecommunications services;
 - (b) measures relating to obligations of suppliers of public telecommunications services;
 - (c) other measures relating to public telecommunications networks or services; and
 - (d) measures relating to the supply of value-added services.
2. Except to ensure that enterprises operating broadcast stations and cable systems have continued access to and use of public telecommunications services, this Chapter (except for Article 20) does not apply to any measure relating to broadcast or cable distribution of radio or television programming.
3. Nothing in this Chapter shall be construed to:
 - (a) require a Party, or require a Party to compel any enterprise, to establish, construct, acquire, lease, operate, or provide telecommunications networks or services not offered to the public generally; or
 - (b) require a Party to compel any enterprise exclusively engaged in the broadcast or cable distribution of radio or television programming to make available its broadcast or cable facilities as a public telecommunications network.

SECTION A
ACCESS TO AND USE OF PUBLIC TELECOMMUNICATIONS NETWORKS AND SERVICES

ARTICLE 14.2: ACCESS TO AND USE

1. Each Party shall ensure that service suppliers of the other Party have access to and use of any public telecommunications networks and service, including leased circuits, offered in its territory or across its borders, on reasonable and non-discriminatory terms and conditions, including as set out in paragraphs 2 through 6.
2. Each Party shall ensure that service suppliers of the other Party are permitted to:
 - (a) purchase or lease, and attach terminal or other equipment that interfaces with a public telecommunications network;

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- (b) provide services to individual or multiple end-users over leased circuits;¹
- (c) connect owned or leased circuits with public telecommunications networks and services or with circuits leased or owned by another enterprise;
- (d) perform switching, signaling, processing, and conversion functions; and
- (e) use operating protocols of their choice in the supply of any service.

3. Each Party shall ensure that service suppliers of the other Party may use public telecommunications services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party.

4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to ensure the security and confidentiality of messages, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks and services, other than as necessary to:

- (a) safeguard the public service responsibilities of suppliers of public telecommunications networks and services, in particular their ability to make their networks or services available to the public generally; or
- (b) protect the technical integrity of public telecommunications networks or services.

6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

- (a) a requirement to use specified technical interfaces, including interface protocols, for interconnection with such networks or services;
- (b) requirements, where necessary, for the inter-operability of such networks and services; and
- (c) type approval of terminal or other equipment which interfaces with the network and technical requirements relating to the attachment of such equipment to such networks.

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¹ For greater certainty, this subparagraph does not prohibit a Party from requiring a service supplier to obtain a license to supply specific services.

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SUPPLIERS OF PUBLIC TELECOMMUNICATIONS SERVICES

ARTICLE 14.3: OBLIGATIONS RELATING TO SUPPLIERS OF PUBLIC TELECOMMUNICATIONS SERVICES²

Interconnection

1. (a) Each Party shall ensure that suppliers of public telecommunications services in its territory provide, directly, or indirectly within the same territory, interconnection with suppliers of public telecommunications services of the other Party at reasonable rates.
- (b) In carrying out subparagraph (a), each Party shall ensure that suppliers of public telecommunications services in its territory take reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications services obtained as a result of interconnection arrangements and only use such information for the purpose of providing these services.

*Number Portability*³

2. Each Party shall ensure that suppliers of public telecommunications services in its territory provide number portability to the extent technically feasible, and on reasonable terms and conditions.

Dialing Parity

3. Each Party shall ensure that:
 - (i) suppliers of public telecommunications services in its territory provide dialing parity within the same category of service to suppliers of public telecommunications services of the other Party; and
 - (ii) suppliers of public telecommunications services of the other Party are afforded non-discriminatory access to telephone numbers.

SECTION C
ADDITIONAL OBLIGATIONS RELATING TO MAJOR SUPPLIERS OF PUBLIC TELECOMMUNICATIONS SERVICES⁴

ARTICLE 14.4: TREATMENT BY MAJOR SUPPLIERS

² This Article is subject to U.S. Annex 14-A and ROK Annex 14-A.

³ Paragraph 2 does not apply with respect to suppliers of voice over internet protocol services.

⁴ This Section is subject to United States Annex 14-B and Korea Annex 14-B.

