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CONCESSION TITLE FOR COMMERCIAL USE, GRANTED BY THE FEDERAL TELECOMMUNICATIONS INSTITUTE FOR THE WHOLESALE TELECOMMUNICATION SERVICES SHARED NETWORK, IN FAVOR OF _____ PURSUANT TO THE FOLLOWING:

BACKGROUND

- I. On June 11, 2013, the *“Executive Order that amends and supplements several provisions of articles 6th, 7th, 27, 28, 73, 78, 94 and 105 of the Political Constitution of the United Mexican States, in telecommunication matters”*, was published in the Federal Official Gazette, creating the Federal Telecommunications Institute as an autonomous entity for the efficient development of broadcasting and telecommunications, in charge of the regulation, promotion and supervision of the use, profit and exploitation of the radioelectric spectrum, the networks and the rendering of services, and as the authority in antitrust matters for the broadcasting and telecommunication sectors.
- II. On July 14, 2014, the *“Executive Order that enacts the Federal Telecommunication and Broadcasting Act and the Public Broadcasting System Act of the Mexican State; and that amends, supplements and repeals several provisions in telecommunication and broadcasting matters”* was published in the Federal Official Gazette, which was effective on August 13, 2014.
- III. On September 4, 2014, the *“Organizational Statute of the Federal Telecommunications Institute”* was published in the Federal Official Gazette, which was effective on September 26, 2014 and was amended on October 17 of the same year.
- IV. The Plenary Session of the Federal Telecommunications Institute, through Decree _____ dated _____, 20____, having met the requirements of the law, resolved to

grant in favor of _____, a Concession Title for commercial use to render the Wholesale Telecommunication Service.

Derived from the above and pursuant to articles 28 paragraph fifteenth, sixteenth and seventeenth of the Political Constitution of the United Mexican States; Sixteenth Transitory of the *"Executive Order that amends and supplements several provisions of articles 6th, 7th, 27, 28, 73, 78, 94 and 105 of the Political Constitution of the United Mexican States, in telecommunication matters"*, published in the Federal Official Gazette on June 11, 2013; 1, 2, 3, 4, 5, 7, 15 section IV, 16 and 17 section I, 66, 67 section I, 68, 71, 72, 73, 74, 140, 141, 142, 143 and 144 of the Federal Telecommunications and Broadcasting Act; Thirteenth Transitory of the *"Executive Order that enacts the Federal Telecommunication and Broadcasting Act and the Public Broadcasting System Act of the Mexican State; and that amends, supplements and repeals several provisions in telecommunication and broadcasting matters"*, published in the Federal Official Gazette on July 14, 2014 and 1, 4 section II and 14 section X of the Organizational Statute of the Federal Telecommunications Institute, the following Wholesale Concession Title for commercial use is hereby issued subject to the following:

CONDITIONS

General Provisions

1. **Definitions.** For purposes of this Title the following terms shall have the following meanings:
 - 1.1. **Vendor:** Any person who provides telecommunication services to end users by using capacity of one or several public telecommunication networks without acting as a concessionaire in terms of the Federal Telecommunications and Broadcasting Act;
 - 1.2. **Concession:** The one provided in this Title, which confers the exclusive right to render the Wholesale Telecommunication Service.
 - 1.3. **Concessionaire:** The holder of this Concession;
 - 1.4. **Economic Interest Group:** Group of capable people with similar business and financial interests who coordinate their activities to

participate in the market and in economic activities, through the control or decisive influence, direct or indirect, exercised by one of its members over the others;

- 1.5. **Influence:** The capacity, by law or in fact, of a certain person to significantly participate or intervene, whether directly or indirectly, through any means, in certain decisions including but not limited to administration, definition of policies and goals or the management, direction and execution of the activities of other person(s). The influence derives from the rights, contracts or other means that by themselves or together grant the above-mentioned capacity.
- 1.6. **Institute:** Federal Telecommunications Institute;
- 1.7. **Law:** Federal Telecommunications and Broadcasting Act;
- 1.8. **Operation of the Wholesale Shared Network:** Includes decision making over the rules to assign the use of capacity, infrastructure and/or telecommunication services and their marketing;
- 1.9. **Telecommunication Service Provider:** Economic Agent, up to its dimension of Economic Interest Group, holding a concession, permit or license that authorizes it to market telecommunication services, subject to the Law;
- 1.10. **Wholesale Shared Network:** Public telecommunications network exclusively destined to market capacity, infrastructure or wholesale telecommunication services to other concessionaires or vendors;
- 1.11. **Telecommunications network:** System conformed by transmission means, such as channels or circuits that use frequency bands of the radioelectric spectrum, satellite connections, wiring, electric transmission networks or any other means of transmission, as well as, if applicable, centrals, commutation devices or any other necessary equipment;

