

Universal Service Fund

(A company setup under Section 42 of the Companies Ordinance 1984)

“Every Pakistani has the right to modern telecommunication services and we strive to provide that.”

REGISTRATION FORM FOR USF PROJECT # _____

Name of Applicant: _____

Registered Address: _____

Postal Address: _____

Phone: _____

Fax: _____

Email: _____

Contact Person for correspondence: _____

Person authorized for Registration:
(attach copy of authorization) _____

Nature of applicant’s License (copy attached): _____

Telecom services authorized under the License: _____

Date of Expiry of License: _____

Licensed territory: _____

Audited/Unaudited Report of USF Contributions as payable & paid todate:
(summarize and attach copy of full report) _____

Amount of any USF contributions outstanding to-date: _____

Proof of payment: _____

List of Consortium members, if registration is for consortium:

Applicant declared eligible by PTA & MoIT:
(Attach copies of eligibility letters from PTA & MoIT) Yes No

Attach copies of clearance letters from PTA & MoIT
(regarding payments of USF contribution and APC
for USF and other related licensed obligations): Yes No

Pay Order/DD of PKR 25,000 registration fee attached: Yes No

Certificate:

Certified that the information set out above is correct to the best of my information and belief, and nothing material has been concealed therefrom.

(Signature of Authorized Representative)

NIC: _____

Date: _____



Universal Service Fund

(A company setup under Section 42 of the Companies Ordinance 1984)

REQUEST FOR APPLICATIONS
TO PROVIDE
UNIVERSAL SERVICE FUND TELECOMMUNICATIONS SERVICES

Project ID: RTeS/Lot16-Zhob/2015

Issued at Islamabad

30th January 2015

USFCo Fifth Floor, HBL Tower, Jinnah Avenue, Islamabad Pakistan	Tel: 051-9212308 & 9212309 Fax: 051-9214261
--	--

USFCo
Request for Applications to provide
Universal Service Fund Telecommunications Services

Table of Contents

Part I Introduction.....	5
1. Purpose of the RFA Process.....	5
2. Source of Funds	5
3. Current Legal, Regulatory, and Market Regime	6
4. USF Policy	8
5. USF Coverage Requirements	8
6. USF Service Requirements	8
7. USF Contributors and Eligibility	8
8. Tentative Time Schedule.....	9
9. Project Administration and Correspondence.....	9
Part II Rights and Obligations of USF Service Provider	10
10. Exclusivity	10
11. Roll-out of USF Network and Supply of USF Services.....	10
12. USF Subsidy Payments	10
13. Service Availability and Quality Specifications	10
14. Scope of Service.....	11
15. Regulation of Operators	11
16. Interconnection and Facilities Sharing.....	11
17. Numbering and Electronic Addressing	11
18. Type Approval	12
19. Regulation of USF Service Charges.....	12
20. Authority to Construct and Use Facilities	12
21. Requirement to Procure and Manage the USF Network.....	13
22. Transfer or Change of Control	13
23. Access to Public and Private Lands	13
24. Force Majeure	13
25. Dispute Resolution	13
26. Technical Auditor.....	13
27. Compliance with Law	14
28. Term of USF Services and Subsidy Agreement.....	14
29. Other Obligations under USF Services and Subsidy Agreement.....	14

30. Fees Payable by the USF Service Provider.....	14
31. Frequency Spectrum.....	14
Part III Instructions to Applicants.....	15
32. Selection of Successful Applicant.....	15
33. Pre-proposal Meeting.....	15
34. Qualification Criteria.....	16
35. Financing Capacity.....	16
36. Operational Experience.....	16
37. Applicant Eligibility.....	17
38. Consortium Applicant.....	17
39. Bid Bond.....	18
40. Responsiveness of Proposals.....	19
41. Content and Format of Proposals.....	19
42. Part 1 Structure Requirements – Qualifications and Service Proposal.....	19
43. Part 2 Subsidy Proposal.....	26
44. Compliance Checklist.....	27
45. Submission of the Proposal.....	27
46. Delivery of the Proposal.....	28
47. Opening of Proposals.....	28
48. Selection Process and Evaluation of Proposals.....	29
49. Fraud or Corruption.....	30
50. Period of Validity of Proposal.....	32
51. Grounds for Rejection of Proposal.....	32
52. Subsequent Disqualification and Ineligibility.....	32
53. Letter of Intent.....	33
54. Performance Bond.....	34
55. Information Provided by USFCo.....	34
56. Communications, Comments and Requests for Clarification.....	34
57. Confidentiality of Proposals.....	35
58. USFCo Use of Proposals.....	35
59. Cost of Proposal and Bidding.....	36
60. Reservation of Rights.....	36
61. Legal and Formal Requirements.....	36
Part IV Definitions.....	37
62. Definitions.....	37

Annexes

Annex 1 USF Subsidy Proposal Form

Annex 2 Bid Bond Form

Annex 3 World Bank Eligibility Guidelines¹

Annex 4 Form of Letter Regarding Compliance with Licence(s)

Annex 5 Compliance Checklist

Annex 6 Draft of Proposed USF Services and Subsidy Agreement

Annex 7 Dispute Resolution Terms

Annex 8 Tentative Time Schedule & Correspondence Contact

¹ Only applicable if Project is financed by World Bank.

Part I

Introduction

1. Purpose of the RFA Process

- 1.1 All telecommunications licences issued by the Pakistan Telecommunications Authority (“PTA”) subsequent to the De-Regulation Policy 2003 and the Mobile Cellular Policy 2004 provide for contribution by licensees to a Universal Service Fund (“USF”).
- 1.2 The purpose of this Request for Applications (“RFA”) is to invite holders of such licences (“USF Contributors”) to submit Proposals, either individually or as part of a consortium, for providing voice telephony and Internet services, including access networks and public access points (“USF Services”), to defined regional areas (“USF Areas”) in Pakistan pursuant to a 10 year USF Services and Subsidy Agreement.
- 1.3 This RFA is part of a universal service program initiated by the Government of Pakistan (“GoP”), which is aimed at increasing access to telecommunications networks and services in un-served and under-served areas of Pakistan in a manner consistent with fair competition, international best practices, and existing sector policies and GoP commitments.
- 1.4 GoP has created a not-for-profit federal Government owned and controlled Universal Service Fund company (“USFCo”) to administer the USF, including the process initiated by this RFA (“RFA Process”). It is GoP’s intent that USFCo apply part of the USF toward payment of subsidy (the “USF Subsidy”) to be paid pursuant to the USF Services and Subsidy Agreement to assist in meeting the costs of constructing and operating the USF Network in the USF Areas.
- 1.5 Further information on the proposed USF Services, USF Network and USF Areas is set out in this RFA.
- 1.6 It is the intention of GoP to act quickly to implement its policy of extending access to telecommunications networks and services in un-served and under-served areas in Pakistan.

2. Source of Funds

- 2.1 Pursuant to Section 33A of the Act, the sources of funding USF shall consist of
 - (a) grants made by the Federal Government and the Provincial Governments;
 - (b) prescribed contribution by licensees;
 - (c) sale proceeds from the auction of the right to use radio spectrum;
 - (d) loans obtained from the Federal Government; and
 - (e) grants and endowments received from other agencies.

- 2.2 The GoP (the “Borrower”) has applied for a loan (hereinafter called the “Loan”) from the International Bank for Reconstruction and Development or from the International Development Association (hereinafter called “the Bank”) toward the cost of the Rural Telecommunications and e-Services Project, and the Borrower intends to apply a part of the proceeds of the Loan to eligible payments under the Contract for which these bidding documents are issued.
- 2.3 Payments by the Bank under the Loan will be made only at the request of GoP and upon approval by the Bank in accordance with the terms and conditions of the Loan Agreement, and will be subject in all respects to the terms and conditions of the Loan Agreement. The Loan Agreement prohibits a withdrawal from the Loan account for the purpose of any payment to persons or entities, or for any import of equipment, plant, or materials, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the GoP shall derive any rights from the Loan Agreement or have any claim to the Loan proceeds.

3. Current Legal, Regulatory, and Market Regime

- 3.1 Before 1996, Pakistan’s telecommunications markets were governed by the Telegraph Act, 1885 and Wireless Telegraphy Act, 1993. Most telecommunications services were provided by the GoP’s Telegraph and Telephone Department. That Department was converted into a statutory corporation in 1990 as the Pakistan Telecommunication Corporation (“PTC”) and later in 1996 it was converted into a public limited company Pakistan Telecommunication Company Limited (“PTCL”). Competitive mobile telephone service was launched in 1991. Payphone service was launched in 1993. But of these competitors, only PTC and then PTCL had a formal duty to serve cities, towns, villages and Mauzas in all areas of Pakistan.
- 3.2 Additional mobile, Wireless Local Loop (WLL), fixed-line Local Loop (“LL”) and Long Distance International (“LDI”) licensing since 2004 has increased competition substantially. Use of telecommunications services has expanded rapidly in this increasingly competitive environment.
- 3.3 The Mobile Cellular Policy (2004) and Pakistan Telecommunications (Re-organisation) (Amendment) Act, 2006 require that PTCL and all mobile licensees provide significant geographic coverage. Yet, in rural areas, teledensity is significantly lower than teledensity in urban areas. Making telecommunications services available country-wide is a GoP priority.
- 3.4 In a competitive sector, it is not appropriate to impose universal service obligations on a single operator. Accordingly, the De-Regulation Policy (2003) at section 5, the Mobile Cellular Policy (2004) at section 8, and the Pakistan Telecommunications (Re-organisation) Act, 1996 at section 33A require that PTCL and all subsequent fixed and mobile licensees pay into the USF.
- 3.5 Persons who enter into a USF Services and Subsidy Agreement as a result of the RFA Process (“USF Service Providers”) will receive a subsidy payment from the USF to extend telecom services by using Renewable Energy Solutions as a source of power, to rural areas, increasing rural teledensity. The amount of the USF subsidy payment

will be established in accordance sections 12 and 43 of this RFA. The subsidy payment will be made in one or more installments in accordance with the USF Services and Subsidy Agreement.

3.6 Initially USFCo was not encouraging Opex Subsidy but now the RTeS Program is getting into remotest parts of the under-served and un-served areas and the experience of “no-bids”, in the auction of these Lots, makes it evident that if no additional support is given for Opex, providing USF Services in those remote areas would not be possible,. In between USFCo allowed Opex Subsidy for Backhauling and mandated Alternate Energy solutions but now it is clear that without additional support for Opex, USF objectives of providing rural telecom coverage to the remote areas would not be met.

Therefore, in addition to the USF Capex Subsidy, USF shall also provide subsidy as partial support for Opex by way of providing “USF Opex Subsidy” for operating USF Networks, for a maximum period of upto three years on a “declining model” basis (see 3.8 below). USF Opex Subsidy shall be payable on regular periodical basis starting from completion of each of the milestones as mentioned in Schedule D of USF Services and Subsidy Agreement.

3.7 The definition of USF Opex Subsidy, provided in this RFA, is only for guidance of the Applicants submitting Financial Proposals. USF will only be looking for the lowest bidder overall (Capex Subsidy + Opex Subsidy), and not breakup of USF OPEX Subsidy demanded.

3.8 All Applicants shall mention a lump sum amount of Opex for three years (separately from the usual Capex Subsidy) in their Financial Proposal in appropriate field. This amount shall be equally split over three years to show “Yearly Opex” of the Applicant. Then the Applicant in adjacent column shall mention the “Yearly Opex Subsidy” for each of the three years making sure that for first year the asked subsidy amount cannot exceed 75% of the “Yearly Opex”, for second year the asked subsidy amount cannot exceed 50%, and for third year the asked subsidy amount cannot exceed 25% (See Annex 1: USF Subsidy Proposal Form with this RFA for elaboration).

3.9 The Yearly Opex Subsidy for each of the year one, two and three shall be paid in equal 16 quarterly installments. The quarterly Installments shall start immediately after completion of each of the Milestones, in the following manner:

- (a) After completion of 1st Milestone and issuance of Project Implementation Milestone Certification, USF Service Provider shall start getting the 04 out of 16 equal quarterly installments of 1st year Opex Subsidy. Then he will get next 04 out of 16 equal quarterly installments of 2nd year Opex Subsidy. And after that he will get 04 out of 16 equal quarterly installments of the 3rd year Opex Subsidy. Thus over a period of three years (or 36 months) he will get 12 quarterly installments.
- (b) Same process of payment of Opex Subsidy shall be repeated for each subsequent milestone so that by the end of 3rd year (counted from the Implementation Milestone Certification of the 4th Milestone), he gets 48 installments covering entire amount of Opex Subsidy.

4. USF Policy

- 4.1 The Universal Service Fund Policy (“USF Policy”) is the policy framework guiding the RFA Process. It sets out goals, objectives, and guidelines for using USF funding to meet certain basic telecommunication and ICT services needs in areas of Pakistan which would otherwise remain un-served.
- 4.2 The USF Policy’s goals include making voice telephony and Internet access data services available and affordable to progressively greater proportions of Pakistan’s rural population.
- 4.3 The USF Policy’s objectives for 2015 include 95% coverage of the country’s population (and therefore access to service if desired). This RFA and similar USFCo initiatives are intended to meet these objectives by introducing service in defined USF Areas.
- 4.4 The USF Policy will guide the actions of USFCo in administering the Universal Service Fund. That administration includes the use of the USF Services and Subsidy Agreement, with compliance monitoring and penalties for non-performance, including forfeiture of bank guarantees. Technological features of the USF Policy include technological neutrality, an emphasis on shared access points, and mandated infrastructure sharing to facilitate multiple operators in the same area. Economic features include capping USF service prices at nationally available retail prices, and a “negative auction” RFA Process to use bidding competition among licensees to minimize the amount of any particular USF Subsidy, and to maximize overall benefits from the fund. Together, these features establish a USF regime to extend telecommunications services to rural locations in a sustainable manner consistent with fair competition.

5. USF Coverage Requirements

The geographic locations that are the subject of this RFA and related USF Subsidy (the “USF Areas”) are identified in detail in Schedule C of the USF Services and Subsidy Agreement enclosed as Annex 6. Applicants must demonstrate that the USF Networks they propose provide service coverage to all of the cities, towns, villages or Mauzas identified in Schedule C of the USF Services and Subsidy Agreement as being mandatory for USF Network and USF Service coverage.

6. USF Service Requirements

The service requirements to be met by the successful Applicant selected pursuant to this RFA are identified in Schedules A and B of the USF Services and Subsidy Agreement enclosed as Annex 6.

7. USF Contributors and Eligibility

- 7.1 Persons whose Local Loop (“LL”) Wireless Local Loop (“WLL”), Long Distance and International (“LDI”) or Telecommunication Infrastructure Provider (“TIP”) Licence

was issued after adoption of the Deregulation Policy (2003), and persons whose mobile cellular licence was issued or renewed after adoption of the Mobile Cellular Policy (2004), (collectively, “USF Contributors”) have an obligation to contribute 1.5% of annual gross revenues to the Universal Service Fund, less inter-operator fees and related payments mandated by the PTA or Frequency Allocation Board (“FAB”).

7.2 Any other licensee who has had its licence issued, re-issued or amended to include Universal Service Fund contribution payment requirements will, on satisfaction of those requirements, be recognized as a USF Contributor as well.

7.3 Eligibility to participate in the RFA process is limited to USF Contributors under the Universal Service Fund Rules, 2006 (the “Rules”)².

7.4 Rule 24(12) sets out the following further restriction:

No single licensee may accumulate more than fifty per-cent of the total amount of USF subsidies awarded by the USF Company in multiple auctions. The period during which a licensee’s accumulation and proportion of USF subsidy amounts will be defined in guidelines or statements of auction procedures to be issued by the USF Company from time to time.

Detailed guidelines to Rule 24(12) are available at USF website www.usf.org.pk.

8. Tentative Time Schedule

8.1 The tentative timetable for the RFA events, beginning with publication of the pre-auction notice, is set out in Annex 8 of RFA.

9. Project Administration and Correspondence

9.1 Nominated Contact for all correspondence relating to this RFA is provided in Annex 8 of this RFA.

End of Part I

²See Rule 24(12) of the USF Rules 2006 as amended.

Part II

Rights and Obligations of USF Service Provider

10. Exclusivity

A USF Service Provider will not have any exclusive rights to provide USF Services in the USF Areas.

11. Roll-out of USF Network and Supply of USF Services

The USF Network shall be constructed and otherwise rolled out in accordance with the Project Implementation Milestones equipped with Renewable Energy Solutions, providing service coverage to all cities, towns, villages or Mauzas identified in Schedule C of the USF Services and Subsidy Agreement as being mandatory for USF Network and USF Service coverage. Once the USF Network has been rolled out, the USF Services shall be supplied by the USF Service Provider in accordance with the USF Services and Subsidy Agreement.

12. USF Subsidy Payments

In order to promote GoP's policy of expanding telecommunications services and access in un-served areas, a USF Subsidy shall be paid to the USF Service Provider to help meet the capital costs of rolling out the USF Network and partial operational costs for operating USF Networks and providing USF Services in the USF Areas. The USF Subsidy payments shall be made in accordance with the USF Services and Subsidy Agreement enclosed as Annex 6.

13. Service Availability and Quality Specifications

- 13.1 Applicants must demonstrate that the USF Networks they propose will provide service coverage to all of the cities, towns, villages or Mauzas identified in Schedule C of the USF Services and Subsidy Agreement as being mandatory for USF Network and USF Service coverage.
- 13.2 The USF Service Provider must roll-out and operate the USF Network substantially in accordance with the plans submitted and the technology described in its accepted Proposal.
- 13.3 The USF Service Provider must also roll-out and operate the USF Network so that the USF Services meet all applicable quality of service measures and requirements, including those set out in applicable Licence(s).
- 13.4 Quality of service reports for the USF Services shall be filed by the USF Service Provider with USFCo in accordance with the USF Services and Subsidy Agreement.
- 13.5 The USF Service Provider must use Renewable Energy Solutions as source of powering the USF Network.

14. Scope of Service

- 14.1 USF Services – The USF Services, which include Basic Public Telephone Access Service and Internet Access Service, shall be provided in the USF Areas in accordance with the USF Services and Subsidy Agreement.
- 14.2 Optional Services – In addition to the USF Services, a USF Service Provider may provide other services in the USF Areas, to the extent the USF Service Provider is authorized to provide such services under applicable licence(s). A USF Service Provider shall be free to apply for additional licences to provide other telecommunications services in accordance with the PTA's then-current licensing practices and procedures.

15. Regulation of Operators

USF Service Providers will remain subject to all other regulatory requirements established from time to time by the PTA, including the terms of all previously granted licences.

16. Interconnection and Facilities Sharing

- 16.1 Interconnection between a USF Service Provider's network and other licensed telecommunications networks in Pakistan is governed by:
- (a) the Act;
 - (b) the Pakistan Telecommunication Rules, 2000;
 - (c) all applicable licences;
 - (d) the Interconnection Regulations; and
 - (e) the USF Services and Subsidy Agreement.
- 16.2 A USF Service Provider's network must be technically compatible with all existing PSTN networks to ensure properly functioning interconnection. For interconnection purposes, technical compatibility includes, but is not limited to, compatible numbering, signaling, routing, synchronization and network interfaces.
- 16.3 USF Service Providers shall share infrastructure and essential facilities developed using USF Subsidy funding in accordance with the USF Rules and the USF Services and Subsidy Agreement.