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1. Each Party shall ensure that a major supplier in its territory accords suppliers of public telecommunications services of the other Party treatment no less favorable than such major supplier accords to itself, its subsidiaries, its affiliates, or non-affiliated service suppliers regarding:

- (a) the availability, provisioning, rates, or quality of like public telecommunications services; and
- (b) the availability of technical interfaces necessary for interconnection.

ARTICLE 14.5: COMPETITIVE SAFEGUARDS

1. Each Party shall maintain appropriate measures for the purpose of preventing suppliers of public telecommunications services that, alone or together, are a major supplier in its territory from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available, on a timely basis, to suppliers of public telecommunications services, technical information about essential facilities and commercially relevant information that are necessary for them to provide services.

ARTICLE 14.6: RESALE

Each Party shall ensure that a major supplier of public telecommunications services in its territory does not impose unreasonable or discriminatory conditions or limitations on the resale of its public telecommunications services.

ARTICLE 14.7: UNBUNDLING OF NETWORK ELEMENTS

Each Party shall provide its telecommunications regulatory body the authority to require a major supplier in its territory to offer access to network elements on an unbundled basis on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory, and transparent for the supply of public telecommunications services.

ARTICLE 14.8: INTERCONNECTION

General Terms and Conditions

1. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications services of the other Party:

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- (a) at any technically feasible point in the major supplier's network;
- (b) under non-discriminatory terms, conditions (including technical standards and specifications), and rates;
- (c) of a quality no less favorable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;
- (d) in a timely fashion, and on terms and conditions (including technical standards and specifications), and at cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the suppliers need not pay for network components or facilities that they do not require for the service to be provided; and
- (e) on request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

Options for Interconnecting with Major Suppliers

2. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of the other Party the opportunity to interconnect their facilities and equipment with those of the major supplier through:

- (a) negotiation of a new interconnection agreement; and
- (b) one of the following options:
 - (i) a reference interconnection offer containing the rates, terms, and conditions that the major supplier offers generally to suppliers of public telecommunications services; or
 - (ii) the terms and conditions of an interconnection agreement in effect.

Public Availability of Interconnection Offers and Agreements

3. If a major supplier has a reference interconnection offer, the Party in whose territory the major supplier is located shall require such offer to be made publicly available.

4. Each Party shall make publicly available the applicable procedures for interconnection negotiations with a major supplier in its territory.

5. Each Party shall require a major supplier in its territory to file all interconnection

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agreements to which it is party with its telecommunications regulatory body.⁵

6. Each Party shall make publicly available interconnection agreements in effect between a major supplier in its territory and other suppliers of public telecommunications services in its territory.

ARTICLE 14.9: PROVISIONING AND PRICING OF LEASED CIRCUITS SERVICES⁶

1. Each Party shall ensure that a major supplier in its territory provides service suppliers of the other Party leased circuits services that are public telecommunications services on terms and conditions, and at rates, that are reasonable and non-discriminatory.

2. In carrying out subparagraph (a), each Party shall provide its telecommunications regulatory body the authority to require a major supplier in its territory to offer leased circuits services that are public telecommunications services to service suppliers of the other Party at capacity-based, cost-oriented prices.

ARTICLE 14.10: CO-LOCATION

1. Subject to paragraphs 2 and 3, each Party shall ensure that a major supplier in its territory provides to suppliers of public telecommunications services of the other Party in the Party's territory physical co-location of equipment necessary for interconnection or access to unbundled network elements on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory, and transparent.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall ensure that a major supplier in its territory provides an alternative solution⁷ on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory, and transparent.

3. Each Party may limit which premises are subject to paragraphs 1 and 2, provided the Party specifies any such limitation in its law or regulations.

ARTICLE 14.11: ACCESS TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY

Each Party shall ensure that a major supplier in its territory affords access to poles, ducts, conduits, and rights-of-way owned or controlled by the major supplier to suppliers of public telecommunications services of the other Party in the Party's territory on terms and conditions, and at rates, that are reasonable, non-discriminatory, and transparent.

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⁵ The United States may comply with this obligation by requiring filing with a state regulatory authority.

⁶ The obligation under this article is not an obligation to provide leased circuits as an unbundled network element.

⁷ For the United States, ensuring that a major supplier in its territory provides virtual co-location meets the obligation to ensure that such supplier provides an alternative solution.