1.12. Public telecommunications network: Telecommunications network whereby telecommunication services are commercially exploited. The network does not include terminal telecommunication equipment of users, or telecommunication networks that are beyond the terminal connection point;

1.13. Wholesale Telecommunication Service: Telecommunication service consisting in the supply of access to individual elements, to capacities of a network or services, including interconnection, which are used by concessionaires or vendors to provide telecommunication services to end users;

1.14. Client: Concessionaire of telecommunication services or vendor, who executes an agreement with the Concessionaire, whereby it uses the capacity, infrastructure or Wholesale Telecommunication Services offered by the Concessionaire through the Wholesale Shared Network;

1.15. End User: Individual or entity who uses a telecommunication service as the end user.

2. Conventional Address. The Concessionaire appointed as its address to hear and receive all kinds of notices and documents, the one located at:

Should the Concessionaire change the domicile to hear and receive notices referred to in the above paragraph, it must notify the Institute with at least 15 (fifteen) calendar days in advance. During such period, or in the event it does not notify the Institute of the change of domicile, notices shall continue being validly made at the domicile mentioned in the first paragraph of this section.

3. Use of the Concession. The Concession is granted for commercial use for the Wholesale Shared Network and grants the right to the Concessionaire to render the Wholesale Telecommunication Service through the infrastructure connected with such Wholesale Shared Network of telecommunication services, under the terms and conditions described in this Title, through the use of at least 90 MHz of frequency bands of the radioelectric spectrum of 700 MHz. The Concessionaire shall cooperate with the Ministry, the Institute and other qualified authorities to

carry out the actions necessary to amend the protocols regarding award and use of the frequency band, in order to ensure the coexistence of the services free from obstructing interference in the borders with other countries.

In no event may the Concessionaire offer services to end users. The provision of the Wholesale Telecommunication Service subject matter of this Title, as well as the installation, operation and exploitation of the infrastructure related thereto, must submit to the provisions in the Political Constitution of the United Mexican States, in the international treaties where the Mexican State is a member, laws, regulations, executive orders, rules, fundamental technical plans, technical provisions, Mexican Official Standards, technical rules, resolutions, decrees, bulletins and other general administrative provisions as well as to the conditions herein provided.

In the event the laws and/or administrative provisions in force on the date this Title is granted were annulled, repealed and/or amended, this Concession shall be subject to the substitute legal and administrative provisions as from their effectiveness.

- 4. Term of the Concession.** This Concession of commercial use shall have a term of 20 (twenty) years as from the date it is granted.

This Concession of commercial use may be extended in accordance with the provisions in the Law.

- 5. Provision of Wholesale Telecommunication Services.** The Concessionaire must market the Wholesale Telecommunication Service to Clients through the required infrastructure, as well as with the transmission means of its own or of third parties available to the Concessionaire in accordance with the Law.

In the event the Concessionaire requires to use frequency bands of the radioelectric spectrum other than those of free use or, if the case may be, orbital resources, it must obtain them pursuant to the terms and modalities provided in the Law, considering that their use, profit or exploitation must be performed in accordance with the provisions of the National Frequency Allocation Framework and other applicable legal, regulatory and administrative provisions.

5.1 Anti-tied-sales provision. The Concessionaire may not condition the hiring of the Wholesale Telecommunication Service to hiring or acquiring of other assets, infrastructure, services or capacities or to hiring services provided by a third party.

5.2 Interconnection. The Concessionaire may request its own numbering, under the proceedings established in the applicable regulations, exclusively to render the Wholesale Telecommunication Service, which may be performed under conditions that allow Clients to optionally acquire this resource from the Concessionaire.

The Concessionaire must prepare and extend to the Clients all interconnection services that are necessary for the correct provision of telecommunication services to end users.

6. Commencement of the provision of public services. The Concessionaire must begin rendering the Wholesale Telecommunication Service authorized hereunder no later than on March 31, 2018. To such end, it must notify the Institute of such circumstance within 5 (five) business days following its occurrence.