17. Numbering and Electronic Addressing

- 17.1 Any numbers or electronic addresses used in Pakistan by a USF Service Provider shall be in accordance with the Act and any applicable numbering or electronic addressing plans established by the PTA pursuant to the Act.

17.2 For the purposes of section 17.1, “electronic addressing” shall be interpreted as including ENUM, Distributed Universal Number Discovery (“DUNDi”) and other systems for mapping telephone numbers to IP addresses; but does not include domain name management related systems or functions.

18. Type Approval

18.1 Any telecommunications equipment or facilities used in Pakistan by a USF Service Provider shall be subject to the type approval requirements of the Act and any type approval processes established by the PTA pursuant to the Act.

18.2 USF Service Provider shall also be responsible to seek any type approval, permission or license for Renewable Energy Solution or any of its equipment, if required.

19. Regulation of USF Service Charges

19.1 The tariffs charged by a USF Service Provider for the USF Services are subject to requirements under the USF Services and Subsidy Agreement, including that those charges shall not exceed the USF Service Provider’s National or Regional tariffs for the same or equivalent services provided in urban locations that are not included in the USF Areas³.

19.2 USF Service Providers remain subject to any other tariff regulation by the PTA pursuant to the Act.

20. Authority to Construct and Use Facilities

20.1 Subject to the terms of the USF Services and Subsidy Agreement, a USF Service Provider will be authorized to construct or otherwise procure all telecommunications facilities required to provide the USF Services.

20.2 A USF Service Provider may utilise any appropriate wireless or wire line technologies, subject to any limitation in its Licence, in the provision of the USF Services that meet the USF Service requirements identified in the USF Services and Subsidy Agreement.

20.3 All telecommunications facilities, equipment and Renewable Energy Solutions installed by a USF Service Provider as part of the USF Network shall be:

- (a) new when first installed;
- (b) field-proven (in accordance with section 42.7); and
- (c) compliant with internationally recognized standards.

20.4 Any permissions or authorizations required from authorities in the USF Areas, in connection with the installation of the USF Network facilities and equipment and Renewable Energy Solutions shall be the responsibility of the USF Service Provider.

³See section 2.06 of the Services & Subsidy Agreement.

21. Requirement to Procure and Manage the USF Network

A USF Service Provider shall be required to own and operate the USF Network in accordance with the USF Services and Subsidy Agreement.

22. Transfer or Change of Control

Transfers and changes in the ownership or control of a USF Service Provider or USF Network will be subject to USFCo approval in accordance with the USF Services and Subsidy Agreement.

23. Access to Public and Private Lands

A USF Service Provider shall have access to public and private lands, including ongoing rights of inspection and entry, in accordance with the Act and all other applicable laws, regulations and rules.

24. Force Majeure

A USF Service Provider shall be excused, in accordance with the USF Services and Subsidy Agreement, from certain failures to perform its obligations under the USF Services and Subsidy Agreement if an event of force majeure has prevented the performance of the obligations.

25. Dispute Resolution

The USF Services and Subsidy Agreement includes a number of mechanisms to facilitate resolution of disputes, including the appointment by USFCo of a disputes committee consisting of appropriately qualified persons. Where disputes cannot be resolved by application of these mechanisms, parties will continue to have recourse to arbitration and court processes in accordance with the laws of Pakistan.

26. Technical Auditor

A Technical Auditor shall be appointed by USFCo in accordance with the USF Services and Subsidy Agreement and other applicable processes. The Technical Auditor may be an appropriately qualified employee of USFCo and/or expert consultant, and will perform identified functions in accordance with the USF Services and Subsidy Agreement including:

- (a) certification that Project Implementation Milestones have been achieved and that USF Subsidy payments are therefore due;
- (b) certification that events of force majeure have prevented the performance of certain obligations under the USF Services and Subsidy Agreement; and
- (c) proposing amendment of the USF Areas, and any related amendments to the agreement, upon the occurrence of a certified event of force majeure.

27. Compliance with Law

A USF Service Provider shall be required to comply with all laws of Pakistan applicable to its USF Services activities at all times, including the Act, all regulations, rules, orders, decisions and guidelines issued under the Act.

28. Term of USF Services and Subsidy Agreement

The USF Services and Subsidy Agreement shall have a term of ten (10) years and any other extended period due to Force Majeure or delay in Project.

29. Other Obligations under USF Services and Subsidy Agreement

The USF Services and Subsidy Agreement contains specific obligations of the USF Service Provider, including obligations regarding the roll-out of the USF Network and provision of the USF Services. The agreement also includes specific remedies for non-performance, including drawing on the Performance Bond or exercising the lien on USF Network assets, as well as insurance requirements, indemnification, and USF Service Provider representations and warranties.

30. Fees Payable by the USF Service Provider

A USF Service Provider will be responsible for paying any fees, taxes or charges otherwise applicable to the USF Service Provider in relation to its provision of the USF Services, in accordance with the Act and other laws of Pakistan and regulations made thereunder.

31. Frequency Spectrum

- 31.1 A USF Service Provider may use wireless or satellite technology to provide USF Services in accordance with all legal and regulatory provisions governing spectrum authorizations.
- 31.2 Proposals shall provide details of the frequency spectrum (including spectrum used in backhaul systems or facilities) to be used by the USF Service Provider in providing the USF Services, including the frequency spectrum bands, numbers of channels, radio-communications equipment and anticipated type of use.
- 31.3 Applicants should note that the frequency spectrum bands currently available in Pakistan are described in the Spectrum Management Guidelines and other documents available on the PTA website.
- 31.4 It is the sole responsibility of the Applicant to ensure that it has any frequency spectrum required for delivery of the USF Services.

End of Part II

Part III

Instructions to Applicants

32. Selection of Successful Applicant

USFCo plans to execute a USF Services and Subsidy Agreement with the Applicant whose Proposal meets the following selection criteria:

- (a) the Proposal demonstrates that the Applicant is a “Qualified Applicant”, meeting the requirements of sections 34, 35, 36 and 37 of this RFA;
- (b) the Proposal is “responsive”, meeting the requirements identified in section 40.1 of this RFA; and
- (c) the Applicant proposes the lowest USF Subsidy for the defined USF Areas.

33. Pre-proposal Meeting

- 33.1 USFCo shall conduct a “pre-proposal meeting” at the office of USFCo unless otherwise directed. The purpose of the meeting will be for USFCo to provide answers to the written questions posed and comments made by potential Applicants (see sections 56.5 and 56.6 regarding the submission of questions and comments), and to otherwise clarify or amend the RFA Process and related documentation. All authorised representatives of potential Applicants shall be entitled to attend the meeting.
- 33.2 USFCo will keep a register of all those who are present at the pre-proposal meeting. All representatives from the Applicants and USFCo attending the meeting shall sign the register.
- 33.3 USFCo will prepare minutes of the pre-proposal meeting. The minutes, and the text of any written questions and answers from Applicants, will be published by USFCo on the USFCo website.
- 33.4 Responses to the written questions and results of the pre-proposal meeting shall not constitute an amendment to the RFA documents or the RFA Process unless USFCo re-issues the affected RFA documents with a specific identification of the resulting amendments.
- 33.5 Any amended RFA documents thus issued shall become the applicable statement of the RFA Process, and shall be communicated in writing to all Applicants. Applicants shall promptly acknowledge receipt of any amended documents by email to the USFCo project administrator identified in section 9.1.
- 33.6 USFCo may extend the deadline for submission of Proposals as required to give Applicants reasonable time in which to take account of any amended RFA documents.

34. Qualification Criteria

34.1 USFCo will determine whether an Applicant qualifies as a Qualified Applicant for the purposes of the award of a USF Services and Subsidy Agreement.

34.2 For the purpose of this RFA the qualification criteria are described in sections 35, 36, and 37.

35. Financing Capacity

35.1 The Applicant must satisfy USFCo that the proposed USF Service Provider has sufficient financing capacity for the investments required to construct the USF Network and to provide the USF Services. The criteria to determine whether an Applicant has sufficient financing capacity for a project of this size are:

- (a) A net worth of not less than PKR 300,000,000; or
- (b) Possession or access to a line of credit equal to PKR 300,000,000.

35.2 The net worth of any shareholder in the proposed USF Service Provider may be included in the calculation of the net worth of the proposed USF Service Provider for the purposes of sections 35.1 and 42.5 if:

- (a) the shareholder holds or will hold a minimum of 1/3 (one third) of the ownership interest (including all forms of ownership interest) in the USF Service Provider; and
- (b) the shareholder indicates that it is willing to guarantee the performance of the USF Service Provider and provides a written undertaking to this effect for inclusion in the Proposal.

36. Operational Experience

36.1 The Applicant must have operated a telecommunications network that meets all of the following requirements:

- (a) the network has a transmission backbone component for voice and data services (including facilities or services provided by other licencees under existing contracts);
- (b) the network includes physical transmission facilities, such as wires, cables, satellite stations, fiber optic lines or radio-relay facilities owned and operated by the USF Service Provider; and
- (c) the network has been operated by the USF Service Provider for a minimum of one (1) year.

36.2 In complying with section 36.1 above, the Applicant may rely on:

- (a) the operational experience of the USF Service Provider it proposes; or

(b) the experience of any Person that is a member of the Applicant's bidding consortium, and that:

(i) is licensed by the PTA; and

(ii) is a shareholder in the proposed USF Service Provider, or

(iii) has committed in a binding agreement to become a shareholder in the proposed USF Service Provider,

provided that the Person holds or will hold a minimum of 1/3 (one third) of the ownership interests (including all forms of ownership interests) in the USF Service Provider.

37. Applicant Eligibility

37.1 The Applicant must demonstrate that the proposed USF Service Provider is eligible to receive the USF Subsidy pursuant to the World Bank Procurement Guidelines. An extract from the World Bank Procurement Guidelines, and related information, is included as Annex 3 to this RFA⁴.

37.2 As indicated elsewhere in this RFA, the Applicant must be a USF Contributor. In the case of a Consortium Applicant, the Consortium Applicant leader must be a USF Contributor.

37.3 The Applicant must also not have any "conflict of interest", this meaning any association with consultants or other advisors retained by USFCo or GoP to advise on the design or implementation of the RFA Process; or participating in more than one Proposal in this RFA Process.

37.4 The USF Service Provider proposed by the Applicant must be incorporated under the Companies Ordinance, 1984.

37.5 The Applicant must possess valid Licence(s) for the relevant region and telecommunication services, issued by PTA. The Applicant must satisfy USFCo that the proposed USF Service Provider is in substantial compliance with the conditions of its Licence(s). In complying with this requirement, the Applicant may rely on the Licence(s) of any shareholder in the USF Service Provider that meets the requirements of section 35.2.

38. Consortium Applicant

38.1 Any USF Contributor leading a consortium may bid for any USF Subsidy on behalf of that consortium ("Consortium Applicant") under conditions similar to those set out for an individual USF Applicant, provided that the consortium's composition and Proposal materials satisfy the consortium requirements identified below:

⁴Only applicable if Project is financed by World Bank

38.1.1 There shall be no limit on the number of members of the consortium, except that:

- (a) the consortium shall include at least one USF Contributor; and
- (b) the consortium shall include at least one LL, WLL or Cellular Mobile licence holder; but shall include no more than one LL, WLL, Cellular Mobile or LDI licence holder.

38.1.2 One member of the consortium shall be identified as the consortium leader. The consortium leader shall be the USF Contributor member of the consortium. The consortium leader shall also enter into all contracts on behalf of the consortium and shall otherwise be responsible for consortium performance.

38.1.3 Notwithstanding section 38.1.2, all members of the consortium shall be jointly and severally liable to USFCo in respect to the performance of the USF Services and Subsidy Agreement.

39. Bid Bond

39.1 The Bid Bond shall remain valid for a minimum period of 210 days from the closing date identified in section 46.3. USFCo will not be obligated or liable to pay any accumulated interest on the Bid Bond.

39.2 The Bid Bond of all unsuccessful Applicants will be released not later than 30 days after the execution of the USF Services and Subsidy Agreement.

39.3 The successful Applicant's Bid Bond will be released not later than 30 days after: i) the execution of the USF Services and Subsidy Agreement; and ii) furnishing of the Performance Bond pursuant to section 54.

39.4 Notwithstanding section 39.3, the Bid Bond shall be forfeited by an Applicant in any of the following cases:

- (a) the Applicant withdraws its Proposal prior to execution of the USF Services and Subsidy Agreement;
- (b) where the successful Applicant has received from USFCo a Letter of Intent to execute the USF Services and Subsidy Agreement and the USF Service Provider proposed by the Applicant fails or refuses to submit the Performance Bond in accordance with sections 53 and 54 of this RFA;
- (c) if after the issuance of the Letter of Intent USFCo determines that Applicant is disqualified pursuant to section 51.1 of the RFA; and
- (d) the USF Service Provider proposed by the successful Applicant does not execute the USF Services and Subsidy Agreement within 15 days of concluding final negotiations with USFCo, or fails to engage in final negotiation of the USF Services and Subsidy Agreement.

39.5 Consequent to clause 39.4 (a), the Applicant shall have to submit a bid bond of Rs. 20 million for participation in all future USF projects.

40. Responsiveness of Proposals

40.1 A Proposal will be considered responsive only if all of the following requirements are met:

- (a) The Proposal is submitted by an Applicant (or any company or other Person identified in the Proposal as a member or participant in a Consortium Applicant) that has registered with USFCo and purchased an official copy of the RFA in accordance with the Notice of Request for Applications document issued by USFCo.
- (b) The Proposal is complete and submitted in accordance with all the requirements of this RFA, including the content requirements identified in sections 41, 42 and 43 and the submission requirements identified in sections 45 and 46.
- (c) The Proposal is received before the closing date and time for submission identified in section 46.3.

40.2 Proposals that do not comply substantially with the above requirements will be rejected as non-responsive.

41. Content and Format of Proposals

Bid shall be well formatted starting with Table of Contents referring page numbers. Colored separators, tags or flags shall be used to identify different sections/items of Table of Contents stacked in to Box Files.

41.1 Each Proposal shall be assembled in two separate parts, contained in separate and clearly marked envelopes, as follows:

- (a) Part 1 - “Qualifications and Service Proposal”, setting out information about the Applicant, the USF Service Provider proposed by the Applicant, the USF Network and the USF Service proposal of the Applicant; and
- (b) Part 2 - “USF Subsidy Proposal”, which shall set out the proposed USF Subsidy amount for the USF Areas.

41.2 The required content and form of each Part of the Proposal are outlined in more detail below. All parts of the Proposal must be printed using indelible ink.

42. Part 1 Structure Requirements – Qualifications and Service Proposal

Part 1 of the Proposal shall include the following documents and information:

42.1 Cover Letter and Attachments

- (a) The cover letter and each page of the attached proposal materials must be signed by a person or persons duly authorised to act on behalf of the Applicant. Where the Applicant is a consortium, the cover letter and attachments must be signed by a person or persons duly authorised to act on behalf of each member of the consortium.
- (b) The cover letter must provide a summary description of the Applicant, including the members of any Consortium Applicant, and of the USF Service Provider proposed by the Applicant.
- (c) The cover letter must indicate a firm commitment to engage in final negotiation of the USF Services and Subsidy Agreement promptly and in good faith.
- (d) The cover letter must confirm that the Proposal is open for acceptance by USFCo for 180 (one hundred and eighty) days from the bid closing date identified in section 46.3 of this RFA.
- (e) Attached to the cover letter must be one or more Powers of Attorney or notarised certificates that clearly evidence the authority of the signatory (ies) of the cover letter and other documents submitted with the Proposal which require signature on behalf of the Applicant, a shareholder of the Applicant, the members of the Applicant consortium, if applicable, or the USF Service Provider proposed by the Applicant.
- (f) Also included with the cover letter, must be the Bid Bond in the form of Annex 2 to this RFA, in accordance with the following requirements:
 - (i) The Applicant shall furnish a Bid Bond in the minimum amount of PKR 10,000,000 in the form of Annex 2 to this RFA and issued by a reputable bank located in Pakistan that is acceptable to USFCo.
 - (ii) The Applicant shall complete the Bid Bond in the form included in Annex 2. The form must be completed without alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
 - (iii) The Bid Bond of a consortium must be in the name of the lead member of the consortium.

42.2 Information and Documentation on the Applicant

- (a) The name, legal status, registered office address and a description of the business of the proposed USF Service Provider.
- (b) The name, legal status, registered office address and a description of the business of all shareholders in the proposed USF Service Provider.
- (c) The name, legal status and registered office address of any Person who Controls the proposed USF Service Provider.

- (d) The name, legal status and registered office address of all Persons who own, directly or indirectly, any ownership interest in a shareholder of the proposed USF Service Provider.
- (e) The name, country of citizenship and address of each Person who is a director of the proposed USF Service Provider.
- (f) A chart:
 - (i) showing the ownership structure of the proposed USF Service Provider;
 - (ii) illustrating the relationship among all Persons having a direct or indirect ownership interest; and
 - (iii) specifying the nature and level of such ownership interest.
- (g) A description of the legal status of the proposed USF Service Provider, including:
 - (i) a certified copy of its certificate of incorporation, Memorandum and Articles of Association;
 - (ii) a certified copy of a resolution of the Board of Directors of the USF Service Provider that authorizes the Applicant to submit the Proposal and propose the USF Service Provider for the USF Services and Subsidy Agreement; and
 - (iii) any shareholder agreement, joint venture agreement or Memorandum of Understanding, or other arrangement of any kind between the shareholders of the proposed USF Service Provider.
- (h) In the case of companies with shares listed on a stock exchange, the information regarding shareholders required in sections 42.2(b), 42.2(d) and 42.2(f) must be provided only to the best of the Applicant's knowledge and only in respect of shareholders owning more than 10% (ten percent) of the issued shares.

42.3 Information to be Submitted by a Consortium Applicant –

In the case of a Consortium Applicant, the Consortium Applicant's Proposal shall also include:

- (a) the name, legal status, registered office address and a description of the business of all Persons with a direct or indirect ownership interest of more than 10% (ten percent) in the Consortium Applicant or in any member of the consortium;
- (b) where a consortium member is an individual, identification and proof of citizenship for that individual;

- (c) specific details of the structure of the consortium, including identification of the lead member of the consortium; and
- (d) the agreement(s) establishing the consortium, specifying at least:
 - (i) a clear allocation of responsibilities and confirmation that all members of the consortium will be jointly and severally liable to USFCo in respect of performance of the USF Services and Subsidy Agreement;
 - (ii) the duration of the consortium agreement;
 - (iii) details of the ownership interests in the consortium and the financial contributions of each member; and
 - (iv) arrangements governing managerial control by the consortium over the operation of the USF Service Provider.

42.4 Documentation on the Applicant's Licence(s)

To demonstrate substantial compliance with the conditions of existing Licence(s), the Applicant shall submit:

- (a) a copy of each Licence issued by the PTA to the proposed USF Service Provider, or to any shareholder of the USF Service Provider that meets the requirements of section 35.2;
- (b) a copy of the most recent renewal of any such Licence; and
- (c) a declaration in the form of Annex 4 to this RFA, representing that the Applicant is in compliance with all applicable licence conditions, and is otherwise in good standing with the PTA.