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OTHER MEASURES

ARTICLE 14.12: SUBMARINE CABLE SYSTEMS

1. Where a supplier of telecommunications services operates a submarine cable system to provide public telecommunications services, the Party in whose territory the supplier is located shall ensure that such supplier accords the suppliers of public telecommunication services of the other Party reasonable and non-discriminatory treatment with respect to access⁸ to submarine cable systems (including landing facilities) in its territory.

2. Where a major supplier of public international telecommunication services controls cable landing facilities and services for which there are no economically or technically feasible alternatives, the Party shall ensure that the major supplier:

- (a) permits suppliers of public telecommunications services of the other Party⁹ to:
 - (i) use the major supplier's cross-connect links in the submarine cable landing station to connect their equipment to backhaul links and submarine cable capacity of any supplier of telecommunications; and
 - (ii) co-locate their transmission and routing equipment used for accessing submarine cable capacity and backhaul links at the submarine cable landing station on terms and conditions, and at cost-oriented rates, that are reasonable, transparent, and non-discriminatory; and
- (b) provides suppliers of telecommunications of the other Party international leased circuits, backhaul links, and cross-connect links in the submarine cable landing station on terms and conditions, and at rates, that are reasonable, transparent, and non-discriminatory.¹⁰

ARTICLE 14.13: CONDITIONS FOR THE SUPPLY OF VALUE-ADDED SERVICES

1. Neither Party may require an enterprise in its territory that it classifies as a supplier of value-added services and that supplies those services over facilities that the supplier does not own to:

- (a) supply those services to the public generally;

⁸ With respect to non-facilities based suppliers, a Party may comply with this paragraph by ensuring access through facilities leased from the supplier of public telecommunications services licensed in its territory.

⁹ For Korea, paragraph 2 only applies with respect to suppliers of public telecommunications services that are licensed as facilities-based suppliers of public telecommunications services pursuant to Article 4 of the Business Telecommunications Act.

¹⁰ Notwithstanding paragraph 2, a Party may permit a supplier in its territory to limit access to or use of its submarine cable landing station if capacity at such station is unavailable.

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- (b) cost-justify its rates for those services;
 - (c) file a tariff for those services;
 - (d) connect its networks with any particular customer for the supply of those services;
or
 - (e) conform with any particular standard or technical regulation of the telecommunications regulatory body for connecting to any other network, other than a public telecommunications network.
2. Notwithstanding paragraph 1, a Party may take the actions described in paragraph 1 to remedy a practice of a supplier of value-added services that the Party has found in a particular case to be anti-competitive under its law or regulations, or to otherwise promote competition or safeguard the interests of consumers.

ARTICLE 14.14: INDEPENDENT REGULATORY BODIES

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body does not own equity¹¹ or maintain an operating or management role in any such supplier. Each Party shall ensure that its regulatory decisions and procedures, including decisions and procedures relating to licensing, interconnection with public telecommunications networks and services, tariffs, and assignment or allocation of spectrum for non-government public telecommunications services, are impartial with respect to all market participants.

ARTICLE 14.15: UNIVERSAL SERVICE

Each Party shall administer any universal service obligation that it maintains in a transparent, non-discriminatory, and competitively neutral manner and shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined.

Article 14.16: LICENSING PROCESS

1. When a Party requires a supplier of public telecommunications services to have a license, the Party shall make publicly available:
- (a) all the licensing criteria and procedures it applies;
 - (b) the period it normally requires to reach a decision concerning an application for a

¹¹ For greater certainty, this paragraph does not prohibit a government entity of a Party other than the telecommunications regulatory body from owning equity in a supplier of public telecommunications services.

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license; and

(c) the terms and conditions of all licenses in effect.

2. Each Party shall ensure that, on request, an applicant receives the reasons for the denial of a license.

ARTICLE 14.17: ALLOCATION AND USE OF SCARCE RESOURCES

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including frequencies, numbers, and rights-of-way, in an objective, timely, transparent, and non-discriminatory manner.

2. Each Party shall make publicly available the current state of allocated frequency bands but retains the right not to provide detailed identification of frequencies allocated or assigned for specific government uses.