With regards to the above, it shall be understood as the commencement of operations the fact that the Wholesale Shared Telecommunications Network has the capacity to offer and render the Wholesale Telecommunication Service to Clients, in at least the population coverage [**which shall be defined, for such purpose, in the public tender or competitive bidding**].

7. General Features of the Project. The Concessionaire must file before the Institute for its registration in the National Infrastructure Information System, in terms provided by the Institute, the information regarding the active infrastructure, passive infrastructure, means of transmission, rights of way and, if applicable, public sites, as well as any other components of the telecommunication networks used to market the capacity, infrastructure or Wholesale Telecommunication Service pursuant to this Concession.

When the Concessionaire installs, leases or uses new active infrastructure, passive infrastructure, means of transmission, rights of way and public sites, and other elements of the telecommunication networks to market the Wholesale Telecommunication Service, it must file the corresponding information for

registration in the National Infrastructure Information System, pursuant to the terms established by the Institute.

8. Programs and commitments of investment, quality and geographic coverage.

The Concessionaire must comply with the following:

8.1 Investment Commitments. The Concessionaire agrees to perform all the necessary investments in order to render the Wholesale Telecommunication Service in an ongoing and efficient manner.

8.2 Quality Commitments. The Concessionaire must comply with the quality parameters established for such purpose by the applicable legal, regulatory or administrative provisions, regarding the Wholesale Telecommunication Service rendered under this Concession of commercial use.

8.3 Coverage Commitments. This Concession allows its holder to render the Wholesale Telecommunication Service throughout the Mexican territory, complying at all times with the restrictions inherent to the use, profit and exploitation of the radioelectric spectrum, in terms of the corresponding concessions.

The Concessionaire must comply with a nationwide coverage of at least **[which shall be defined, for this purpose, in the public tender or competitive bidding]**% of the aggregate population for _____, 2020, and of at least **[which shall be defined, for this purpose, in the public tender or competitive bidding]**% of the aggregate population for ____ 31, 2023.

In order for the population to be considered with service coverage, the Concessionaire must be able to offer to the Client conditions that allow it to provide its user a data up-link speed of 1 (one) megabit per second and a down-link speed of at least 4 (four) megabits per second at the edge of the cell in peak hours. The foregoing, notwithstanding the compliance with the quality parameters issued by the Institute for such purpose.

The Institute may authorize an extension to the Concessionaire with regards to the obligation. To such end, the Concessionaire must file the corresponding extension request prior to the expiration of the term provided for the compliance of the coverage obligations.

9. No Discrimination. In the provision of the Wholesale Telecommunication Service, the Concessionaire may not establish rates or conditions that may lead to any type of discrimination.

10. Business Terms. The Concessionaire is bound to file and publish during the term of this Concession, reference offers of Wholesale Telecommunication Services, capacities, functions and infrastructure that include, based on transparency and non-discrimination, the following conditions:

- 10.1.** Description of the Wholesale Telecommunication Services, capacities, functions and infrastructures subject to trade by the Concessionaire.
- 10.2.** Mechanisms that allow the separate or individual use of Wholesale Telecommunication Services, capacities, functions and infrastructure.
- 10.3.** Rates of each service, capacities, functions and infrastructure to trade and, if applicable, the corresponding compensation mechanisms.
- 10.4.** Quality specifications of the Wholesale Telecommunication Services, capacities, functions and infrastructure offered under equal conditions for all of its Clients and with their respective service level agreements.
- 10.5.** Forms and times of measurement, rating, invoicing and collection proceedings of the Wholesale Telecommunication Services, capacities, functions and infrastructure.
- 10.6.** Technical specifications required for the provision of Wholesale Telecommunication Services, capacities, functions and infrastructure, including standards, protocols, network elements, core facilities, among others.
- 10.7.** Systems and procedures to be followed for the attention to failures and incidences, emergency works, programming of the respective maintenance, and any other that ensures continuity in the provision of Wholesale Telecommunication Services, capacities, functions and infrastructure.

- 10.8.** Applicable penalties and guarantees.
- 10.9.** Mechanisms and conditions to carry out the measurement and rating tasks of the Wholesale Telecommunication Services, capacities, functions and infrastructure, rendered to other concessionaires or licensees. Such detail shall include the necessary information to carry out conciliation and clarification procedures.
- 10.10.** Electronic mechanisms for the application, hiring and processing of services, establishing attention and performance periods.
- 10.11.** The template agreement to be executed with its Clients.