42.5 Documentation on Financial Resources of the Applicant

- (a) Financial statements of the proposed USF Service Provider for the preceding two years, including an income statement and balance sheet, prepared in accordance with internationally accepted accounting standards; or
- (b) If the proposed USF Service Provider has not existed, or has not received service revenues, for at least two years prior to the submission of the Proposal, the financial statements of any shareholder that meets the requirements of section 35.2 must be provided. The financial statements of said shareholder must be provided for the preceding two years and must be prepared in accordance with internationally accepted accounting standards.

42.6 Documentation on Operational Experience of the Applicant

- (a) Where the Applicant will rely on the experience of a Person identified in section 36.2, the Applicant must demonstrate that arrangements are in place to

provide the proposed USF Service Provider with access to the technology, professional know-how and operational experience required to operate the USF Network and to provide the USF Services. Specifically, the Proposal must include:

- (i) a statement that identifies the Person;
 - (ii) documentation that clearly demonstrates that the relationship between the proposed USF Service Provider and such Person meets the requirements of section 36.2(b);
 - (iii) a written commitment from said Person to participate in the USF Service Provider's operations;
 - (iv) a description of such proposed participation, which must clearly demonstrate to USFCo's satisfaction that the Person will have a significant and continuing participation in running the operations of the USF Service Provider for the life of the USF Services and Subsidy Agreement; and
 - (v) approval in writing by the Person's Board of Directors of the commitment and description of the Person's proposed participation.
- (b) The Proposal shall include specific information regarding the telecommunications markets in which the proposed USF Service Provider (or, if its experience is relied upon, the Person identified in section 36.2) has operated in the manner described. Details should be provided concerning:
- (i) the number of years of operation;
 - (ii) the telecommunications management experience of the proposed USF Service Provider;
 - (iii) the types of telecommunications services provided; and
 - (iv) the experience of the proposed USF Service Provider in rolling out a telecommunications network.
- (c) The operational experience listed in section 36.1 above shall constitute experience of only one Person and not the aggregate experience of two or more Persons.

42.7 Field Proven Equipment, Software and Solutions

- (a) All proposed equipment and software shall have been satisfactorily field-proven in actual service. To meet this requirement, the proposed suppliers shall have supplied equipment and software of the type described in the Proposal to at least two telecommunications network operators and the equipment and software shall have been in satisfactory service with those

telecommunications network operators for a minimum period of one year prior to the date of submission of the Proposal.

- (b) The Applicant shall provide the technical specifications of the major types of equipment and software to be supplied, installed and operated in order to provide the USF Services, including the local access facilities, the backbone transmission facilities, the switching and routing facilities, applicable network interfaces and Renewable Energy Solutions.
- (c) The Applicant shall submit evidence that the proposed suppliers of the equipment, identified pursuant to sub-section (a) above, have been in the business of manufacturing telecommunications equipment for at least three years before the date of the Proposal.
- (d) The Applicant shall submit the names, addresses, telephone numbers and fax numbers of the two network operators referred to in sub-section (a) above. The Applicant shall also submit letters from either the proposed equipment suppliers or the two network operators certifying satisfactory performance of the proposed equipment and software. USFCo reserves the right to verify the quality of the equipment and software and its satisfactory performance in actual service with the two network operators.
- (e) In view of the rapid technological development in communications technology, hardware and software, Applicants may propose that the USF Service Provider will install updated versions of the equipment and software in actual service. Applicants shall provide full details of the technological changes introduced in the proposed equipment and software.
- (f) All solutions and practices followed to provide telecommunication services shall be in accordance to the international standards defined by ITU-T. The solutions and practices must be well known and observed by the Industry.
- (g) As an alternative to meeting the requirements of sub-sections (a), (c) and (d) above, the Applicant must demonstrate satisfactory performance of the proposed equipment and software as part of the operations it has identified pursuant to section 36.1 of this RFA for a minimum period of one year prior to the date of submission of the Proposal.

42.8 Network Description

- (a) The Applicant must provide a concise description of the planned network of the proposed USF Service Provider. The description must demonstrate that the proposed USF Network will meet the requirements specified in the USF Services and Subsidy Agreement, including, but not limited to, the USF Services specifications in Schedules A and B to that agreement. The network description provided by the Applicant must also clearly demonstrate that the USF Service Provider will:

- (i) extend transmission and/or backhaul facilities into the USF Areas, with sufficient planned capacity to meet the requirements of the USF Services; and
- (ii) provide service coverage to all cities, towns, villages or Mauzas identified in Schedule C of the USF Services and Subsidy Agreement as being mandatory for USF Network and USF Service coverage.

(b) The network description shall include:

- (i) a description of the local access, transmission, switching, routing, primary and secondary source of power and interface technology to be employed, including applicable technical standards, and a network map illustrating the intended network architecture and USF Network installations;
- (ii) a summary description of the roll-out and service coverage plans for the USF Network and USF Services, that meet or exceed the Project Implementation Milestones;
- (iii) the frequency spectrum to be used by the USF Service Provider (including the frequency spectrum bands, numbers of channels, radio-communications equipment, characteristics and anticipated type of use);
- (iv) the specific USF Network bandwidth capacity estimated by the Applicant as required to meet traffic requirements in the USF Areas over the first five years of commercial operations, and how that capacity will be provided by the USF Service Provider;
- (v) proposed interconnection points. The Applicant should specify how it intends to connect its voice traffic to the PSTN and its Internet traffic to the Internet. For voice, this should include the number and size of interconnection circuits and points of interconnection, including their location, required during the first five years of operation. For Internet, this should include the backhaul capacity per community, and plans for local or national peering. Backhaul, interconnection and peering arrangements should make maximum use of existing services and facilities available from other service providers in order to minimize subsidy requirements; and
- (vi) the Applicant shall also provide the information identified in the “Design Parameters” included in Annex 5.

42.9 Operations Description - The Proposal must include:

- (a) a general description of the intended operations of the USF Service Provider, including its general approach to implementation of the USF Network and provision of the USF Services; and

- (b) a brief description of any land or rights in land (i.e., rights of way) that must be acquired for the operations, the estimated cost of acquiring such land or rights in land and the impact acquiring such rights might have on the Applicant's network roll-out plan.
- (c) A brief description of Renewable Energy Solution, amount of energy it can generate and whether that generation is sufficient for smooth running of the USF Networks, details of the vendor, after-sale service and availability of the spare-parts.

42.10 Quality of Service Description - The Proposal must include a summary of the methodology and processes that will be implemented by the proposed USF Service Provider to meet the service requirements and quality of service standards identified in Schedules A and B to the USF Services and Subsidy Agreement, including performance monitoring, reporting and fault resolution processes.

42.11 Tariffs and Charges - The Proposal must include a statement by the Applicant confirming that its tariffs and service charges for the USF Services will meet the tariff requirements identified in the USF Services and Subsidy Agreement⁵.

42.12 Additional Information

- (a) The Applicant's comments on the draft USF Services and Subsidy Agreement or any other transaction documents or requirements, including particularly any terms or conditions that the Applicant cannot or will not comply with; and
- (b) Any information that does not specifically respond to this RFA, but that the Applicant thinks is relevant to the Proposal.

43. Part 2 Subsidy Proposal

Information to be submitted by the Applicant in Part 2 of its Proposal:

- (a) **Subsidy Proposal** – The Applicant must provide a completed USF Subsidy Proposal Form prepared in accordance with Annex 1 to this RFA. As indicated in Annex 1, the amount of the proposed USF Subsidy and total cost of the Project shall be set out in words and numbers and in the event of any discrepancy between the words and numbers, the amount set out in words shall govern, and the currency of the proposed USF Subsidy shall be stated in PKR.
- (b) **USF Areas** – The Applicant's USF Subsidy Proposal must state the proposed amount of USF Subsidy for implementation of the USF Network, delivery of the USF Services throughout the USF Areas including Opex Subsidy up to three years.

⁵See Section 2.06 of the Agreement.

- (c) **Calculation of Subsidy** – The Proposal must include a concise financial analysis detailing the calculation of the proposed USF Subsidy amount. The information furnished in this regard will be kept strictly confidential by USFCo; however, and as indicated in section 47.2, USFCo shall be entitled to publicly announce the total amount of each Applicant’s USF Subsidy Proposal. The financial analysis must clearly demonstrate the breakdown of projected USF Network costs and operational costs, itemized to show the costs of the USF Network components identified pursuant to section 42.8, per community or population area served.
- (d) **Projected Financial Statements** - The Applicant must provide projected financial statements for years one through five of the USF Service Provider, including an income statement, balance sheet and statements of sources and application of funds for the USF Service Provider prepared in accordance with internationally accepted accounting standards. For this purpose, the financial statements shall treat the USF Subsidy amount as if it were part of the debt, equity or deferred income of the USF Service Provider⁶. The financial statements shall include projections of fee revenues from the USF Services and any Optional Services.

44. Compliance Checklist

- 44.1 A “Compliance Checklist” is attached as Annex 5 to this RFA. Applicants must include a completed Compliance Checklist in each copy of their Proposals.
- 44.2 When completing the Compliance Checklist, Applicants must identify the specific parts and page numbers of their Proposals that correspond to the documents and information required by the RFA sections identified in the Compliance Checklist. Applicants must also specifically identify and comment on any of the identified RFA sections for which their Proposals are either “Non-Compliant” or only “Partially Compliant”.
- 44.3 Without derogating from the provisions of sections 44.1 and 44.2, above, in the event of any discrepancy between the Proposal requirements described in this RFA and the Compliance Checklist, the terms and requirements of this RFA shall prevail.

45. Submission of the Proposal

- 45.1 The Applicant shall prepare three copies of the Proposal, clearly marking the first copy “Original Proposal” and the 2nd & 3rd copies “Copy of Proposal”.
- 45.2 The Applicant shall also prepare one electronic copy of the Proposal (i.e., a CD-ROM or DVD containing copy of the Proposal that is in a format readable by Microsoft Office or Adobe Acrobat software).
- 45.3 All copies of the Proposal shall be clearly marked with the name of the Applicant.

⁶Applicants must take care that the USF Subsidy amount included in the financial statements is aggregated with other funds so that the amount of the Applicant’s intended subsidy cannot be specifically identified.

45.4 In the event of any discrepancy between copies, the original shall govern.

45.5 As indicated in section 41, the Proposal consists of two separate parts: Part 1, the Qualification and Service Proposal; and Part 2, the USF Subsidy Proposal. Each part of the Proposal shall be separated into clearly labeled envelopes, with each envelope containing the three hard copies and the single CD-ROM or DVD copy of the applicable part of the Proposal. The envelopes containing the separate parts of the Proposal shall be packaged together in a single box or other container. The container shall be sealed; that is securely packed and closed, so that it is not possible to open it without visual evidence thereof.

45.6 Each Proposal package shall be clearly marked with the following information:

Proposal to Provide USF Telecommunications Services

Name of Applicant:

Local Contact Name, Phone Number and E-Mail Address:

“DO NOT OPEN, EXCEPT IN PRESENCE OF USFCo EVALUATION COMMITTEE”

45.7 USFCo will provide a written receipt confirming the delivery of each Proposal received prior to the closing date and time.

45.8 The Bid Bond should be enclosed in a separately sealed envelope clearly marked with the name of the Applicant and the text “Bid Bond”. This envelope should be included in the container that includes all Proposal contents (see section 45.5), and delivered with the assembled Proposal package.

46. Delivery of the Proposal

46.1 The Proposal packages shall be delivered at the address identified in Annex 8 of RFA before the closing date and time mentioned in section 46.3.

46.2 If the Proposal container is not sealed and marked properly, USFCo will assume no responsibility for the Proposal or the disposition of its contents. Improperly marked or sealed packages may be rejected by USFCo.

46.3 Closing Date for Submission of the Proposal - The sealed Proposal package shall be delivered to USFCo at the address specified in section 46.1 no later than date and time identified in Annex 8 of this RFA.

46.4 Late Proposal - Proposals received after the closing date and time identified in section 46.3 will be returned to the Applicant(s).

47. Opening of Proposals

47.1 USFCo will publicly open the duly received Proposals, in the presence of authorised representatives of any Applicants who desire to attend, at least thirty minutes after the deadline for submission of bids identified in section 46.3, in the conference room of

USFCo, 5th Floor HBL Tower, Jinnah Avenue, Islamabad. The opening will proceed whether one or more representatives of Applicants are present or absent. Following opening of the Proposals, USFCo will proceed with evaluation of the Proposals in accordance with section 48.

47.2 All Proposals shall be opened one at a time, with a representative of USFCo reading out the name of the Applicants and any other Applicant information that USFCo may consider appropriate. Only Proposals opened and read out at the proposal opening shall be considered for further evaluation, irrespective of the circumstances. No Proposals shall be rejected at Bid opening except for late Proposals or any Proposals that are not accompanied by a Bid Bond.

47.3 USFCo shall prepare a record of the initial Proposal opening that shall include, at a minimum, the name of the Applicant, the presence or absence of a Bid Bond and identification of any Proposals rejected for late submission. The Applicants' representatives who are present shall be requested to sign an attendance sheet. A copy of the record shall be distributed to all Applicants.

48. Selection Process and Evaluation of Proposals

48.1 Subject to any request for clarification submitted by USFCo pursuant to section 56.7, the information submitted by Applicants in response to this RFA will be the sole basis for the selection of the USF Service Provider. Provided that the Proposal is substantially responsive, GoP and USFCo reserve the right to request Applicants to provide additional information and documents to assist them in evaluating the Proposals. However, neither the GoP nor USFCo, nor any other GoP body, will assist Applicants to supplement Proposals which are otherwise deficient or non-compliant. Failure to provide additional information within the identified timeframe may result in the Applicant's proposal being determined to be non-compliant.

48.2 USFCo will review each Applicant's "Qualifications and Service Proposal" (Part 1 of the Proposal) to determine whether or not each Applicant is a Qualified Applicant within the meaning of section 34 of this RFA. Applicants that fail to satisfy the criteria identified in section 34 for becoming a Qualified Applicant will be rejected. USFCo will identify the grounds for rejection in a letter to each Applicant that fails to qualify as a Qualified Applicant.

48.3 USFCo will open and review each Qualified Applicant's "USF Subsidy Proposal" (Part 2 of the Proposal). USFCo will identify the date and time of opening the USF Subsidy Proposals, and representatives of Qualified Applicants will be entitled to attend the opening of the USF Subsidy Proposals. The representatives of Qualified Applicants who are present at the opening shall be requested to sign an attendance sheet. A representative of USFCo shall read out or otherwise announce the amount of USF Subsidy proposed by each Qualified Applicant. USFCo will prepare minutes for the USF Subsidy Proposal opening meeting. The minutes will be sent to all Qualified Applicants and will be published by USFCo on its website.

48.4 Awarding USF Services and Subsidy Agreement – Subject to section 60, the USF Services and Subsidy Agreement will be awarded to the Qualified Applicant that proposes the lowest USF Subsidy for the USF Areas.

48.5 Ties - In the event that there is more than one Qualified Applicant bidding the lowest USF Subsidy for one or more USF Areas, USFCo shall proceed as follows:

- (a) The tied Qualified Applicants will receive written notice of the tie and instructions for submission of second round bids.
- (b) The tied Qualified Applicants will proceed to a second round of bidding in which they will submit new USF Subsidy Proposals that comply with the requirements of section 43.
- (c) The new USF Subsidy Proposal amount submitted by the tied Qualified Applicant must be smaller than or equal to the original USF Subsidy Proposal amount submitted by the Qualified Applicant.
- (d) The new USF Subsidy Proposals shall be delivered in a sealed envelope, that is, securely closed so that it is not possible to open it without visual evidence thereof, to the address identified in section 46 and before the date and time specified in the written notice referred to in section 48.5(a). New USF Subsidy Proposals will not be accepted after the date and time specified in the written notice referred to in section 48.5(a).

48.6 USFCo's determinations in the evaluation process shall be final and binding upon Applicants, subject to the laws of Pakistan.

49. Fraud or Corruption⁷

It is the World Bank's policy to require that Borrowers (including beneficiaries of Bank loans), as well as bidders, suppliers, and contractors and their subcontractors under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts⁸. In pursuance of this policy, the World Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice"⁹ is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - (ii) "fraudulent practice"¹⁰ is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts

⁷This section would apply in substance. However, the references to the Bank would be applicable only if the project is financed by the World Bank.

⁸In this context, any action taken by a bidder, supplier, contractor, or a sub-contractor to influence the procurement process or contract execution for undue advantage is improper.

⁹"Another party" refers to a public official acting in relation to the procurement process or contract execution. In this context, "public official" includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(iii) “collusive practice”¹¹ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

(iv) “coercive practice”¹² is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(v) “obstructive practice” is

a. deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

b. acts intended to materially impede the exercise of the Bank’s inspection and audit rights.

(b) will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;

(c) will cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation;

(d) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that they have, directly or through an

¹⁰In this context, a “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

¹¹“Parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non-competitive levels.

¹²In this context, a “party” refers to a participant in the procurement process or contract execution.

agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a Bank-financed contract; and

- (e) will have the right to require that a provision be included in bidding documents and in contracts financed by a Bank Loan, requiring bidders, suppliers, contractors and consultants to permit the Bank to inspect their accounts and records and other documents relating to the Bid submission and contract performance and to have them audited by auditors appointed by the Bank.

50. Period of Validity of Proposal

The Proposal shall remain valid for 180 days from the closing date identified in section 46.3 of this RFA.

51. Grounds for Rejection of Proposal

51.1 USFCo shall reject Proposals and remove them from further consideration for any of the reasons set out below:

- (a) Failure to comply with any of the procedures or other requirements identified in sections 35, 36, 37, 40, 42, 43 and 45 of this RFA.
- (b) Failure to submit the Bid Bond amount specified in this RFA.
- (c) Serious inaccuracy or misrepresentation of any material facts in any part of the Proposal.
- (d) The Proposal of the Applicant recommended for award will be rejected by the World Bank¹³ if the World Bank determines that the Applicant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices (as defined in section 49) in competing for the contract in question.
- (e) The Applicant submitting the Proposal is determined by USFCo to have a conflict of interest (as that term is defined in section 37.3).

51.2 On the occurrence of any of the forfeiture events identified above in section 51.1, USFCo shall be entitled to select another Applicant. In such an event, USFCo may award the USF Services and Subsidy Agreement to the USF Service Provider proposed by the Qualified Applicant that proposed the next lowest USF Subsidy for the USF Areas for which the first-selected Applicant proposed the lowest USF Subsidy. Where the USF Subsidy is financed by the Bank pursuant to the Loan (see sections 2.2 and 2.3), the award of the USF Services and Subsidy Agreement shall be subject to prior consultation with, and the absence of objection by, the Bank.

52. Subsequent Disqualification and Ineligibility

52.1 If evidence of any of the activities referred to in sub-sections 51.1 (c) through (e) is disclosed after the USF Services and Subsidy Agreement has been executed, USFCo

¹³Only applicable if Project is financed by World Bank

may terminate the USF Services and Subsidy Agreement without compensation. Disclosure of such evidence will also entitle the Bank or other institution of the World Bank to decline to finance the USF Subsidy, and for USFCo to seek repayment of any part of the USF Subsidy that may have been paid. The provisions of this section are in addition to any criminal or civil legal action which may be available to or taken by any government or regulatory authority, including PTA and USFCo.