3. A Party's measures allocating and assigning spectrum and managing frequency are not measures that are *per se* inconsistent with Article 14.4 (Market Access) either as it applies to cross-border trade in services or through the operation of Article 14.1.3 (Scope and Coverage) to an investor or covered investment of the other Party. Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications services, provided it does so in a manner consistent with other provisions of this Agreement. This includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. Each Party shall endeavor to allocate and assign spectrum for non-government telecommunications services in a manner that encourages economically efficient use of the spectrum and competition among suppliers of telecommunications services, recognizing that a Party may encourage such activities through a variety of means, including through administrative incentive pricing, auctions, or unlicensed use.

ARTICLE 14.18: ENFORCEMENT

Each Party shall provide its competent authority the authority to enforce the Party's measures relating to the obligations set out in Articles 14.2 through 14.12. Such authority shall include the ability to impose effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), corrective orders, or the modification, suspension, or revocation of licenses.

ARTICLE 14.19: RESOLUTION OF TELECOMMUNICATIONS DISPUTES ¹²

Further to Articles 21.3 (Administrative Proceedings) and 21.4 (Review and Appeal), each Party shall ensure the following:

¹² For Korea, for purposes of this article, the term "enterprise" applies only to natural or juridical persons.

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Recourse

- (a) (i) enterprises may have recourse to a telecommunications regulatory body or other relevant body of the Party to resolve disputes regarding the Party's measures relating to matters set out in Articles 14.2 through 14.12 ; and
- (ii) suppliers of public telecommunications services of the other Party that have requested interconnection with a major supplier in the Party's territory may seek review, within a reasonable and publicly specified period after the supplier requests interconnection, by its telecommunications regulatory body¹³ to resolve disputes regarding the terms, conditions, and rates for interconnection with such major supplier;

*Reconsideration*¹⁴

- (b) any enterprise whose legally protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may petition the body to reconsider that determination or decision. Neither Party may permit such a petition to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body unless an appropriate authority stays such determination or decision;

Judicial Review

- (c) any enterprise whose legally protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may obtain review of the determination or decision by an impartial and independent judicial authority of the Party. Neither Party may permit an application for judicial review to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body unless the relevant judicial body stays such determination or decision.

ARTICLE 14.20: TRANSPARENCY

Further to Article 21.2 (Transparency - Publication), each Party shall ensure that:

- (a) rulemakings, including the basis for such rulemakings, of its telecommunications regulatory body and tariffs filed with its telecommunications regulatory body are promptly published or otherwise made available to interested persons;
- (b) interested persons are provided with adequate advance public notice of, and

¹³ The United States may comply with this obligation by providing for review by a state regulatory authority.

¹⁴ For Korea, paragraph (b) does not apply to a determination or decision of a regulatory body with respect to disputes between service suppliers or between service suppliers and users.

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reasonable opportunity to comment on, any rulemaking that its telecommunications regulatory body proposes;

- (c) to the extent practicable, all comments filed with the telecommunications regulatory body in the rulemaking are made publicly available;
- (d) all significant and relevant issues raised in comments filed with the telecommunications regulatory body are responded to in the telecommunication regulatory body's rulemaking; and
- (e) its measures relating to public telecommunications services are made publicly available, including:
 - (i) measures relating to:
 - (a) tariffs and other terms and conditions of service;
 - (b) specifications of technical interfaces;
 - (c) conditions for attaching terminal or other equipment to the public telecommunications network; and
 - (d) notification, permit, registration, or licensing requirements, if any.
 - (ii) procedures relating to judicial and other adjudicatory proceedings.

ARTICLE 14.21: MEASURES CONCERNING TECHNOLOGIES AND STANDARDS

1. The Parties recognize that a measure concerning technologies and standards may contribute to legitimate public policy objectives, and that a regulatory approach that affords suppliers of public telecommunications and value-added services the flexibility to choose the technologies that they use to supply their services may contribute to innovation in and development of the information and communications technology sector.

2. A Party may apply a measure that limits the technologies or standards that a supplier of public telecommunications or value-added services may use to supply its services, provided the measure is designed to achieve a legitimate public policy objective and is not prepared, adopted, or applied in a manner that creates unnecessary obstacles to trade. Each Party retains the right to define its own legitimate public policy objectives except as set out in paragraph 3, recognizing that affording protection to domestic suppliers of telecommunications or value-added services or equipment is not a legitimate public policy objective.¹⁵

¹⁵ Except for paragraphs 1 and 5(b), this Article does not apply to measures adopted prior to the date of entry into force of this Agreement.