The Concessionaire may not establish conditions that obstruct competition in the provision of services that are subject matter of the reference offers of Wholesale Telecommunication Services, capacities, functions and infrastructure.

Rates shall be offered by the Concessionaire to all of its Clients, in a transparent and non-discriminatory manner in the reference offers of Wholesale Telecommunication Services, capacities, functions and infrastructure.

As part of the reference offers of Wholesale Telecommunication Services, capacities, functions and infrastructure, the Concessionaire may offer discounts per volume, per package and per commitment, provided they are reasonable and justified pursuant to its cost structure and operational efficiencies. The foregoing, notwithstanding that the Institute may review the discounts per volume, per package and per commitment to guarantee that they do not imply an unfair competition practice.

The Concessionaire must have its reference offers of Wholesale Telecommunication Services, capacities, functions and infrastructure approved before starting their commercialization. Approval by the Institute shall be in accordance with the following procedure:

- I. The Institute shall have a term of 30 (thirty) business days, as from the filing of the first reference offers, to approve or amend the same. In order to evaluate the reference offers, the Institute shall verify that they do not

imply a discriminatory treatment, entry barriers, tied sales, undue shifting or any type of unfair competition practice.

- II. If deemed necessary, the Institute may request to the Concessionaire the documentation or information it considers relevant, which must be filed within a maximum term of 15 (fifteen) business days.
- III. The Concessionaire shall have a term of 10 (ten) business days to perform the corresponding adjustments and to deliver once again the reference offers of Wholesale Telecommunication Services, capacities, functions and infrastructure.
- IV. If the Concessionaire fails to make the amendments to the reference offers, the Institute shall establish the terms thereof within a maximum term of 20 (twenty) business days. The Concessionaire shall publish them in its Internet website within the five business days following their notification.

The changes made to the reference offers previously approved in the above-mentioned proceeding, must be authorized prior to their publication. The Institute shall have a term of up to 15 (fifteen) business days as from the date it receives the request from the Concessionaire, to issue a final resolution thereon. If the Institute does not resolve within the aforesaid term they shall be deemed approved.

The Concessionaire must register the reference offers and their amendments, before the Public Concessions Registry prior to its filing, and thus may not agree to conditions other than those registered.

The amendments to the reference offers must be extended to Clients that request them under non-discrimination conditions.

In the event they fail to reach an agreement, Concessionaires or Vendors may appear before the Institute to notify a disagreement regarding the reference offers of Wholesale Telecommunication Services, capacities, functions and infrastructure. The Institute shall resolve the disagreement and may request for such purpose the technical and economic elements regarding the actions or mechanisms to facilitate the provision of Wholesale Telecommunication Services, capacities, functions and infrastructure.

The Concessionaire must notify the Institute of the agreements executed with the clients, which shall be recorded before the Public Concessions Registry.

- 11. Provision of the Wholesale Telecommunication Service through affiliate, subsidiary or related companies within the same Economic Interest Group.** Prior authorization from the Institute, the Concessionaire may render the Wholesale Telecommunication Services under this Concession through affiliate, subsidiaries or related companies of the same Economic Interest Group. The Concessionaire shall be at all times responsible before the Institute or any qualified authority for the breach of the obligations and for the exercise of the rights herein provided, as well as for the provision of the concessioned Wholesale Telecommunication Service.

The Concessionaire and the other individuals or entities belonging to its Economic Interest Group may participate but shall have no influence in the Vendors, or in the other Economic Agents who offer services, directly or indirectly, to the End User.

Those who execute a services agreement with the Concessionaire may claim responsibility or the due performance regarding the provision of services engaged from the Concessionaire, and from the other individuals or entities who are part of its Economic Interest Group.

- 12. Profit Reinvestment.** The Concessionaire must submit before the Institute a profit reinvestment mechanism that ensures the upgrade, growth and the performance of its geographic coverage commitments, which must consider reinvesting XXX% of its annual profits.

- 13. Powers of Attorney.** In no event may the Concessionaire grant irrevocable powers of attorney and/or general or special mandates for acts of ownership, which have as purpose or allow the attorney-in-fact or representative to exercise the rights and obligations hereunder.

- 14. Limits to the Influence of third parties in the Operation of the Wholesale Shared Network and of the latter in third parties.** No Telecommunication Service Provider may, directly or indirectly through members of its Economic Interest Group, have Influence in the Operation of the Wholesale Telecommunication Network.