52.2 USFCo will declare an Applicant ineligible, either indefinitely or for a stated period of time, to be awarded a USFCo financed contract if it at any time it determines that the Applicant has engaged in corrupt, fraudulent, collusive or coercive practices in applying for, or in performing, a USFCo financed contract.

53. Letter of Intent

53.1 USFCo will issue a Letter of Intent (“LOI”) to the successful Qualified Applicant to confirm USFCo’s intention to grant the USF Services and Subsidy Agreement to the USF Service Provider proposed by the Applicant. The LOI will also require the USF Service Provider proposed by a successful Applicant to submit the required Performance Bond within 10 days of receipt of the LOI.

53.2 If the USF Service Provider proposed by the Applicant to whom the LOI is directed does not submit the required Performance Bond within 10 days from the date of receipt of the LOI, USFCo may:

- (a) cause the Applicant to forfeit the Bid Bond pursuant to section 39.4 above;
- (b) disqualify the Applicant and the USF Service Provider proposed by the Applicant; and
- (c) issue another LOI to the Qualified Applicant that has submitted the next lowest USF Subsidy proposal for the USF Areas.

53.3 An Applicant to whom a LOI is directed must accept the LOI by notice in writing (the “Letter of Acceptance”) to USFCo within seven (7) days from the date of receipt of the LOI.

53.4 It is the intention of USFCo that the USF Services and Subsidy Agreement (the “Contract”) will be finally negotiated and signed within 30 days of the date of receipt of the LOI. In the event that USFCo and the recipient of the LOI are unable to finalize the terms of the Contract within the 30 day period, USFCo shall be entitled to terminate negotiations, return the Performance Bond and issue another LOI to the Qualified Applicant that has submitted the next lowest USF Subsidy proposal for the USF Areas.

53.5 Once the Contract has been entered into with the USF Service Provider put forward by the winning Applicant, USFCo shall publish the results of the RFA Process including at least the following information: (i) name of each Applicant who submitted a Proposal; (ii) name of Applicants whose Proposals were rejected, and the reason(s) for their rejection; (iii) the USF Subsidy Proposal amounts as read out at the subsidy proposal opening; (iv) the name of the winning Applicant; and (v) a summary of the

resulting Contract. The information shall also be published on USFCo's website may be published in any other manner directed by USFCo or GoP.

54. Performance Bond

A USF Service Provider proposed by an Applicant to whom an LOI has been directed shall furnish the Performance Bond in accordance with this RFA Process and the USF Services and Subsidy Agreement. The Performance Bond shall be prepared in the form of Schedule F to the USF Services and Subsidy Agreement, and shall be furnished within ten (10) days of the date of receipt of the LOI.

55. Information Provided by USFCo

55.1 The information contained in this RFA and any other information provided to Applicants during the Proposal process is intended to assist Applicants in the preparation of their Proposals. USFCo will ensure that all Applicants are provided with the same information during the Proposal process, in accordance with sections 33.5 and 33.6 of this RFA.

55.2 USFCo has made and will continue to make reasonable efforts to include accurate and current information in this RFA and in any other documentation provided to Applicants and potential Applicants. However, neither USFCo nor any of its agencies, employees, representatives, advisors or consultants shall have any liability whatsoever to any Applicant or any of its shareholders or members or any other Person resulting from use of or reliance on any of the information so provided. Applicants are encouraged to undertake their own verification of any information supplied by USFCo prior to use of or reliance on that information.

56. Communications, Comments and Requests for Clarification

56.1 All deliveries, notices or other communications made by USFCo to Applicants in connection with the Proposal process shall be sent by fax, e-mail or personal delivery to the registered office of the Applicant, as specified at the time the Applicant registered with USFCo pursuant to this RFA Process.

56.2 All deliveries, notices or other communications made by Applicants to USFCo in connection with the Proposal process, except for submission of the Proposal itself, shall be sent in writing by e-mail or personal delivery, unless otherwise specified by USFCo, to the contact person and address specified in section 9.1.

56.3 Subject to section 48.1, during the period between the deadline for submissions of Proposals and the award of the USF Subsidy, no Applicant, no USF Service Provider proposed by an Applicant and no party interested in a Proposal shall be permitted to discuss the merits of any Proposal with any representative of USFCo. Any communications, or attempted communications, in contravention of this section shall be grounds for immediate disqualification.

56.4 Applicants are expected to carefully examine all instructions, forms and annexes in this RFA. Failure to furnish all information required by this RFA or the submission of

a Proposal that does not comply with the RFA in all respects may result in disqualification of the Proposal.

- 56.5 A prospective Applicant requiring any clarification of this RFA or the draft USF Services and Subsidy Agreement may pose one or more questions to USFCo in writing by e-mail or personal delivery up to twenty one (21) days prior to the closing date for Proposals. USFCo will respond in writing to such written questions following the pre-proposal meeting described in section 33 above. Written questions received by USFCo less than twenty one (21) days prior to the closing date will not be answered.
- 56.6 A prospective Applicant may make comments on the structure and contents of this RFA or the draft USF Services and Subsidy Agreement. Such comments should be sent in writing by e-mail or personal delivery to USFCo up to twenty one (21) days prior to the closing date for Proposals. USFCo will respond in writing to such written comments following the pre-proposal meeting described in section 33 above. USFCo will not respond to written comments received by USFCo less than twenty one (21) days prior to the closing date.
- 56.7 To assist in the examination and evaluation of Proposals, USFCo may, at its discretion, ask any Applicant for a clarification of its Proposal. Any clarification submitted by an Applicant in respect to its Proposal that is not in response to a request by USFCo shall not be considered. USFCo's request for clarification and any response shall be in writing. Subject to sub-section 48.5, no change in the proposed USF Subsidy amount shall be sought, offered or permitted, except to confirm the correction of arithmetic errors discovered by USFCo in the evaluation of the Proposals. In responding to any request for clarification, Applicants may not attempt to change their Proposals, and any response that USFCo determines constitutes a change to an Applicant's Proposal shall not be taken into account by USFCo in evaluating the Proposal.

57. Confidentiality of Proposals

- 57.1 Except for the public opening of USF Subsidy Proposals pursuant to section 47, USFCo shall treat all Proposals received in relation to this RFA as confidential during the period before the award of the USF Services and Subsidy Agreement.
- 57.2 USFCo and its agencies, employees, representatives, advisors or consultants shall take reasonable steps to protect Proposal related information from improper use or disclosure; however, liability for disclosure shall be subject to the limitation set out in section 61.3.
- 57.3 Information relating to the examination, evaluation, comparison, and qualification of Proposals, and any recommendation of Contract award, shall not be disclosed by any representative of USFCo or GoP to Applicants or any other Persons not officially concerned with such process except as specifically permitted by sections 47, 48, and 53.5 of this RFA.

58. USFCo Use of Proposals

Subject to compliance with intellectual property laws of Pakistan, and section 57 above, USFCo shall have the right to use or reproduce ideas and information contained in a Proposal without notice or payment of any kind to the Applicant.

59. Cost of Proposal and Bidding

The Applicant shall bear all costs associated with the preparation and submission of its Proposal and USFCo will in no case be responsible for any such costs, regardless of the conduct or outcome of the Proposal process.

60. Reservation of Rights

60.1 USFCo reserves the right, in its sole discretion, to take any action, including amendment of this RFA, which it considers necessary to ensure that the RFA Process proceeds in a fair, open and transparent manner, in accordance with the laws of Pakistan and to meet the objectives of USFCo.

60.2 USFCo reserves the right to modify or terminate the RFA Process at any time in its sole discretion.

60.3 USFCo is not legally obligated to execute the USF Services and Subsidy Agreement. It may terminate the RFA Process or revoke an award of the USF Services and Subsidy Agreement at any time before the USF Services and Subsidy Agreement is executed.

61. Legal and Formal Requirements

61.1 **Governing Law** - This RFA and any USF Services and Subsidy Agreement executed pursuant to this RFA shall be exclusively subject to, and interpreted in accordance with, the laws of Pakistan.

61.2 **Settlement of disputes** - Any dispute, controversy or claim arising out of or in connection with this RFA document, or the breach, termination or invalidity thereof, shall be subject to the dispute resolution terms and processes set out in Annex 7 to this RFA.

61.3 **Limitation of Liability** - Neither GoP nor any of its Ministries, agencies, employees, representatives, advisors or consultants, including USFCo and its officers, employees and contractors, shall incur any liability whatsoever to any Applicant or any USF Service Provider proposed by an Applicant, or any of their respective shareholders or members or any other Person, in connection with any damages, losses, expenses or injury whatsoever, including but not limited to loss of revenue, opportunity, or goodwill, resulting from participation in the RFA Process, including reliance of any person on the information set out in this RFA; it being understood and agreed that USFCo's or GoP's liability for damages shall, in any event, be limited to such amount as may have been actually paid by an Applicant or other person to participate in the RFA Process.

61.4 **Language** - The Proposal, the accompanying documents, and all correspondence relating to this RFA shall be submitted in the English language.

Part IV Definitions

62. Definitions

In this Request for Applications (RFA), unless the subject matter or context otherwise requires, the following terms shall have the following meanings:

“Act” means the Pakistan Telecommunication Act (Re-Organization) Act, 1996, XVII of 1996, as amended, and any successor legislation;

“Applicant” means any Person that registers itself with USFCo as an Applicant for purposes of this RFA, having obtained a copy of this RFA from USFCo;

“Bank” means the bank which is providing the Loan and related financing for the project pursuant to section 2.2 of this RFA;

“Base Transceiver Station” or **“BTS”** **base transceiver station (BTS)** is a piece of equipment that facilitates wireless communication between user equipment (UE) and a network. The network can be that of any of the wireless communication technologies like GSM, CDMA, wireless local loop or WiMAX technology. BTS is also referred to as the *radio base station (RBS)*, node B (in 3G Networks) or, simply, the *base station (BS)*. For discussion of the LTE standard the abbreviation eNB for evolved node B is widely used. A BTS consists of Baseband units, Transceiver units and related equipment.

“Base Transceiver Station Site” or **“BTS Site”** consists of a BTS, Transmission and power equipment, Tower and related civil infrastructure.

“Basic Public Telephone Access Service” means the services that a USF Service Provider is obliged to provide under Section 14.1 and Schedule A of the USF Services and Subsidy Agreement;

“Bid Bond” means the financial security for the bid, including any pay order or demand draft in the name of USFCo, that an Applicant must furnish to USFCo in accordance with section 39 of this RFA;

“Borrower” means the GoP, as recipient of the funding described in section 2.1 of this RFA;

“Compliance Checklist” means the form set out in Annex 5 to this RFA that Applicants must complete in accordance with section 44 of this RFA;

“Consortium Applicant” means a group of Persons, including a joint venture, that submits a Proposal on behalf of its members, and that meets all eligibility requirements identified in section 38.1 of this RFA;

“Contract” means the USF Services and Subsidy Agreement signed with one or more successful Qualified Applicants on successful conclusion of the RFA Process;

“Control” of a Person other than an individual means the ownership of at least 51% (fifty-one percent) of the voting interests in the subject Person; or the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Person, whether through the ownership of shares, voting, securities, partnership or other ownership interests, agreement or otherwise;

“Final Implementation Date” means the date identified in paragraph 5 of Schedule D of SSA;

“GoP” means the Government of Pakistan;

“Interconnection Regulations” means any interconnection regulations, rules or guidelines that may be issued by PTA from time to time;

“Internet Access Services” means the services that a USF Service Provider is obliged to provide under Section 14.1 and Schedule B of the USF Services and Subsidy Agreement;

“Letter of Acceptance” means the letter described in section 53.3 of this RFA;

“Letter of Intent” or **“LOI”** means the letter described in section 53.1 of this RFA;

“Licence” means any telecommunications licence granted by the PTA to the USF Service Provider, or to any shareholder of the USF Service Provider that meets the requirements of section 35.2, which authorizes it to provide the USF Services, as that Licence may be amended;

“Loan” means the funding received by the GoP, described in section 2.2 of this RFA;

“Mauza” means the smallest part of the revenue system recognized by the Population Census Organization;

“Net worth” for the purposes of sections 35 means total assets minus total liabilities.

“Optional Services” means services that a USF Service Provider is authorized but not required to provide pursuant to the USF Services and Subsidy Agreement and any Licences held by a USF Service Provider;

“Performance Bond” means the financial security for performance a USF Service Provider must furnish in accordance with section 54 of this RFA;

“Person” means any individual, firm, company, corporation, partnership, joint venture or other consortium, government or governmental entity;

“Point of Interconnection” or **“POI”** means a connection point between the networks of two telecommunications service providers;

“Project Implementation Milestones” means the milestones for the roll-out of the USF Network and provision of the USF Services identified in Schedule D of the USF Services and Subsidy Agreement;

“Proposal” means a proposal submitted by an Applicant in response to this RFA;

“PSTN” means the public switched telecommunications network of Pakistan;

“PTA” means the Pakistan Telecommunication Authority, a statutory body corporate established under Section 3 of the Act, and its predecessors and successors;

“Qualifications and Service Proposal” means Part 1 of the Proposal that Applicants must prepare in accordance with section 41.1(a) of this RFA;

“Qualified Applicant” has the meaning ascribed thereto in section 34 of this RFA;

“Renewable Energy” means energy that is produced by alternative or renewable resources as compared to the conventional or that are replenished naturally, which do not deplete when consumed and are non-polluting and environmental friendly;

“Renewable Energy Solution” means solutions, systems or set-ups generating power from Renewable Energy;

“RFA” means this Request for Applications, including all annexes hereto, as amended or modified by USFCo;

“Technical Auditor” means the Person appointed in accordance with the USF Services and Subsidy Agreement;

“USF Areas” mean the cities, towns, villages or Mauzas identified in Schedule C of the USF Services and Subsidy Agreement as being mandatory for USF Network and USF Service coverage;

“USF Contributor” means any Person who’s Licence includes identified USF Contribution requirements, and who is identified by PTA as being fully compliant with those requirements;

“USF Network” means the licensed telecommunication system consisting of telecommunications network infrastructure to be deployed by USF Service Provider to provide USF Services pursuant to the USF Services and Subsidy Agreement;

“USF Rules” means the Universal Service Fund Rules, 2006 (as amended);

“USF Service Provider” means the Person put forward by an Applicant that will provide the USF Services in accordance with the USF Services and Subsidy Agreement;

“USF Services” means the Basic Public Telephone Access Services and Internet Access Services to be provided by a USF Service Provider pursuant to the USF Services and

Subsidy Agreement;

“USF Services and Subsidy Agreement” means the agreement, a draft of which is annexed as Annex 6 to this RFA, for the construction and roll-out of the USF Network, provision of the USF Services and payment of the USF Subsidy to be granted pursuant to this RFA;

“USF Subsidy” means the subsidy to be paid by USFCo to the USF Service Provider in accordance with the USF Services and Subsidy Agreement and includes USF Capex Subsidy and USF Opex Subsidy;

“USF CAPEX Subsidy” means the subsidy to be paid by USFCo to the USF Service Provider on the USF Service Provider achieving the Project Implementation Milestones;

“USF OPEX Subsidy” means the subsidy to be paid by USFCo to the USF Service Provider for partially supporting its operational expenses as mentioned in Schedule D for operating USF Networks and providing USF Services in the USF Areas. USF OPEX Subsidy may include costs of backhauling, security, maintenance services, utilities, insurance, property management, transportation and vehicle expenses and wages of the manpower deployed for or associated with USF Network and USF Services in USF Area;

“USF Subsidy Proposal” means Part 2 of the Proposal that Applicants must prepare in accordance with section 43 of this RFA;

“USF Subsidy Proposal Form” means the form attached at Annex 1 of this RFA; and

“USFCo” means the USF (Guarantee) Limited and its successors.

End of Part IV

Annex 1: USF Subsidy Proposal Form

RFA TO PROVIDE USF TELECOMMUNICATIONS SERVICES

To: The Chief Executive Officer
 USFCo
 Fifth Floor, HBL Tower, Jinnah Avenue,
 Islamabad
 Pakistan

Applicant's USF Subsidy Proposal:

The Applicant, [insert name of Applicant], hereby commits to assume all of the USF Service obligations identified in the RFA and USF Services and Subsidy Agreement in consideration for the award of the USF Services and Subsidy Agreement and payment of the amount of USF Subsidy indicated in the following table:

Description		Total cost of project	Amount of Proposed USF Subsidy (in Pakistan rupees)
USF Areas: <i>As identified in Schedule C of USF Services and Subsidy Agreement.</i>		<i>[Enter amount of total cost of Project, proposed for the USF Area.]</i> <i>{The amount must be set out in both words and numbers}</i>	<i>[Enter amount of USF Subsidy proposed for the USF Areas]</i> <i>{The amount must be set out in both words and numbers}</i>
Break-up of Total cost & Proposed USF Subsidy <i>{All amounts must be set out in both words and numbers.}</i>			
USF Subsidy for capital cost including costs for Renewable energy set-up		<i>[Enter amount of total capital cost including cost of Renewable Energy Solution]</i>	<i>[Enter amount of USF Subsidy proposed for capital cost including cost of Renewable Energy Solution]</i>
USF Opex Subsidy	Enter amount of total Opex for three Years	<i>[Enter one-third amount of total Opex mentioned on the left as Opex for first year]</i>	<i>[Enter amount of USF Opex Subsidy proposed for first year]</i> <i>{This amount should not exceed 75% of the total Opex for first year mentioned on the left}</i>
		<i>[Enter one-third amount of</i>	<i>[Enter amount of USF Opex</i>

		<i>total Opex mentioned on the left as Opex for second year]</i>	<i>Subsidy proposed for Second year]</i> <i>{This amount should not exceed 50% of the total Opex for second year mentioned on the left}</i>
		<i>[Enter one-third amount of total Opex mentioned on the left as Opex for third year]</i>	<i>[Enter amount of USF Opex Subsidy proposed for third year]</i> <i>{This amount should not exceed 25% of the total Opex for third year mentioned on the left}</i>

*USF Subsidy = USF CAPEX Subsidy + USF OPEX Subsidy

1. In the event of any discrepancy between the USF Subsidy amount and total cost of the Project set out in words and numbers, the amount set out in words shall govern.

2. This USF Subsidy Proposal shall remain valid in accordance with section 50 of the RFA.

Signature: _____ Print Name: _____

in the capacity of [insert title/position of individual signing] duly authorized to sign for and on behalf of [insert name of Applicant].

Dated this _____ day of _____, 20XX.

Witness Signature: _____ Print Name:

Dated this _____ day of _____, 20XX.

Annex 2: Bid Bond Form

To: The Chief Executive Officer
USFCo
Fifth Floor, HBL Tower, Jinnah Avenue,
Islamabad
Pakistan

WHEREAS the Universal Service Fund, hereinafter called the “USFCo”, has issued the Request for Applications to Provide Universal Service Fund (USF) Telecommunications Services, hereinafter called the “RFA”, dated [insert date];

AND WHEREAS the Universal Service Fund Telecommunications Services, hereinafter called the “SERVICES”, shall be provided in accordance with a service agreement, hereinafter called the “AGREEMENT”, to be executed in accordance with the RFA, and any licence, hereinafter called the “LICENCE”, issued by the PTA that authorizes provision of the SERVICES;

AND WHEREAS [insert name of Applicant], hereinafter called the “APPLICANT”, is submitting a proposal, hereinafter called the “PROPOSAL”, dated [insert date of Proposal] to provide the “SERVICES”;

KNOW ALL PEOPLE by these presents that we [insert name of bank] having our registered office at [insert address of bank], hereinafter called the “BANK”, are bound unto the USFCo by the amount of PKR [10,000,000] willingly and truly to be paid out to the said USFCo upon entering any of the conditions specified below. The BANK binds itself, its successors and assigns by these presents sealed with the common seal of the BANK this [insert day] day of [insert month], 20XX.