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3. A Party may apply a technical requirement¹⁶ that limits the technologies or standards that a supplier of public telecommunications or value-added services may use to supply its services in a particular spectrum frequency band, provided the requirement is designed to ensure effective or efficient use of the spectrum (including with respect to preventing harmful interference), safeguard consumers' continued access to domestic or international networks or services,¹⁷ facilitate law enforcement, or protect human health or safety.

4. To the extent possible, each Party shall endeavor to base its technical requirements relating to the supply of telecommunications or value-added services on performance rather than design or descriptive characteristics.

5. If a Party adopts a measure that mandates the use of a specific technology or standard, or otherwise limits a supplier's ability to choose the technology it uses, to supply a telecommunications or value-added service, it shall:

- (a) do so on the basis of a rulemaking:
 - (i) in which the Party determines that market forces have not achieved, or could not reasonably be expected to achieve, its legitimate public policy objective; and
 - (ii) that affords suppliers of telecommunications or value-added services or equipment the opportunity to demonstrate that an alternative technology or standard could achieve the Party's legitimate public policy objective.
- (b) after adoption of any such measure, provide such suppliers opportunities to request the Party to initiate a rulemaking to permit, in addition, the use of an alternative technology or standard that could effectively and reasonably achieve the Party's legitimate public policy objective. The Party shall respond to any such request in writing, stating the reasons for accepting or rejecting the request, including how amending or not applying the measure may affect consumers, and make the response and, to the extent practicable, the request publicly available.

ARTICLE 14.22: FORBEARANCE

1. The Parties recognize the importance of relying on competitive market forces to provide wide choice in the supply of telecommunications services. To this end, each Party may forbear, to the extent provided for in its law, from applying a regulation to a service that the Party classifies as a public telecommunications service, if its telecommunications regulatory body determines that:

- (a) enforcement of the regulation is not necessary to prevent unreasonable or

¹⁶ The Parties recognize that it may be appropriate to base technical requirements regarding the supply of public telecommunications or value-added services on international standards.

¹⁷ For greater certainty, safeguarding consumer' continued access to domestic or international networks or services includes facilitating consumers' ability to access mobile networks globally

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discriminatory practices;

- (b) enforcement of the regulation is not necessary for the protection of consumers;
and
- (c) forbearance is consistent with the public interest, including promoting and enhancing competition between suppliers of public telecommunications services.

2. For greater certainty, each Party shall subject its regulatory body's decision to forebear to judicial review in accordance with subparagraph (c) of Article 14.19.

ARTICLE 23: RELATIONSHIP TO OTHER CHAPTERS

In the event of any inconsistency between this Chapter and another Chapter, this Chapter shall prevail to the extent of the inconsistency.

ARTICLE 24: DEFINITIONS

For purposes of this Chapter:

backhaul links means end-to-end transmission links from a submarine cable landing station to another primary point of access to the Party's public telecommunication network;

co-location (physical) means physical access to space in order to install, maintain, or repair equipment, at premises owned or controlled and used by a supplier to provide public telecommunications services;

commercial mobile services means public telecommunications services supplied through mobile wireless means;

cost-oriented means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

cross-connect links means the links in a submarine cable landing station used to connect submarine cable capacity to the transmission, switching, and routing equipment of different suppliers of public telecommunications services co-located in that submarine cable landing station;

dialing parity means the ability of an end-user to use an equal number of digits to access a particular public telecommunications service, regardless of which public telecommunications services supplier the end-user chooses;

end-user means a final consumer of or subscriber to a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

enterprise means an "enterprise" as defined in Article 1.3 (Definitions) and includes a branch of

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an enterprise;

essential facilities means facilities of a public telecommunications network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers, and
- (b) cannot feasibly be economically or technically substituted in order to supply a service;

interconnection means linking with suppliers providing public telecommunications services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

leased circuits means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, a user;

major supplier means a supplier of public telecommunications services that has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for public telecommunications services as a result of