On the other hand, the Concessionaire and the other members of its Economic Interest Group are bound not to have Influence in the Economic Agents who are Clients of the Wholesale Telecommunication Network.

The Concessionaire and the other people who are part of its Economic Interest Group must permanently submit to the performance of the obligation to ensure that no Telecommunication Service Provider has any Influence in the Operation of the Wholesale Telecommunication Network. Likewise, they must submit to the supervision that is applicable to guarantee their submission to the aforesaid rules and may consult the Institute in the event of doubt.

The Concessionaire and the other people that are part of its Economic Interest Group must comply with the "Elements of Reference to identify *ex ante* the Economic Agents prevented from having Influence in the Operation of the Wholesale Telecommunication Network" issued by the Federal Telecommunications Institute or any substitute elements.

- 15. Liens.** When the Concessionaire grants any lien on the Concession or the rights derived therefrom, it must request the registration of the corresponding public instruments before the Public Concessions Registry, no later than within 60 (sixty) calendar days following the date of their creation; such registry shall be admitted provided the lien created does not breach any law or other applicable administrative or regulatory provision.

Likewise, the public instrument that formalizes the lien must expressly establish that the execution thereof shall in no event grant the capacity of concessionaire to the creditor and/or third party, and therefore it shall require that the Institute authorizes the assignment of rights in terms of the Law, in order for the Concession to be awarded, if the case may be, to the creditor and/or to a third party.

- 16. Competitive Neutrality.** Whilst it has public participation, the Concessionaire shall be subject to the Competitive Neutrality Principles issued by the Plenary Session of the Federal Telecommunications Institute as general administrative provisions.

Verification and Monitoring

17. Information. The Concessionaire shall be bound to provide, when required by the Institute, the accounting, operational and economic information, if the case may be, per service, type of client, region, function and components of its networks and other associated infrastructure, or per any other classification that is deemed necessary to permit knowing the operation and exploitation of Wholesale Telecommunication Services rendered hereunder, as well as any information regarding the topology of its network, or related infrastructure, including capacities, features and location of its elements or any other information that allows the Institute to know of the operation, production and exploitation of the telecommunication services.

The Concessionaire is bound to provide, in accordance with the terms, periodicity, formats and means determined by the Institute, the necessary information for the Institute to be able to audit the accounting information, for which purpose it may perform verification visits and require the submission of documents, books, records, files and information generated by electronic or optical means or of any other technology, in order to evidence the performance of its obligations.

The Institute may verify at any time the performance of the obligations herein provided, which verification may be performed at the election of the Institute or upon request of any interested party. In order to carry out the verification of the performance of the obligations provided in this Title, the Institute may require information and documents to the Concessionaire, perform verification visits, as well as carry out all acts and procedures in order to gather the information and means of conviction that are necessary in accordance with the applicable provisions. In the event of breach of the obligations herein provided, the Institute shall proceed in terms of the laws in force and of the provisions in this Title.

18. Financial Information. The Concessionaire must:

18.1 Make available to the Institute and deliver upon request thereof, within the terms, periodicity and in accordance with the formats and means determined thereby, its annual financial statements broken down per service and per coverage area, audited by a reputable accounting firm, as well as the annual financial statements of each person that is part of the economic

agent to which the Concessionaire belongs, in the event it renders the Wholesale Telecommunication Services through any of them.

18.2 File before the Institute its audited financial statements when the Concessionaire is bound to do so, pursuant to the Federal Tax Code. The foregoing requirement must be met no later than on June 30 of each year.

Penalties

19. Penalties. For purposes of the provisions in section III of article 303 of the Federal Telecommunications and Broadcasting Act, the breach of the coverage obligations provided in section 8.3 of this Concession Title, in addition to any other provided by Law, shall be cause for revocation.

Jurisdiction and venue

20. Jurisdiction and venue. For all regarding the interpretation of and compliance with this Title, unless its resolution administratively corresponds to the Institute, the Concessionaire must submit to the jurisdiction of the Specialized Federal Courts and Tribunals located in Mexico City, Federal District, therefore waiving any other forum to which it may be entitled by virtue of its present or future domicile.

Mexico, Distrito Federal, on _____

**FEDERAL TELECOMMUNICATIONS INSTITUTE
DEPUTY CHAIRMAN**

GABRIEL OSWALDO CONTRERAS SALDÍVAR

THE CONCESSIONAIRE

Legal Representative