The conditions of this obligation are:

1. If the APPLICANT withdraws its PROPOSAL prior to execution of the AGREEMENT;
2. If the APPLICANT, having been notified of the acceptance of the PROPOSAL by the USFCo during the period of validity of the PROPOSAL, fails or refuses to furnish the Performance Bond of the specified amount and correct validity and the Letter of Acceptance in accordance with the instructions given in the Letter of Intent issued by the USFCo;
3. If after the issuance of the Letter of Intent the USFCo determines that APPLICANT is disqualified pursuant to section 51.1 of the RFA; or
4. The APPLICANT does not execute the AGREEMENT within any identified time period after completing final AGREEMENT negotiations.

We undertake to pay to the USFCo up to the above amount upon receipt of its first written demand without the USFCo having to substantiate its demand, provided that in its demand the USFCo will note that the amount claimed by it is due to the occurrence of one or more of the aforementioned conditions, specifying the condition or conditions that have occurred.

This guarantee will remain valid for 210 days from the closing date of submission of the PROPOSAL (i.e. until [insert expiry date]) and any demand in respect thereof should reach the BANK not later than the above date.

Signature and Seal of BANK:

Date:

Annex 3: World Bank Eligibility Guidelines

(Will only be applicable if funding is from World Bank)

Note: The text in this Annex is an extract of the procurement section of the following URL: <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT/0,,pagePK:84271~theSitePK:84266,00.html>

Eligibility for the Provision of Goods, Works and Services in Projects Financed by the World Bank

Current Policy

In November 2003, the World Bank approved revisions to the Guidelines: Procurement under IBRD Loans and IDA Credits and Guidelines: Selection and Employment of Consultants by World Bank Borrowers. These guidelines, which became effective in May 2004 do not contain procurement restrictions based on nationality. As stated in paragraph 1.6 of the Guidelines, persons or entities from any country **are eligible to participate in Bank-financed procurement for all loans or credits for which the invitation to negotiate was issued after May 1, 2004.**

Exceptions to this are noted in paragraph 1.8 of the procurement guidelines.

According to these exceptions, persons or entities of a Country, or goods and services that have their origin in a Country may be excluded if:

Para 1.8 (a) (i): as a matter of law or official regulation, the Borrower's Country prohibits commercial relations with that Country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of the Goods or Works required; or

Para 1.8 (a) (ii): by an Act of Compliance with a Decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's Country prohibits any import of goods from that Country or any payments to persons or entities in that Country.

Additional Requirements

The Contractor and its sub-contractors shall have the nationality of an eligible country. It is considered that a Contractor or sub-contractor has the nationality of a country if he is a citizen or is constituted, incorporated or registered and operates in accordance with the rules and laws of this country.

All goods and services to be provided under the Contract and financed by the Bank shall have their origin in eligible countries. For the purposes of this clause, "origin" means the country where the goods were extracted, harvested, cultivated, produced, made, manufactured or processed, or, when affected by processing, manufacturing or mounting, become a new item commercially recognized as differing substantially from the basic features of its components.

The origin of goods and services is distinct from the nationality of a bidder or Contractor.

Annex 4: Form of Letter Regarding Compliance with Licence(s)

[Month] [Day], 2011

The Chief Executive Officer
USFCo
Fifth Floor, HBL Tower, Jinnah Avenue,
Islamabad
Pakistan

Dear Sir:

Re: [insert name of proposed USF Service Provider or Person falling within one of the categories listed in section 36.2(b) of the RFA]

Compliance with Conditions of Telecommunications Licence(s)

[insert name of proposed USF Service Provider or Person falling within one of the categories listed in section 36.2(b) of the RFA] is the holder of the following telecommunications licences issued by the PTA:

[list all PTA issued licences, including appropriate licence identification and date]

[insert name of proposed USF Service Provider or Person falling within one of the categories listed in section 36.2(b) of the RFA] remains in substantial compliance with all terms and conditions of the licence(s) issued by the PTA, and otherwise remains in good standing with the PTA.

Yours very truly,

[insert name of proposed USF Service Provider or Person falling within one of the categories listed in section 36.2(b) of the RFA]

Per:

(Signature)

[insert name and title of person signing letter]
[insert phone number of person signing letter]
[insert postal and e-mail address of person signing letter]

cc: Director General (Licensing), Pakistan Telecommunication Authority

Annex 5: Compliance Checklist

1. Compliance Sheet

A complete compliance sheet for each clause of RFA/SSA/Annexe/Schedules shall be provided as softcopy and as signed hardcopy in the following format

Document	Clause No.	Compliance (FC/PC/NC/NA)	Proposal Page Reference	Remarks in case of Partially or Not Complied
RFA				
SSA				
Schedules				
Annexes				

Note: FC- Fully Complied, PC – Partially Complied, NC – Not Complied, NA – Not Applicable.

2. Design Parameters

Following table of design parameters¹ shall be filled up for the proposed solution

ITEM	VALUE
Network Technology	
Spectrum (Access Network)	
Spectrum (Satellite)	
Vendor of Access Network	
BTS count	
RF Repeater count	
Transmission Repeater count	
Microwave frequency	
Microwave Media (BTSs count)	
Capacity for Microwave Media	
Satellite Media (BTSs count)	

¹ Applicants proposing a USF Network solution that is not GSM or CDMA based should provide equivalent network design and performance information.

Capacity for Satellite Media	
Data technology (and upstream/downstream rates) ²	
Voice mErlang/Sub	
Voice MHT (Sec)	
Network Size in Erlang	
Network Size in Subscribers	
Renewable Energy Solution Technology	
Renewable Energy Solution (BTS Count)	
Commercial Power (BTS Count)	
DG with capacities (BTS Count)	
Battery Backup time	
Battery Life	

3. Additional Information

Following information shall also be provided.

a) Softcopy of MapInfo work space that includes the following layers:

i) BTS Location with information (columns) as follows:

S.No	BTS Name	Latitude	Longitude	Configuration (Omni, 444 or 333)	Erlangs	Subscribe	Height	Backhaul Type (VSAT/Satellite or MW)	Backhaul Capacity (E1s)
1									
2									

ii) Repeater locations with details same as for BTSs

iii) Transmission Links with type and capacities

² Applicants must provide design assumptions and related information to demonstrate that the USF Network will meet the 512 kbps Internet data transfer rates identified in Schedule B, for both upstream and downstream traffic, assuming 1% active (non dormant) data sessions among all subscribers.

iv) Footprint prediction with legends like

Legend	dBm		dBm
Green	-65	$\leq x$	
Yellow	-75	$\leq x <$	-65
Orange	-85	$\leq x <$	-75
Blue	-95	$\leq x <$	-85
Grey	-102	$\leq x <$	-95
White	No Coverage		

v) Separate Footprint predictions for 3G and/or 4G networks

- b) Softcopy of Link Budget analysis sheet for reverse and forward links (if applicable) for the technology/frequency being used
- c) Sample brochures of the Customer Premises Equipment (CPE) compatible with the proposed access network
- d) Detailed requirements, design, criteria, assumptions, calculations and proposed solution for renewable energy power solutions. The design calculations shall also include number of batteries, offered backup time, required charging time, life time and operating temperature. All calculations shall be supported by the offered products' datasheets.

Annex [6]

Draft of Proposed USF Services and Subsidy Agreement

**UNIVERSAL SERVICE FUND
SERVICES and SUBSIDY AGREEMENT**

BETWEEN

**UNIVERSAL SERVICE FUND
(A company setup under Section 42 of the Companies Ordinance 1984)**

**AND
[•]**

**MADE AS OF
[•MONTH•] [•DAY•], 201X**

TABLE OF CONTENTS

ARTICLE ONE - INTERPRETATION	6
1.01 Definitions.....	6
1.02 Headings	10
1.03 Extended Meanings.....	10
1.04 Currency.....	10
1.05 Schedules	10
ARTICLE TWO - PROVISION OF USF NETWORK AND USF SERVICES	11
2.01 General.....	11
2.02 Implementation of the USF Network.....	11
2.03 Provision of USF Services	11
2.04 Service Availability and Quality.....	11
2.05 Facilities Access and Sharing	12
2.06 USF Service Charges	12
ARTICLE THREE - OWNERSHIP AND CONTROL	12
3.01 Ownership and Operation of USF Network.....	12
3.02 Change of Control of USF Service Provider	13
ARTICLE FOUR - IMPLEMENTATION AND SERVICE FAILURES	13
4.01 Failure to Meet Project Implementation Milestone Schedule.....	13
4.02 Failure to Maintain Service Availability and Quality Specifications	13
4.03 Additional Penalties or Remedies	14
ARTICLE FIVE - PAYMENT OF THE USF SUBSIDY.....	14
5.01 Payment of USF Subsidy	14
ARTICLE SIX - PERFORMANCE SECURITY	14
6.01 Performance Bond	14
6.02 Equipment Lien.....	15
ARTICLE SEVEN - INSURANCE.....	16
7.01 Insurance.....	16
7.02 General.....	16

7.03 Changes in the Insurance Industry	17
ARTICLE EIGHT - TECHNICAL AUDITOR.....	17
8.01 Appointment of Technical Auditor	17
8.02 Role of Technical Auditor.....	18
8.03 Cooperation with Technical Auditor.....	18
ARTICLE NINE - REPORTING.....	19
9.01 Reports	19
ARTICLE TEN - DISPUTE RESOLUTION.....	20
10.01 Dispute Escalation Process	20
10.02 Referral to Appeal Committee	21
10.03 Arbitration or Court Proceedings.....	21
10.04 Dispute Resolution Costs	22
10.05 Exemption from Dispute Resolution Processes	22
ARTICLE ELEVEN - REPRESENTATIONS AND WARRANTIES	22
11.01 Mutual Representations and Warranties	22
11.02 Representations and Warranties of USF Service Provider	23
ARTICLE TWELVE - INDEMNIFICATION	23
12.01 Indemnification	23
ARTICLE THIRTEEN - FORCE MAJEURE	24
13.01 Force Majeure	24
13.02 Technical Amendments.....	25
13.03 No Payment for Unperformed Services	26
13.04 Duration of Force Majeure Event Beyond Six Months	27
ARTICLE FOURTEEN - CONFIDENTIALITY.....	27
14.01 Confidentiality	27
ARTICLE FIFTEEN - TERM AND TERMINATION.....	28
15.01 Term.....	28
15.02 Termination – Bankruptcy, Winding Up, Etc.	28
15.03 Termination – Material Breach	28

15.04 Termination – Remedies	29
ARTICLE SIXTEEN - GENERAL.....	29
16.01 Records, Audit and Inspection	29
16.02 Time of the Essence	29
16.03 Expenses	29
16.04 Public Announcements	30
16.05 Benefit of the Agreement.....	30
16.06 Entire Agreement	30
16.07 Severability	30
16.08 Amendments and Waiver.....	30
16.09 Assignment	30
16.10 Subcontractors and Other Suppliers.....	31
16.11 Notices	31
16.12 Governing Law	31
ARTICLE SEVENTEEN - COMPLIANCE WITH ENVIRONMENTAL LAWS	
AND IMPLEMENTATION OF ENVIRONMENTAL MANAGEMENT FRAMEWORK (EMF)..	32
17.01	32
17.02	32
Schedule A – Basic Public Telephone Access Services: Availability and Quality Specifications	
Schedule B – Internet Access and Data Services, Availability and Quality Specifications	
Schedule C – USF Areas	
Schedule D – USF Project Implementation and Subsidy Payment Schedule	
Schedule E – Material Events of Default	
Schedule F – Irrevocable Bank Guarantee	
Schedule G – Environmental Assessment	
Schedule H – Technical Proposal	
Schedule I – Financial Proposal	
Schedule J – Bid Clarifications	
Schedule K – Request for Application (RFA)	
Schedule L – Letter of Lien	

UNIVERSAL SERVICE FUND SERVICES AND SUBSIDY AGREEMENT

THIS AGREEMENT is made as of [Month][DD], 20[YY];

B E T W E E N:

USF, a company listed under the Companies Ordinance 1984 having its principal office at Fifth Floor, HBL Tower, Jinnah Avenue, Islamabad through its Chief Executive Officer, (hereinafter referred to as “USFCo”)

- and -

[.]

(hereinafter referred to as “USF Service Provider”).

WITNESSES THAT:

WHEREAS USFCo wishes to ensure the supply of certain USF Services to certain unserved and under-served areas and to facilitate the implementation of a USF Network to provide such services;

AND WHEREAS the USF Service Provider has been selected by USFCo through competitive process to construct the USF Network and provide the USF Services in certain unserved and under-served areas;

AND WHEREAS the USF Service Provider wishes to construct the USF Network and to provide USF Services upon and subject to the terms and conditions hereinafter set forth;

NOW THEREFORE, the parties hereto agree as follows:

ARTICLE ONE - INTERPRETATION

1.01 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“**Act**” means the Pakistan Telecommunication Act (Re-Organization) Act, 1996 (XVII of 1996) as may be amended, and any successor legislation;

“**Base Transceiver Station**” or “**BTS**” **base transceiver station (BTS)** is a piece of equipment that facilitates wireless communication between user equipment (UE) and a network. The network can be that of any of the wireless communication technologies like GSM, CDMA, wireless local loop or WiMAX technology.

BTS is also referred to as the *radio base station* (RBS), node B (in 3G Networks) or, simply, the *base station* (BS). For discussion of the LTE standard the abbreviation eNB for evolved node B is widely used. A BTS consists of Baseband units, Transceiver units and related equipment.

“Base Transceiver Station Site” or **“BTS Site”** consists of a BTS, Transmission and power equipment, Tower and related civil infrastructure.

“Business Day” means a day other than a Saturday, Sunday or statutory holiday in Pakistan;

“Companies Ordinance” means the Companies Ordinance, 1984 as may be amended, or any successor legislation;

“Constating Instruments” includes any certificate of incorporation, certificate of continuance, memorandum and articles of association, by-laws, regulations or other instrument by which a body corporate is incorporated or continued under the Companies Ordinance or that governs or regulates the affairs of a body corporate;

“Control” of a Person that is not an individual means the ownership of at least 51% (fifty-one percent) of the voting interests in the subject Person; or the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Person, whether through the ownership of shares, voting, securities, partnership or other ownership interests, agreement or otherwise;

“Customer Service Agreement” has the meaning ascribed thereto in Section 2.03(d);

“Effective Date” means the effective date of this Agreement, as recorded on the first page hereof;

“Final Implementation Date” means the date identified in paragraph 5 of Schedule D;

“Force Majeure Certification” has the meaning ascribed thereto in Section 13.01(c)(i);

“Force Majeure Event” has the meaning ascribed thereto in Section 13.01(h);

“Force Majeure Notice” has the meaning ascribed thereto in Section 13.01(a);

“GoP” means the Government of Pakistan;

“Indemnification Notice” has the meaning ascribed thereto in Section 12.01(b);

“Internet Access Services” means the services that the USF Service Provider is obliged to provide under Section 2.03(a) and Schedule B;

“Internet Applications Service” has the meaning ascribed thereto in Schedule B;

“Licence” means any telecommunications licence granted by the PTA to the USF Service Provider, prior to the Effective Date, which authorizes it to provide the USF Services;

“Muza” means the smallest part of the revenue system recognized by the Population Census Organization;

“Optional USF Services” means services that the USF Service Provider is authorized but not required to provide pursuant to this Agreement and any Licence;

“Parties” means USFCo and the USF Service Provider, and “Party” means any one of them;

“Performance Bond” has the meaning ascribed thereto in Section 6.01;

“Person” means any individual, firm, company, corporation, partnership, joint venture or other consortium, government or governmental entity;

“Private Internet Access Service” has the meaning ascribed thereto in Schedule B;

“Private Services” has the meaning ascribed thereto in Section 9.01(a)(v);

“Private Voice Telephony” has the meaning ascribed thereto in Schedule A;

“Project Implementation Milestones” means the milestones for the roll-out of the USF Network and provision of the USF Services, and related schedule for payment of the USF Subsidy, set out in Schedule D;

“Project Implementation Milestone Certification” has the meaning ascribed thereto in Schedule D;

“Project Implementation Milestone Notice” has the meaning ascribed thereto in Schedule D;

“Proposal” means the proposal submitted by the USF Service Provider, or the company or joint venture that incorporated the USF Service Provider, in response to the RFA;

“PTA” means the Pakistan Telecommunication Authority, a statutory body corporate established under section 3 of the Act, and its predecessors and successors;

“Public Voice Telephony” has the meaning ascribed thereto in Schedule A;

“Public Internet Access” has the meaning ascribed thereto in Schedule B;

“Relationship Executive Committee” has the meaning ascribed thereto in Section 10.01(d)(i);

“Relationship Liaison Committee” has the meaning ascribed thereto in Section 10.01(c)(i);

“Relationship Manager” has the meaning ascribed thereto in Section 10.01(b)(i);

“RFA” means the Request for Applications document issued by USFCo on 2nd June 2014, including all annexes thereto, as amended or modified by USFCo;

“Renewable Energy” means energy that is produced by alternative or renewable resources as compared to the conventional or that are replenished naturally, which do not deplete when consumed and are non-polluting and environmental friendly;

“Renewable Energy Solution” means solutions, systems or setups generating power from Renewable Energy;

“Report” means a Report required in accordance with Section 9.01;

“Technical Amendment” has the meaning ascribed thereto in Section 13.02(a);

“Technical Auditor” means the person appointed in accordance with Section 8.01(a);

“Telephony Services” means the services that the USF Service Provider is obliged to provide under Section 2.03(a) and Schedule A;

“Term” means the term of the Agreement identified in Section 15.01;

“USF Areas” means the cities, towns, villages or Muzas identified in Schedule C as being mandatory for USF Network and USF Service coverage;

“USFCo” means the USF (Guarantee) Limited, a body corporate established by the Government of Pakistan, and its successors;

“USF Contributor” means any Person whose License includes identified USF Contribution requirements, and who is identified by PTA as being fully compliant with those requirements;

“USF Network” means the licensed telecommunication system consisting of the telecommunications network infrastructure to be deployed by the USF Service Provider to provide USF Services pursuant to this Agreement;

“USF Rules” means the Universal Service Fund Rules, 2006 (as amended);

“USF Services and Subsidy Agreement” or **“Agreement”** means this agreement with all Schedules and all amendments made hereto by written agreement between the parties;

“USF Service Provider” means the Party, other than USFCo, identified on the first page of this Agreement (referred to as the “Contractor” in the USF Rules);

“USF Services” means the Telephony Services and the Internet Access Services;

“USF Subsidy” means the subsidy to be paid by USFCo to the USF Service Provider in accordance with the USF Services and Subsidy Agreement and includes USF Capex Subsidy and USF Opex Subsidy;

“USF CAPEX Subsidy” means the subsidy to be paid by USFCo to the USF Service Provider on the USF Service Provider achieving the Project Implementation Milestones; and

“USF OPEX Subsidy” means the subsidy to be paid by USFCo to the USF Service Provider for partially supporting its operational expenses for three years as mentioned in Schedule D for operating USF Networks and providing USF Services in the USF Areas and may include costs of backhauling, security, maintenance services, utilities, insurance, property management, property taxes, transportation and vehicle expenses and wages of the manpower deployed for or associated with USF Network and USF Services in USF Area;

1.02 Headings

The division of this Agreement into Articles and Sections and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles and Sections of and Schedules to this Agreement.