- (a) control over essential facilities, or
- (b) use of its position in the market;

network element means a facility or equipment used in supplying a public telecommunications service, including features, functions, and capabilities provided by means of that facility or equipment;

non-discriminatory means treatment no less favorable than that accorded to any other user of like public telecommunications networks or services in like circumstances;

number portability means the ability of end-users of public telecommunications services to retain, at the same location, the same telephone numbers without impairment of quality, reliability, or convenience when switching between the same category of suppliers of public telecommunications services;

public telecommunications network means telecommunications infrastructure used to provide public telecommunications services;

public telecommunications service means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally. Such services may include, inter alia, telephone and data transmission typically involving customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information, and excludes value-added services;

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reference interconnection offer means an interconnection offer extended by a major supplier and filed with or approved by a telecommunications regulatory body¹⁸ that sufficiently details the terms, rates, and conditions for interconnection such that a supplier of public telecommunications services that is willing to accept it may obtain interconnection with the major supplier on that basis.

service supplier of the other Party means, with respect to a Party, a person that is either a covered investment in the territory of the Party or a person of the other Party and that seeks to supply or supplies services in or into the territory of the Party, and includes a supplier of public telecommunications services;

telecommunications means the transmission and reception of signals by any electromagnetic means;

telecommunications regulatory body means a body at the central level of government responsible for the regulation of telecommunications;

user means a service consumer or a service supplier; and

value-added services means services that add value to telecommunications services through enhanced functionality. In the United States, these are services as defined in 47 U.S.C. § 153(20). In Korea, these are services as defined in Article 4.4 of the Telecommunications Business Act.

¹⁸ In the United States, this body may be a state regulatory authority.

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UNITED STATES ANNEX 14-A

1. A state regulatory authority of the United States may exempt a rural local exchange carrier, as defined in Section 251(f)(2) of the Communications Act of 1934, as amended, from the obligations contained in paragraphs 2 through 3 of Article 14.3.
2. Paragraphs 3(i) of Article 14.3 do not apply to the United States with respect to suppliers of commercial mobile services.

KOREA ANNEX 14-A

Paragraph 3 of Article 14.3 does not apply to Korea with respect to suppliers of international public telecommunications services.

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United States ANNEX 14-B

1. Article 14.4 does not apply to the United States with respect to a rural telephone company, as defined in section 3(37) of the Communications Act of 1934, as amended, unless a state regulatory authority orders that the requirements described in that Article be applied to the company. In addition, a state regulatory authority may exempt a rural local exchange carrier, as defined in section 251(f)(2) of the Communications Act of 1934, as amended, from the obligations contained in Article 14.4.
2. Articles 14.4 and 14.6 through 14.11 do not apply to the United States with respect to suppliers of commercial mobile services.

Korea Annex B

1. Articles 14.7, paragraph 1(a), 1(e) and 2(a) of Article 14.8, Article 14.10, and Article 14.11 do not apply to Korea with respect to non-facilities based suppliers of public telecommunications services.
2. With respect to paragraphs 1(b) through (d) of Article 14.8 and Article 14.9, Korea may permit major suppliers to offer rates, terms, and conditions to non-facilities based suppliers of public telecommunications services that are less favorable than those offered to facilities-based suppliers of public telecommunications services. For greater certainty, Korea shall ensure that a non-facilities based supplier of public telecommunications services may have recourse, as provided in Article 14.19, to the telecommunications regulatory body regarding disputes over such rates, terms, and conditions.
3. With respect to a non-facilities based supplier of public telecommunications services, paragraph 2(b) of Article 14.8 only applies with respect to an interconnection agreement in effect between the major supplier and another non-facilities based supplier of public telecommunications services or a reference interconnection offer that a major supplier offers generally to non-facilities based suppliers of public telecommunications services.
4. A “non-facilities based supplier” is defined in accordance with Article 4.3 of the Telecommunications Business Act and is a licensed supplier of public telecommunications services that does not own wire or wireless lines or other transmission facilities, but may own a switch, router, or multiplexer, and supplies its public telecommunications services through transmission facilities of a licensed facilities-based supplier.
5. Article 14.4, Article 14.6, Article 14.7 and Article 14.9 through Article 14.11 do not apply to Korea with respect to suppliers of commercial mobile services.