1.03 Extended Meanings

In this Agreement words importing the singular number only include the plural and vice versa, words importing any gender include all genders.

1.04 Currency

All references to currency herein are to Pakistan rupees (PKR), unless stated otherwise in this Agreement.

1.05 Schedules

The following are the Schedules annexed hereto and incorporated by reference and deemed to be part hereof:

- Schedule A – Telephony Services, Availability & Quality Specifications
- Schedule B – Internet Access Services, Availability & Quality Specifications
- Schedule C – USF Areas
- Schedule D – USF Project Implementation and Subsidy Payment Schedule
- Schedule E – Material Events of Default
- Schedule F – Performance Bond
- Schedule G – Environment Management Framework
- Schedule H – Technical Proposal

Schedule I – Financial Proposal
Schedule J – Bid Clarifications
Schedule K – Request for Application (RFA)
Schedule L – Letter of Lien

ARTICLE TWO - PROVISION OF USF NETWORK AND USF SERVICES

2.01 General

Subject to the provisions of this Agreement, the USF Service Provider will construct the USF Network according to the accepted BoQ to provide the USF Services. USFCo will provide the USF Subsidy to assist in meeting the costs of constructing the USF Network Infrastructure and partial operational costs for providing the USF Services in the USF Areas as per Schedule D.

2.02 Implementation of the USF Network

(a) The USF Service Provider shall implement the USF Network powered by Renewable Energy Solution as a source, in accordance with the Project Implementation Milestones, and Final Implementation Date, identified in Schedule D.

(b) In implementing the USF Network, the USF Service Provider shall comply with all planning and approvals processes, and applicable environmental guidelines including those identified in Article 17 and Schedule G.

2.03 Provision of USF Services

(a) The USF Service Provider shall provide the USF Services in accordance with the service specifications and requirements identified in Schedules A and B.

(b) The USF Service Provider shall provide the USF Services in the USF Areas identified in Schedule C as being mandatory for USF Network and USF Service coverage in accordance with the network and service roll-out requirements identified in Schedule D.

(c) In addition to the USF Services, the USF Service Provider may provide any other services authorized by the Licence or another PTA-issued licence held by the USF Service Provider in Pakistan.

(d) The USF Services shall be provided by the USF Service Provider pursuant to an agreement (the “Customer Service Agreement”) with each subscriber or user of the USF Services. The Customer Service Agreement shall be in a form approved by the PTA.

2.04 Service Availability and Quality

The USF Service Provider shall provide the USF Services in accordance with the quality of service requirements identified in Schedules A and B any quality of service requirements

identified in the USF Service Provider's Licence and any quality of service regulations issued by PTA.

2.05 Facilities Access and Sharing

(a) As required pursuant to Rule 27 of the USF Rules, the USF Service Provider shall share the USF Network infrastructure and facilities with at least one requesting USF contributor, on a first come first served basis and at cost based rates and at rates based on reasonable cost.

(b) Where the USF Service Provider and USF contributor requesting facilities access are not able to successfully negotiate the terms of access, following a reasonable period of good faith negotiation, either party may request the assistance of the PTA in resolving the disputed terms.

(c) In determining whether rates for infrastructure sharing are based on reasonable cost, or to assist in resolving any other dispute regarding the terms of facilities access, USFCo shall be entitled to disclose information obtained by it pursuant to Section 16.01 to the PTA.

(d) The USF Service Provider shall also comply with any facilities sharing requirements set out in regulations, guidelines, decisions or orders issued by the PTA.

2.06 USF Service Charges

(a) The USF Service Provider's charges for the USF Services shall not exceed the USF Service Provider's National or Regional tariffs for the same or equivalent services provided in urban locations that are not included in the USF Areas. To determine compliance with this Section 2.06, reference shall be made to the PTA's then-current records of USF Service Provider tariffs.

(b) For Public Voice Telephony or Public Internet Access services (as those services are defined in Schedules A and B), or for any other USF Services which are not subject to a National or Regional tariff filed by the USF Service Provider, service charges in the USF Areas shall not exceed the maximum charges for equivalent services in the closest major population centre not included in the USF Areas.

ARTICLE THREE - OWNERSHIP AND CONTROL

3.01 Ownership and Operation of USF Network

(a) The USF Services shall be provided primarily over network transmission and access facilities (i.e. wires, fibre optic lines, cables, wireless base-stations, satellite stations, microwave repeaters, etc.) owned and operated by the USF Service Provider.

(b) The USF Service Provider may extend the reach or capability of its USF Network by acquiring facilities or services from another network operator on a resale basis, that is by

transmission over the networks of other operators or by means of leased line services acquired from other telecommunications operators.

(c) Regardless of whether the USF Services are provided in accordance with Sections 3.01(a) or (b), the obligations hereunder to implement the USF Network and to provide the USF Services remain entirely those of the USF Service Provider.

3.02 Change of Control of USF Service Provider

For so long as the Performance Bond provided by the USF Service Provider pursuant to Section 6.01 remains in place, the prior written consent of USFCo will be required for any change of Control of the USF Service Provider.

ARTICLE FOUR - IMPLEMENTATION AND SERVICE FAILURES

4.01 Failure to Meet Project Implementation Milestone Schedule

(a) Unless a Force Majeure Certification has been issued to certify that a Force Majeure Event has caused the failure, then failure to meet the Final Implementation Date identified in Schedule D may, at the sole discretion of USFCo, result in the imposition of one or more of the penalties set out below:

(i) loss of eligibility for all or part of the USF Subsidy;

(ii) forfeiture of all or part of the Performance Bond;

(iii) payment of liquidated damages equal to one-half of one percent (0.5%) of the USF Capex Subsidy amount payable for the work that is delayed, and such half percent shall be payable per every week the failure continues;

(iv) repayment of any USF Subsidy amounts previously paid to the USF Service Provider;

(v) payment of liquidated damages equal to all or part of USFCo's estimate of the costs of providing the USF Services in the USF Areas left unserved due to the failure, provided that the total amount of such liquidated damages shall not exceed the amount of the USF Subsidy payable to the USF Service Provider for the provision of the USF Services in the USF Areas.

(b) Such penalty or penalties shall be specified in a written notice delivered by USFCo to the USF Service Provider in accordance with Section 16.11. The penalty or penalties shall become effective in the manner specified in such notice.

4.02 Failure to Maintain Service Availability and Quality Specifications

(a) Unless a Force Majeure Certification has been issued to certify that a Force Majeure Event has caused the failure, then failure of the USF Service Provider to maintain the Service Availability and Quality Specifications for the USF Services as set out in Schedule A or B may, at the sole discretion of USFCo, result in the imposition of one or more of the penalties set out below:

(i) loss of eligibility for all or part of the USF Subsidy;

(ii) forfeiture of all or part of the Performance Bond;

(iii) repayment of any USF Subsidy amounts previously paid to the USF Service Provider;

(iv) taking possession of USF Network equipment and the exercise of any other remedies or rights by USFCo under the equipment lien created pursuant to Section 6.02.

(b) Such penalty or penalties shall be specified in a written notice delivered by USFCo to the USF Service Provider in accordance with Section 16.11. The penalty or penalties shall become effective in the manner specified in such notice.

4.03 Additional Penalties or Remedies

The penalties described in Sections 4.01 and 4.02 are in addition to any other penalties or remedies that may otherwise be available to USFCo under this Agreement or the laws of Pakistan.

ARTICLE FIVE - PAYMENT OF THE USF SUBSIDY

5.01 Payment of USF Subsidy

USFCo shall pay the USF Service Provider the USF Subsidy in accordance with the subsidy installment payments identified in Schedule D.

ARTICLE SIX - PERFORMANCE SECURITY

6.01 Performance Bond

(a) The USF Service Provider shall furnish USFCo with an irrevocable bank guarantee in the form specified in Schedule F / F (1), or other form of performance guarantee acceptable to USFCo (the "Performance Bond").

(b) The amount of the Performance Bond shall be 40% of the total USF Subsidy to the USF service provider. The validity of the Performance Bond will be 5 years or any extended period either due to Force Majeure or due to delay by the Service Provider, however the USF Service Provider shall have the option to submit a single Performance

Bond valid for 5 years or successive five annual Performance Bonds with minimum one year validity in accordance with Schedule “F” or F/1. In case USF Service Provider opts for successive five annual Performance Bonds option then it shall:

1. submit first Performance Bond as per requirements of this RFA with validity of one year;
2. submit second Performance Bond of same value with minimum one year validity, one month before the expiry date of the first Performance Bond. Similarly it shall submit third, fourth and fifth performance bond annually, provided that the expiry date of the fifth performance Bond shall be the same as the expiry date of the 5 year Performance Bond would have been,;
3. be entitled, after submitting the new Performance Bond, to get released previous Performance Bond from USFCo within 05 days of the effective date of the new Performance Bond ;
4. not have the right to expect or demand a reminder from USFCo regarding expiry of any of the Performance Bonds or submission of new Performance Bond; and
5. not object to encashment of Performance Bond by USFCo in its custody because of late or non-submission of new Performance Bond..

(c) The Performance Bond shall be issued by a commercial bank recognized by State Bank of Pakistan, having a branch office in Pakistan, and that is otherwise acceptable to USFCo.

(d) Not Applicable.

(e) The Performance Bond shall be forfeited, in whole or in part, by the USF Service Provider as provided for in Article Four.

6.02 Equipment Lien

As required pursuant to Rule 26(6) of the USF Rules, all equipment deployed by the USF Service Provider in implementing the USF Network shall be subject to a lien exercisable by USFCo pursuant to the documented terms of the lien and Section 4.02 (a) (iv). The equipment lien shall have a maximum value equal to the total value of the USF Capex Subsidy. The USF Service Provider shall execute any documents required to substantiate the lien or to support its enforceability.

ARTICLE SEVEN - INSURANCE

7.01 Insurance

The USF Service Provider shall maintain or cause to be maintained on behalf of itself and all subcontractors to whom the USF Service Provider has subcontracted (in relation to the implementation or operation of the USF Network or provision of the USF Services) at all times during the Term of this Agreement, in a form and with insurers acceptable to USFCo, the following types of insurance:

(a) Commercial General Liability Insurance – Commercial general liability insurance covering liability imposed by law or assumed under contract arising from bodily injury, death or property damage including loss of use, with minimum combined limits of not less than PKR 50,000,000/- [Rupees Fifty Million only] per occurrence. Such policy or policies shall be on an occurrence basis and shall provide coverage for full legal defence costs, premises and operational liability, and blanket broad form contractual liability and property damage coverage (including malicious property damage). The policy or policies shall name USFCo as additional insured.

(b) Property Insurance – Property insurance covering property and assets used to operate the USF Network including Renewable Energy Solution and provide the USF Services on a blanket form basis for all risks of physical loss or damage, with minimum limits equal to the full replacement cost value of the property. The basis of loss settlement shall be replacement cost with like kind and quality.

7.02 General

(a) All insurance provided for in Section 7.01 shall be effected with valid and enforceable policies issued by insurance companies that are licensed to do business in Pakistan.

(b) All policies shall be endorsed to contain an agreement by the insurer that the coverage will not be cancelled or materially changed to the detriment of USFCo, without at least 30 days' prior written notice to USFCo.

(c) Within 30 days of the Effective Date, the USF Service Provider shall have the insurance specified herein in full force and effect and shall provide USFCo with certificates of insurance as evidence of such insurance in such form and scope acceptable to USFCo. Such proof of insurance shall be updated to maintain its accuracy, within 14 days of any change in coverage. The USF Service Provider shall notify USFCo promptly and in writing in the event of any termination, expiry, lapse or change in insurance coverage.

(d) The insurance requirements herein do not limit or modify any liability that would otherwise exist or create any liability that would otherwise not exist under this Agreement in the absence of such insurance requirements.

7.03 Changes in the Insurance Industry

The Parties agree that should any change in the insurance industry materially impact the USF Service Provider's ability to obtain the insurance and insurance coverage levels set forth in this Article Seven, the Parties will assess such impact and, if deemed necessary by the Parties, negotiate in good faith any amendments to this Article Seven to account for such insurance industry changes, provided however, that nothing herein shall require USFCo to approve of any such amendment.

ARTICLE EIGHT - TECHNICAL AUDITOR

8.01 Appointment of Technical Auditor

- (a) USFCo shall appoint a Technical Auditor under this Agreement as and when required.
- (b) The Technical Auditor may be an external consultant who shall be a person of demonstrated telecommunications engineering expertise.
- (c) Where the Technical Auditor is an external consultant, USFCo shall enter into an agreement (the "Technical Auditor Agreement") with the Technical Auditor. The Technical Auditor Agreement shall:
 - (i) define the role of the Technical Auditor in accordance with this Agreement;
 - (ii) prescribe the methodology, tests and reporting structure to be used by the Technical Auditor in performing his or her role;
 - (iii) set out the fees to be payable, and expenses to be reimbursable, to the Technical Auditor; and
 - (iv) contain any other provisions that USFCo determines necessary to give effect to the appointment and for the performance of the functions of the Technical Auditor identified in this Agreement.

Once executed, USFCo shall make a copy of the Technical Auditor Agreement available to the USF Service Provider.

- (d) USFCo shall be solely responsible for the selection of Technical Auditor and for any fees to be payable, and expenses to be reimbursable, to the Technical Auditor.
- (e) If the Technical Auditor resigns or otherwise ceases to perform the intended functions before the end of this Agreement, or if USFCo decides to replace the Technical Auditor at any time, USFCo shall appoint a replacement Technical Auditor who, for all purposes of this Agreement, shall from and after such appointment perform the functions of the Technical Auditor.

(f) If the Technical Auditor has been replaced during the execution of the project USFCo will inform the USF Service Provider about this change.

8.02 Role of Technical Auditor

The Technical Auditor shall perform the following functions, in accordance with this Agreement and the Technical Auditor Agreement:

(a) making a determination as to whether or not any of the USF Network Project Implementation Milestones identified in Schedule D have been met, which may include, but is not limited to, one or more of the following:

(i) making a determination as to whether or not the USF Services meet the service specifications and requirements identified in Schedules A and B;

(ii) verifying that all USF Network is powered by Renewable Energy Solution as a (primary or secondary) source;

(iii) issuing a Project Implementation Milestone Certification to the USFCo to indicate that a Project Implementation Milestone has been completed in accordance with Schedule D; and

(iv) issuing an indication in writing to the Parties that a Project Implementation Milestone has not been completed in accordance with Schedule D; and

(b) making a determination as to whether or not a Force Majeure Event exists in accordance with Article Thirteen, which may include, but is not limited to, one or more of the following:

(i) issuing a Force Majeure Certification in accordance with Article Thirteen;

(ii) issuing an indication in writing to the Parties that a Force Majeure Event has not occurred in accordance with Article Thirteen; and

(iii) proposing a Technical Amendment made in accordance with Article Thirteen.

8.03 Cooperation with Technical Auditor

The USF Service Provider shall co-operate with the Technical Auditor, in performing his or her functions pursuant to this Agreement and the Technical Auditor Agreement, including by:

(a) providing access to all USF Network facilities and systems, including for equipment testing purposes, statistical data collection, reporting etc; and

(b) providing any information regarding the USF Network or the USF Services requested by the Technical Auditor, and related access to technical personnel of the USF Service Provider.

ARTICLE NINE - REPORTING

9.01 Reports

(a) The USF Service Provider shall provide to USFCo, within 60 days of the Effective Date and for each calendar quarter (three months) thereafter throughout the Term of this Agreement, a report (the "Report"), which shall include:

(i) a detailed USF Network implementation plan and network description with details of Renewable Energy Solution;

(ii) detailed report on the achievement of the Project Implementation Milestones set out in Schedule D, which should also highlight the risks and bottlenecks during the implementation phase with their proposed measures and the forecasted project progress against the milestones set out in Schedule D;

(iii) a report on the achievement of the quality of service and other service requirements for the USF Services set out in Schedules A and B, including details regarding service maintenance and the time required to repair service outages;

(iv) a report on general demand for and usage of the USF Services, and the USF Service Provider's current charges for the USF Services;

(v) a report on demand for the Private Voice Telephony and Private Internet Access services (altogether the "Private Services"), indicating:

(I) technical capacity and readiness of the USF Network to provide the Private Services;

(II) the USF Service Provider's marketing and distribution plan for the Private Services;

(III) the number of requests received by the USF Service Provider for the Private Services;

(IV) the number of requests received by the USF Service Provider for the Private Services that remain outstanding; and

(V) the average time it takes for the USF Service Provider to fulfill a request for the Private Services; and

(vi) such other information as determined by the Relationship Liaison Committee.

(b) The Reports shall be filed by the USF Service Provider with USFCo within 30 days of the end of the relevant quarter.

(c) The Reports shall be in a form satisfactory to the USFCo. Any disputes regarding the form of the reports shall be handled in accordance with Article Ten.

ARTICLE TEN - DISPUTE RESOLUTION

10.01 Dispute Escalation Process

(a) The Parties shall act reasonably in interpreting this Agreement and the Schedules hereto. In the event of a dispute under this Agreement, the Parties will first engage in the dispute escalation processes identified in this Section 10.01. The Parties also agree to use reasonable good faith efforts to resolve all disputes.

(b) Resolution by Relationship Managers

(i) Each of the Parties will appoint managers (each a “Relationship Manager”) within 30 days of the Effective Date. Each Relationship Manager will be familiar with this Agreement and related documentation. If a Party replaces or reassigns its Relationship Manager, that Party will immediately notify the other Party of the change.

(ii) Either Party may refer a dispute to the Relationship Managers by preparing a written notice describing the nature of the dispute and summarizing related information (the “Dispute Notice”). The Relationship Managers will meet within three Business Days of receipt of the Dispute Notice to review the information with the objective of resolving the dispute.

(c) Resolution by Relationship Liaison Committee

(i) A committee (the “Relationship Liaison Committee”) will be formed by the Parties and shall consist of an equal number of representatives appointed by each of the Parties.

(ii) If the Relationship Managers are unable to resolve the dispute within ten Business Days of the receipt of the Dispute Notice, either Relationship Manager may refer the matter to the Relationship Liaison Committee by written notice to the other Relationship Managers. Within five Business Days of the Relationship Liaison Committee’s receipt of such referral, the Relationship Liaison Committee shall meet with the objective of resolving the dispute. A representative of each of the Parties shall co-chair each meeting. Minutes of each meeting will be taken.

(iii) The Relationship Liaison Committee will have the discretion to form additional committees or subcommittees for any purpose it deems appropriate, with the ultimate objective of resolving the dispute.

(iv) The Relationship Liaison Committee or any additional committees or subcommittees formed by the Relationship Liaison Committee in relation to the dispute will, at either Parties' reasonable request, meet as often as reasonably required with the objective of resolving the dispute. Minutes of all meetings will be taken.

(d) Resolution by Relationship Executive Committee

(i) A committee (the "Relationship Executive Committee") will be formed by the Parties and shall include USFCo's Chief Executive Officer and the USF Service Provider's President / Chief Executive Officer.

(ii) If the Relationship Liaison Committee is unable to resolve the dispute within fifteen Business Days of the receipt of the Dispute Notice, either Party may refer the matter to the Relationship Executive Committee by written notice to the other Party. Within five Business Days of the Relationship Executive Committee's receipt of such referral, USFCo's Chief Executive Officer will meet with the USF Service Provider's President / Chief Executive Officer with the object of resolving the dispute. Minutes of the meeting shall be taken.

(iii) If the Relationship Executive Committee is unable to resolve the dispute within fifteen Business Days of the receipt of the Dispute Notice, then either Party may:

(I) refer the dispute to the Appeal Committee in accordance with Section 10.02; or

(II) commence arbitration or court proceedings in accordance with Section 10.03.

10.02 Referral to Appeal Committee

Any dispute that has not been resolved by application of the Disputes Escalation Process described in Section 10.01 may be referred to the Appeal Committee to be constituted pursuant to Rule 31 of the USF Rules.

10.03 Arbitration or Court Proceedings

Any dispute that has not been resolved by application of the Disputes Escalation Process described in Section 10.01, or that is not pending before the Appeal Committee pursuant to Section 10.02, may become the subject of arbitration or court proceedings commenced by either Party in accordance with applicable rules and procedures.

10.04 Dispute Resolution Costs

The Parties shall be responsible for their own dispute resolution costs, unless the arbitrator or court orders otherwise.

10.05 Exemption from Dispute Resolution Processes

Notwithstanding anything to the contrary in this Agreement:

- (a) Neither Party will be required to use the dispute escalation process described in Section 10.01 for disputes requiring injunctive relief or other urgent relief.
- (b) The dispute resolution processes described in this Article Ten apply only to disputes arising under this Agreement. They do not apply to disputes arising under any licence, the Act or any other regulatory matters, which shall be dealt with by PTA in accordance with the Act and applicable PTA regulations and procedures.
- (c) Nothing in this Article Ten derogates from PTA's rights or powers under the Act. The provisions of Article 10 are subject to the Act and any regulations made there under. For greater certainty, if and to the extent there are conflicts in the interpretation or application of any of the provisions of this Article 10 with the provisions of the Act or related regulations, the Act and regulations shall prevail.

ARTICLE ELEVEN - REPRESENTATIONS AND WARRANTIES

11.01 Mutual Representations and Warranties

Each of the USF Service Provider and the USFCo represents and warrants to the other that:

- (a) it is duly organized and validly existing under the laws of Pakistan;
- (b) that it has all right and authorization, and has obtained all consents necessary or desirable to execute, deliver and perform this Agreement;
- (c) nothing in this Agreement, nor the performance of any obligations thereunder, will conflict with such party's Constatng Instruments, any law or any other person's rights; and
- (d) to the best of its knowledge, there are no pending suits threatened against such party that would affect the USF Services or the performance of obligations under this Agreement.

11.02 Representations and Warranties of USF Service Provider

The USF Service Provider further represents and warrants to USFCo that:

- (a) unless the USF Service Provider obtains USFCo's prior written approval, all telecommunications facilities and equipment installed by the USF Service Provider in its USF Network shall be new when first installed and shall comply with Pakistani type-approval requirements and internationally recognized standards;
- (b) the USF Network constructed by it and the USF Services provided by it shall at all times comply with all applicable Pakistani laws and regulations including, but not limited to, telecommunications, environmental, import and export regulations;
- (c) all telecommunications facilities, equipment and Renewable Energy Solution installed by the USF Service Provider in its USF Network will be maintained by the USF Service Provider in good working order, ordinary wear and tear excepted;
- (d) the USF Network constructed by it and the USF Services provided by it will meet or exceed the specifications identified in the Proposal;
- (e) it has, and will have (either by itself, or in conjunction with its affiliates, or its subcontractors), the skills, qualifications, expertise and experience necessary to construct and operate the USF Network and perform and manage the USF Services in accordance with this Agreement;
- (f) all representations and warranties made in the Proposal as to facts materially related to the USF Network and USF Services, including facts pertaining to the USF Service Provider's corporate structure, organization, operations, general skills and capabilities relevant to the USF Network and USF Services, remain true and correct and will be observed by the USF Service Provider in all material respects; and
- (g) the USF Service Provider is under no current obligation or restriction, nor will it knowingly assume any such obligation or restriction, that does or would in any way interfere or conflict with the operation of this Agreement.

ARTICLE TWELVE - INDEMNIFICATION

12.01 Indemnification

- (a) The USF Service Provider hereby indemnifies and agrees to save harmless Universal Service Fund, USFCo and GoP from any and all claims, damages, judgments, liens, suits, costs and expenses of any nature or kind whatsoever that may be successfully claimed or asserted by any person against USFCo arising out of, or in connection with, the implementation or operation of the USF Network or the supply or failure to supply the USF Services.

(b) The USF Service Provider's obligation to indemnify and hold USFCo harmless is contingent on USFCo giving the USF Service Provider prompt notice of any event giving rise to such a claim (an "Indemnification Notice") and giving the USF Service Provider the authority to conduct the defence of any legal action arising therefrom, provided however that USFCo may assist the USF Service Provider in such defence at its own expense and retain additional counsel at its own expense to observe or participate in any such litigation.

ARTICLE THIRTEEN - FORCE MAJEURE

13.01 Force Majeure

(a) If and to the extent that a Party's performance of any of its obligations pursuant to this Agreement is prevented, hindered or delayed by reason of a Force Majeure Event and such non-performance, hindrance or delay could not have been prevented by reasonable foresight or precautions, and cannot reasonably be circumvented through the use of alternate sources, work-around plans or other means, then the non-performing, hindered or delayed Party may give written notice (a "Force Majeure Notice") to the other Party.

(b) A Force Majeure Notice shall contain reasonable particulars of the Force Majeure Event in question and the effect of such Force Majeure Event as it relates to the obligations of the non-performing, hindered or delayed Party hereunder.

(c) Within 10 Business Days of receipt of the Force Majeure Notice, the other Party shall either:

(i) certify in writing (a "Force Majeure Certification") to the non-performing, hindered or delayed Party that a Force Majeure Event has occurred; or

(ii) indicate in writing to the non-performing, hindered or delayed Party that a Force Majeure Event has not occurred, providing reasons for this conclusion.

(d) Where the other Party has issued a Force Majeure Certification in response to a Force Majeure Notice in accordance with Section 13.01(c), the Parties may agree to amend this Agreement in such a way that adapts to the circumstances of the Force Majeure Event while providing similar value for money as the original Agreement and achieving the objective of extending USF Network facilities and USF Services into rural communities that do not then have access to such types and capacities of telecommunications facilities and services.

(e) Where the other Party has not issued a Force Majeure Certification in response to a Force Majeure Notice in accordance with Section 13.01(c), the non-performing, hindered or delayed Party may give a copy of the Force Majeure Notice to the Technical Auditor, provided that it notifies the other Party in writing that it has elected to do so.

(f) Within 10 Business Days of receipt of the Force Majeure Notice, the Technical Auditor will either:

(i) issue a Force Majeure Certification indicating to the Parties that a Force Majeure Event has occurred and whether a Technical Amendment to this Agreement is required in accordance with Section 13.02; or

(ii) indicate in writing to the Parties that a Force Majeure Event has not occurred, providing reasons for this conclusion.

(g) Where a Force Majeure Certification has been issued in response to the Force Majeure Notice of either Party, such non-performance, hindrance or delay, as applicable, of those obligations affected by the Force Majeure Event will not constitute a default hereunder by that Party for as long as such Force Majeure Event continues and such Party continues to use its reasonable commercial efforts to re-commence performance whenever and to whatever extent possible without delay, including through the use of alternate sources, workaroud plans or other means.

(h) For the purpose of this Agreement, "Force Majeure Event" means any of the following events beyond the control of the Parties:

(i) With respect to the obligations of both parties:

(I) lightning, storms, earthquakes, landslides, floods, tsunani, washouts and other Acts of God;

(II) strikes, lockouts or other industrial disturbances of the party;

(III) civil disturbances, sabotage, war, blockades, insurrections, terrorist actions, vandalism, riots, epidemics;

(IV) any law, order proclamation, regulation, ordinance, demand or requirement of any governmental authority;

(V) any other material event that could reasonably be considered to be force majeure by reason that it is beyond the control of the Party affected; and

(ii) With respect to the obligations of the USF Service Provider alone, substantial or material fires, explosions, breakage of or other accidents to plant, machinery, equipment or other facilities of the USF Service Provider;

but does not include the inability of either Party to obtain financing or any other financial inability on the part of either Party.

13.02 Technical Amendments

(a) Where the Technical Auditor issues a Force Majeure Certification to the Parties in accordance with Section 13.01, indicating that a Force Majeure Event has prevented the implementation, activation or operation of the USF Network or the provision of the USF

Services in certain parts of the USF Areas described in Schedule C or in accordance with the implementation and payment schedule described in Schedule D, the Technical Auditor may prepare proposed amendments to one or more of Schedules C and D, and submit the proposed amendments (a “Technical Amendment”) in writing to the Parties.

(b) If the Technical Auditor submits a Technical Amendment in accordance with Section 13.02(a), then one or more of the following Schedules to this Agreement may also be the subject of amendments to be proposed by the Technical Auditor, to the extent that, in the professional opinion of the Technical Auditor, such further amendments are required by the Technical Amendment:

(i) Schedule A – Telephony Services, Availability and Quality Specifications;

(ii) Schedule B – Internet Access Services, Availability and Quality Specifications;

(iii) Schedule F – Performance Bond.

(iv) Letter of Lien

(c) Notwithstanding any other provisions of this Article, any Technical Amendment must be prepared by the Technical Auditor in accordance with the following:

(i) the Technical Auditor shall consult with USFCo and the USF Service Provider prior to submitting the Technical Amendment;

(ii) the Technical Amendment shall, in the professional opinion of the Technical Auditor, provide similar value for money as the original Schedule C and other Schedules to this Agreement, and achieve substantially the same universal service objectives; and

(iii) the Technical Amendment shall not increase the costs of implementing the USF Network, providing the USF Services or Opex Subsidy.

(d) Any dispute regarding a Technical Amendment submitted by the Technical Auditor shall be handled in accordance with Article Ten.

13.03 No Payment for Unperformed Services

(a) If the USF Service Provider fails to construct the USF Network or provide the USF Services in accordance with this Agreement due to a Force Majeure Event, any USF Subsidy payments will be adjusted in a manner such that USFCo is not responsible for any payment for (i) a Project Implementation Milestone that the USF Service Provider fails to meet and (ii) USF Opex Subsidy for the period USF Services remain suspended.

(b) Where a Project Implementation Milestone is only partially completed due to a Force Majeure Event for which a Force Majeure Certification has been issued, and the Force Majeure Event is likely to continue for a substantial period of time, the payment for such Project Implementation Milestone for the period of the Force Majeure Event will be adjusted on an equitable basis taking into account, among other things, the equipment to be installed as per the approved BoQ, the length of the resulting delay and the progress achieved towards the Project Implementation Milestone. Same principle would apply for USF Opex Subsidy.

13.04 Duration of Force Majeure Event Beyond Six Months

Notwithstanding anything to the contrary in this Agreement, if a Force Majeure Event during which the USF Service Provider is unable to complete one or more Project Implementation Milestones in accordance with this Agreement, lasts for more than six months, then:

(a) subject to section 13.03(b), USFCo will have no obligation whatsoever to pay part of the USF Subsidy for the uncompleted work or any future work of the USF Service Provider under this Agreement; and

(b) the USF Service Provider may be deemed by USFCo to be in material breach of this Agreement in accordance with section 15.03, at USFCo's sole discretion; however, USFCo shall not be entitled to exercise any of the remedies identified in Sections 4.01 and 4.02 in connection with the circumstances of the Force Majeure event.

(b)(i) Where a Project is only partially completed due to Force Majeure Event for which Force Majeure Certification has been issued, and the Force Majeure Event is likely to continue and where the Service Provider is unable to complete the project and has also submitted the closure request, the final project payment will be adjusted on an equitable basis (subject to the provision that the total amount payable shall not exceed CAPEX Subsidy) taking into account, the approved BoQ and coverage provided as per Schedule C to the SSA. Same principle would apply for USF Opex Subsidy

ARTICLE FOURTEEN - CONFIDENTIALITY

14.01 Confidentiality

Except as specifically provided for in this Agreement or as required by applicable laws or regulation, or, neither USFCo nor the USF Service Provider, nor any of their respective employees, agents, servants or subcontractors may disclose any confidential or trade secret information provided by one to the other with respect to the USF Network or the USF Services or any other matter pertaining to this Agreement without the prior written consent of the other.

Each party must retain such information in strict confidence for the benefit of the other party, provided that the foregoing will not apply to any information that either party establishes as

being already in the public domain or already known to the party receiving the information, without violation of this Agreement.

ARTICLE FIFTEEN - TERM AND TERMINATION

15.01 Term

This Agreement commences on the Effective Date and continues for a term of ten (10) years and any other extended period either due to Force Majeure or delay in Project.

15.02 Termination – Bankruptcy, Winding Up, Etc.

(a) This Agreement and the rights and obligations of each Party contained herein may be terminated by USFCo giving notice to the USF Service Provider forthwith upon the happening of any of the following events of default:

(i) where the USF Service Provider takes any action in respect of liquidation or winding up, or makes an assignment for the benefit of creditors, or if a winding up, bankruptcy or similar petition under the Companies Ordinance is filed or presented by the USF Service Provider in respect of its properties or assets, or a judgment or order is entered by any court of competent jurisdiction approving any such petition or petition seeking the reorganization, arrangement or composition of or in respect to the USF Service Provider or its debts or obligations, or if a custodian or receiver or receiver and manager or any other official with similar powers be appointed for the USF Service Provider or a substantial portion of its properties or assets and such appointment is not dismissed or discharged within 30 days thereof; or

(ii) where a winding up, bankruptcy or similar petition with respect to an enforced liquidation of the USF Service Provider is presented or filed against it unless the same is dismissed or discharged within 30 days, during which grace period execution thereunder is effectively stayed.

(b) If an event of default pursuant to Section 15.02(a) occurs and USFCo wishes to terminate this Agreement, USFCo must give the USF Service Provider notice of its decision to terminate within 60 days of such default coming to its attention.

15.03 Termination – Material Breach

(a) Subject to Section 15.03(b), if any Party commits a material breach of this Agreement, the Parties agree that the other Party not in default has the right to terminate the Agreement; provided that the Party not in default gives the other Party who is in default not less than 30 days prior written notice of the default complained of during which period the Party alleged to be in default has an opportunity to cure the same and if

the default is cured within such period, the other Party is not entitled to terminate the Agreement.

(b) Schedule E is a list of defaults which the Parties acknowledge as constituting material events of default and for which the other party should be entitled to terminate the Agreement pursuant to this Section 15.03.

15.04 Termination – Remedies

(a) On termination by the USFCo pursuant to Sections 15.02 or 15.03, the USFCo shall be entitled to exercise any of the remedies identified in Sections 4.01 and 4.02 that are applicable in the circumstances of the performance failure leading to the termination.

(b) On termination by the USF Service Provider pursuant to Section 15.03, the USF Service Provider shall be entitled to payment of all USF Subsidy instalments payable pursuant to Schedule D for Project Implementation Milestones achieved and Opex Subsidy earned prior to the effective date of termination.

(c) The provisions of this Article Fifteen as to termination do not limit or restrict the rights of either party, to seek other remedies or take measures that may be otherwise available to it at law or equity in connection with the enforcement and performance of obligations under this Agreement.

ARTICLE SIXTEEN - GENERAL

16.01 Records, Audit and Inspection

(a) The USF Service Provider shall maintain all records required for preparation of the reports described in Section 9.01. The USF Service Provider shall also maintain complete records of its network plans, contracts entered into, expenses incurred in connection with the implementation of the USF Network and the provision of the USF Services, and any other records required for compliance with its obligations under this Agreement.

(b) USFCo shall have the right to send its auditors or other appointed representatives, on at least 24 hours prior notice, to the USF Service Provider's places of business for the purpose of auditing or otherwise inspecting the information and records of the USF Service Provider pertaining in any way to the performance of this Agreement.

16.02 Time of the Essence

Time is of the essence of this Agreement.

16.03 Expenses

Each of the Parties hereto will pay their respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all

documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

16.04 Public Announcements

No public announcement or press release concerning this Agreement will be made by the USF Service Provider without the prior consent and approval of USFCo.

16.05 Benefit of the Agreement

This Agreement will enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns of the Parties hereto.

16.06 Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the Parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties other than as expressly set forth in this Agreement.

16.07 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect. In the event of any such invalidity or unenforceability, the Parties agree to engage in good faith efforts to determine any amendments to the Agreement required to preserve its intended purpose and effect.

16.08 Amendments and Waiver

No modification of or amendment to this Agreement is valid or binding unless set forth in writing and fully executed by both of the Parties hereto and no waiver of any breach of any term or provision of this Agreement is effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, is limited to the specific breach waived.

16.09 Assignment

This Agreement may not be assigned by the USF Service Provider without the prior written consent of USFCo.

16.10 Subcontractors and Other Suppliers

Subject to Section 13.01, the USF Service Provider shall remain responsible for the due performance of this Agreement regardless of its engagement of subcontractors or other suppliers.

16.11 Notices

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and must be given by personal delivery or such other method as agreed to by the Relationship Liaison Committee, addressed to the recipient as follows:

To USFCo:

USFCo
Fifth Floor, HBL Tower, Jinnah Avenue,
Islamabad
Pakistan
Attention: Chief Executive Officer

To USF Service Provider:

[insert corporate name and address]
Attention: [insert title]

or to such other address or individual as may be designated by notice given by either Party to the other. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof.

16.12 Governing Law

(a) This Agreement is governed by and construed in accordance with the laws of Pakistan.

(b) Notwithstanding anything to the contrary in this Agreement:

(i) nothing in this Agreement derogates from USFCo's rights or powers under the Act or any rules or regulations made thereunder;

(ii) the provisions of this Agreement are subject to the Act, any rules or regulations made thereunder, and any Licence; and

(iii) for greater clarity, if and to the extent there are conflicts in the interpretation or application of any of the provisions of this Agreement with the provisions of the Act, or any rules or regulations made thereunder, the provisions of the Act shall prevail.

**ARTICLE SEVENTEEN - COMPLIANCE WITH ENVIRONMENTAL LAWS
AND IMPLEMENTATION OF ENVIRONMENTAL MANAGEMENT FRAMEWORK
(EMF).**

17.01

It shall be the responsibility of the USF Service Provider to comply with all Federal, provincial or local environmental laws, rules and regulations including laws relating to Alternate or Renewable Energy applicable in Pakistan, including, without limitation, the laws referred to in the Environmental Assessment by the World Bank Consultant which is attached as Schedule G.

17.02

The USF Service Provider shall also comply with the Environmental Management Framework (EMF) and related processes described in Schedule G.

[end of Agreement]

IN WITNESS WHEREOF the Parties have executed this Agreement.

USFCo

Per: _____
[insert name], Chief Executive Officer

c/s

USF SERVICE PROVIDER

Per: _____
[insert name and title]

c/s

SIGNED, SEALED AND DELIVERED
in the presence of:

Witness for USFCo

[insert name]

Witness for USF Service Provider

[insert name]

SCHEDULE A

Basic Public Telephone Access Services: Availability and Quality Specifications

1. Telephony Services

(a) The USF Service Provider shall provide Basic Public Telephone Access Service in all of the cities, towns, villages or Muzas identified in Schedule C as being mandatory for USF Network and USF Service coverage. For the purposes of this Schedule A, Basic Public Telephone Access Service means the provision of:

(i) two-way live voice telephone service; and

(ii) international telephony service.

(b) For provision of voice telephony services compatible with existing 2G services, the networks deployed should be backward compatible with 2G voice services and 2G handsets.

(c) For the purposes of this Schedule A, the PSTN includes the networks of PTCL, all licensed providers of Local Loop (“LL”) and Wireless Local Loop (“WLL”) services, all licensed providers of Long Distance International (“LDI”) services, and all licensed providers of Mobile Cellular services.

(d) The Telephony Services are further defined as follows:

(i) **Not Applicable**

(ii) **Private Voice Telephony** – Private voice telephony service, including incoming and outgoing local direct dial calling and national and international direct dial long distance calling shall be provided throughout the USF Areas described in Schedule C as being mandatory for USF Network and USF Service coverage, in accordance with the Project Implementation Milestones and the following:

a) The availability of the Private Voice Telephony service shall be effectively advertised to the public in the USF Areas, and the USF Service Provider must invite requests for service and publish its service plan and tariffs.

b) Subscriber contracts for the Private Voice Telephony service shall be of a standard form approved in advance by the PTA.

c) Once the USF Services are available in a coverage area, the USF Service Provider shall fulfill requests for the Private Voice Telephony service within a period of ten (10) Business Days from receipt of the request.

d) Subscriber terminal or customer premises equipment required to make use of the voice telephony service shall be as affordable

(including installation or service charges if any) to the public as that of common subscriber terminals for voice telephony available in urban areas of the country.

(iii) **Operator and National Emergency Services** – The Telephony Services provided by the USF Service Provider in the USF Areas shall provide access to an operator service and an emergency response service, which are either compatible with or connected to the operator and emergency response services provided by other licensed service providers, and which meet any other requirements for such services identified by the PTA.

2. **Service Availability**

(a) The Telephony Services shall become available in all of the cities, towns, villages and Muzas identified in Schedule C as being mandatory for USF Network and USF Service coverage in accordance with the USF Project Implementation Milestones identified in Schedule D.

(b) The USF Service Provider shall ensure that the Telephony Services are maintained and continued, and meet applicable service requirements and quality of service standards, throughout the Term of the Agreement.

3. **Not Applicable**

4. **Quality of Service**

(a) **Quality Criteria for Telephony Services** – The USF Service Provider shall meet all quality of service requirements for the Telephony Services identified in the USF Service Provider's Licence(s), or otherwise established by the PTA.

(b) **Quality of Service Reporting for Telephony Services** – Quality of service reports for the Telephony Services shall be provided in accordance with Section 9.01 of the Agreement and any requirements for quality of service reporting established by the PTA.

SCHEDULE B

Internet Access and Data Services, Availability and Quality Specifications

1. Internet Access Services

(a) The USF Service Provider shall provide the Internet Access Services, in USF areas mentioned in schedule C.

(b) The Internet Access Services are defined as follows:

(i) **Not Applicable**

(ii) **Private Internet Access Service** –The USF Service Provider must offer Private Internet Access Service. Each subscriber of this service shall be provided with access to the Internet:

- a) for both incoming and outgoing Internet traffic;
- b) available from one or more computers at the subscriber's premises;
- c) at the data rates specified in Section 2(a) of this Schedule B;
- d) based on appropriate ITU standards; and
- e) Not Applicable

(iii) **Internet Applications Service** – Each subscriber of Internet Access Service, which includes Public Internet Access Service and Private Internet Access Service, shall be provided with access to common Internet applications, including:

- a) “email service”, meaning a service that provides subscribers with an e-mail address from which they can receive and transmit e-mail to e-mail servers throughout the public global Internet.
- b) “web browsing service”, meaning a service that allows subscribers to access information on the World Wide Web.
- c) “file transfer service”, meaning a service that provides subscribers with the ability to download files from Internet sites that comply with DNS addressing standards.
- d) “Domain Name System (DNS) service”, meaning a service that allows subscribers to access Internet sites.

(iv) **Subscriber Technical Support** – Each subscriber to Private Internet Access Service, and each user of Public Internet Access Service, shall be provided with technical support in accordance with the following:

- a) initial and ongoing technical support, which will assist users:
 - i) in configuring computer hardware and software settings as necessary in order to use the Internet Access Services; and
 - ii) in resolving technical problems that they experience when using the Internet Access Services.
- b) Subscribers to Private Internet Access Service shall also be provided with a Helpline number (the “Subscriber Technical Support Hotline”) that subscribers can call to report any trouble they are experiencing with the service and obtain real-time technical assistance to resolve the trouble they are experiencing.

2. Minimum Service Requirements

- (a) The Public Internet Access and the Private Internet Access Services may be provided by any network technology which can provide a minimum data transfer rate of 512 kbps (upstream and downstream).

3. Service Provision

- (a) Subject to the other provisions of this Schedule B, the USF Service Provider shall fulfill all requests for Private Internet Access Service:
 - (i) within one month from receipt of the request; or
 - (ii) where significant upgrades to the infrastructure of the USF Network are required to fulfill the request, such as the installation of additional wireless equipment or the laying of transmission lines to the subscriber’s premises, no later than three months from receipt of the request.

4. Not Applicable

5. Service Availability

- (a) The Internet Access Services shall become available in the USF Areas in accordance with the USF Project Implementation Milestones identified in Schedule D and the requirements of this Schedule B.
- (b) The Service Provider shall ensure that the Internet Access Services are maintained and continued, and meet applicable service standards and quality of service requirements, throughout the term of the Agreement.
- (c) The availability of the Internet Access Services shall be effectively advertised to the public in the USF Areas, and the USF Service Provider shall publish its service plans and tariffs.
- (d) Subscriber contracts for the Internet Access Services shall be of a standard form approved in advance by the PTA.

6. Quality of Service

Quality Criteria for Services – In addition to the service requirements identified in this Schedule B, the Internet Access Services shall be provided in accordance with all quality of service requirements specified in the USF Service Provider’s Licences, and any other quality of service requirements established by the PTA.

SCHEDULE C

To be provided to Registered Bidders Only.

SCHEDULE D

USF Project Implementation and Subsidy Payment Schedule

1. The USF Subsidy shall consist of a total subsidy payment of Pakistan rupees [insert total amount of USF Subsidy], payable by USFCo to the USF Service Provider in specific installments in accordance with this Schedule D. All USF Subsidy installment payments shall be payable in PKR. The above subsidy comprises of Rs. [insert Capex Subsidy] as Capex Subsidy and Rs. [insert Opex Subsidy] as Opex Subsidy.
2. The USF Subsidy installments shall be paid by a form of bank instrument selected by USFCo in its sole discretion, but all payments by USFCo to the USF Service Provider shall comply with all applicable laws, rules and regulations.
3. The USF Service Provider shall send USFCo a written confirmation of receipt of all USF Subsidy installments.

USF Capex Subsidy Payment Schedule

4. Subject to the provisions of Article Thirteen of the Agreement and this Schedule D, the USF Subsidy, excluding portion of USF Opex Subsidy, shall be payable in accordance with following schedule of payments. The payments shall include an initial mobilization payment and the Project Implementation Milestones and amounts identified in the following tables:

Project Mobilization Payment		Installment Payable (percentage of USF Subsidy)	Total Amount to be Paid
1.	Payable within fifteen (15) Business Days of Effective Date.	20%	PKR [xxx]

Milestone Number	Project Implementation Milestone	Installment Payable (percentage of USF Subsidy)	Total Amount to be Paid
1.	Demonstration that the USF Network provides coverage of, and that the USF Services are available to, at least 25% of the total unserved villages identified in Schedule C.	20 %	PKR [xxx]
2.	Demonstration that the USF Network provides coverage of, and that the USF Services are available to, at least 50% of the total unserved villages identified in Schedule C.	20 %	PKR [xxx]

3.	Demonstration that the USF Network provides coverage of, and that the USF Services are available to, at least 75% of the total unserved villages identified in Schedule C.	20 %	PKR [xxx]
4.	Demonstration that the USF Network provides coverage of, and that the USF Services are available to, 100% of the total unserved villages identified in Schedule C.	20 %	PKR [xxx]

5. Timing of completion of each of the Project Implementation Milestones set out in the table above shall be at the discretion of the USF Service Provider. However, the USF Service Provider must achieve all four (04) Project Implementation Milestones as per following:
 - a. First Milestone must be achieved within six (6) months of the Effective Date.
 - b. Rest three Milestones must be achieved within twelve (12) months of the Effective Date (the “Final Implementation Date”).
6. For the purposes of the Project Implementation Milestones set out in the table above, “available” means that the services are fully operational and are accessible by at least sixty per cent (60%) of the total population in each of the identified villages in accordance with the Agreement, including, but not limited to, the service requirements and quality of service standards identified in Schedules A and B.
7. The USF Service Provider shall provide each of USFCo and the Technical Auditor with a notice in writing (a “Project Implementation Milestone Notice”) upon completion of each Project Implementation Milestone.
8. Within 15 Business Days of receipt of a Project Implementation Milestone Notice, the Technical Auditor shall either:
 - (a) certify in writing (a “Project Implementation Milestone Certification”) to the Parties that the Project Implementation Milestone has been completed; or
 - (b) indicate in writing to the Parties that the Project Implementation Milestone has not been completed, providing reasons for this conclusion.
9. Where the USF Service Provider disputes any notice from the Technical Auditor that a Project Implementation Milestone has not been completed, the dispute will be resolved in accordance with Article 10 of the Agreement.
10. Each installment of the USF Subsidy will be paid to the USF Service Provider within 45 Business Days of USFCo receiving a written Project Implementation Milestone Certification from the Technical Auditor certifying that the USF Service Provider has completed the relevant Project Implementation Milestone.

- (a) The fourth milestone payment will be adjusted on an equitable basis taking into account the approved BoQ, delivered BoQ and coverage provided subject to the provision that the total amount payable shall not exceed CAPEX Subsidy. Same principle would apply for USF Opex Subsidy.
11. Where a Project is only partially completed due to Force Majeure Event for which Force Majeure Certification has been issued, and the Force Majeure Event is likely to continue and where the Service Provider is unable to complete the project and has also submitted the closure request, the final project payment will be adjusted on an equitable basis (subject to the provision that the total amount payable shall not exceed CAPEX Subsidy) taking into account, the approved BoQ and coverage provided as per Schedule C to the SSA. Same principle would apply for USF Opex Subsidy

USF Opex Subsidy payment Schedule

12. Subject to the provisions of Article Thirteen of the Agreement and this Schedule D, the USF OPEX Subsidy for each of the year one, two and three shall be paid in 16 equal quarterly installments. The quarterly installments shall start immediately after completion of each of the Milestones, in the following manner:
- (a) After completion of 1st Milestone and issuance of Project Implementation Milestone Certification, USF Service Provider shall start getting 04 out of 16 equal quarterly installments of 1st year Opex Subsidy. Then USF Service Provider will get next 04 out of 16 equal quarterly installments of 2nd year Opex Subsidy. And after that USF Service Provider will get 04 out of 16 equal quarterly installments of the 3rd year Opex Subsidy. Thus over a period of three years (or 36 months) USF Service Provider will get 12 quarterly installments.
- (b) Same process of payment of Opex Subsidy shall be repeated for each subsequent milestone so that by the end of 3rd year (counted from the Implementation Milestone Certification of the 4th Milestone), USF Service Provider gets 48 installments covering entire amount of Opex Subsidy for the Project.
13. In case of cumulative unscheduled downtime of USF Network and/or USF Services for more than One week in a quarter for which the Opex Subsidy is being given, USFCo shall be entitled to deduct proportionate amount on per day basis from the next installment of Opex Subsidy or Performance Bond, as the case may be. The method of calculation of per-day Opex Subsidy shall be to divide the Opex Subsidy of that quarter over a period of 90 days.

A) Total OPEX is Rs. XXX for 3 years		
B) OPEX per annum	[A/3]	Million
C) 1st Year Subsidy (max 75%)	XXX	Million
D) 2nd year subsidy (max 50%)	XXX	Million
E) 3rd year Subsidy (max 25%)	XXX	Million

	Year One				Year Two				Year Three			
	16 equal installments (in million Rs.)				16 equal installments (in million Rs.)				16 equal installments (in million Rs.)			
MS1	C/16	C/16	C/16	C/16	D/16	D/16	D/16	D/16	E/16	E/16	E/16	E/16
MS2	C/16	C/16	C/16	C/16	D/16	D/16	D/16	D/16	E/16	E/16	E/16	E/16
MS3	C/16	C/16	C/16	C/16	D/16	D/16	D/16	D/16	E/16	E/16	E/16	E/16
MS4	C/16	C/16	C/16	C/16	D/16	D/16	D/16	D/16	E/16	E/16	E/16	E/16

Four Milestones for each project and total Opex Subsidy over three years for 4 MS which comes to 48 installments starting after the completion of each successful milestone.

SCHEDULE E

Material Events of Default

1. Breach by USF Service Provider

- (a) Each of the following shall be deemed to be a material breach by the USF Service Provider for which USFCo will be entitled to terminate this Agreement in accordance with Article Fifteen:
- (i) Failure by USF Service Provider to meet the Final Implementation Date identified in paragraph 5 of Schedule D.
 - (ii) The accumulation of liquidated damages under clause 4.01 (a) (iii) equal to ten percent (10%) of the USF Subsidy amount payable for the affected Project Implementation Milestone(s);
 - (iii) Repeated failure to meet the USF Service Availability and Quality Specifications set out in Schedules A and B, the cumulative effect of which significantly affects public use or enjoyment of the USF Services in the USF Areas.
 - (iv) The occurrence of a change in ownership or Control of the USF Network that is contrary to Article Three.
 - (v) Failure by the USF Service Provider to maintain its incorporation in and under the Companies Ordinance or to comply with eligibility requirements for Pakistani companies that are established under applicable Pakistani laws.
 - (vi) Any misconduct of the USF Service Provider, or any other Person on the USF Service Provider's behalf, described in section 52 of the RFA.
 - (vii) Failure of the USF Service Provider to adequately address any matters identified by an applicable regulatory authority falling within the scope of the USF Services, to such regulatory authority's reasonable satisfaction.
 - (viii) The USF Service Provider commits any other material breach of this Agreement which breach is not capable of being cured.

2. Breach by USFCo

- (a) It shall be deemed to be a material breach by USFCo for which the USF Service Provider will be entitled to terminate this Agreement in accordance with Article Fifteen, where:
- (i) The Technical Auditor fails to take any action in response to a Project Implementation Milestone Notice (reference: paragraphs 5 and 6 of Schedule D); or
 - (ii) USFCo fails to pay undisputed payments of the USF Subsidy due to the USF Service Provider exceeding PKR 1,000,000.

SCHEDULE F
Irrevocable Bank Guarantee

Issuing Bank: _____

(insert name and address of issuing bank)

Date of Issue: _____

Bank Guarantee No: _____

Maximum Amount of Bank Guarantee _____ (40% of USF total subsidy amount)

(insert amount, in PKR, in numbers and words)

Applicant: _____

(insert full legal name and address of the USF Service Provider)

Beneficiary:

Universal Service Fund

5th Floor, Habib Bank Tower

Jinnah Avenue

Islamabad

On behalf of our client (the “Applicant”) we hereby issue in your favour this Irrevocable Bank Guarantee (the “IBG”) for the maximum amount identified above.

The IBG is available with the Bank, and will be paid, against presentation of the following documents:

- 1) The Beneficiary’s demand on the Bank in the form attached hereto as Appendix “A”, signed by the CEO of the Beneficiary, indicating the amount to be drawn under this IBG, the number of this IBG, the date of issue of this IBG, and the name of our Bank.
- 2) This IBG for endorsement by us of the amount drawn and, on final drawing, for cancellation.

This IBG is irrevocable and shall remain valid for 5 years up to and including the [*date*] day of [*month*], [*year*]

Partial drawings are permitted.

We will honour each drawing made in conformity with the terms of this IBG without enquiring whether you have, as between you and the Applicant, the right to make such drawing and without recognizing any claim of the Applicant.

This IBG shall be governed by and construed in accordance with the laws of Pakistan. We hereby irrevocably and unconditionally accept exclusive jurisdiction of the Courts at Islamabad.

Issuing Bank

Authorized Signing Officer

SCHEDULE F(1)

Irrevocable Bank Guarantee

Issuing Bank: _____
(insert name and address of issuing bank)

Date of Issue: _____

Bank Guarantee No: _____
Maximum Amount of Bank Guarantee _____ (40% of subsidy amount)
(insert amount, in PKR, in numbers and words)

Applicant: _____
(insert full legal name and address of the USF Service Provider)

Beneficiary:
Universal Service Fund
5th Floor, Habib Bank Tower
Jinnah Avenue
Islamabad

On behalf of our client (the "Applicant") we hereby issue in your favour this Irrevocable Bank Guarantee (the "IBG") for the maximum amount identified above.

The IBG is available with the Bank, and will be paid, against presentation of the following documents:

- 1) The Beneficiary's demand on the Bank in the form attached hereto as Appendix "A", signed by the CEO of the Beneficiary, indicating the amount to be drawn under this IBG, the number of this IBG, the date of issue of this IBG, and the name of our Bank.
- 2) This IBG for endorsement by us of the amount drawn and, on final drawing, for cancellation.

1. This IBG is irrevocable and shall remain valid for 1 year up to and including the [*date*] day of [*month*], [*year*]

Partial drawings are permitted.

We will honour each drawing made in conformity with the terms of this IBG without enquiring whether you have, as between you and the Applicant, the right to make such drawing and without recognizing any claim of the Applicant.

This IBG shall be governed by and construed in accordance with the laws of Pakistan. We hereby irrevocably and unconditionally accept exclusive jurisdiction of the Courts at Islamabad.

Issuing Bank

Authorized Signing Officer

Appendix "A"

To Irrevocable Bank Guarantee No. _____

Issued by _____ Bank

Drawn Under IBG No.: (insert IBG number and date)

To: (insert name and address of Issuing Bank)

The undersigned hereby demands that (Name of Issuing Bank) pay to the order of the undersigned the sum of Pakistan rupees _____ under the IBG described above.

Dated: (insert date)

Universal Service Fund

CEO

SCHEDULE G

Rural Telecommunications and e-Services Project

ENVIRONMENTAL ASSESSMENT

Document is available at website of USFCo at:
<http://www.usf.org.pk/Rules-Policies.aspx>

LETTER OF LIEN

....., 20[YY]

Universal Service Fund
Fifth Floor, HBL Tower,
Jinnah Avenue, Islamabad
Sub:

LETTER OF LIEN TO THE EXTENT OF _____ [●¹]

Dear Sirs,

In consideration of you, Universal Service Fund, a company listed under the Companies Ordinance 1984 having its principal office at Fifth Floor, HBL Tower, Jinnah Avenue, Islamabad through its Chief Executive Officer, (hereinafter referred to as “USFCo”), providing/agreeing to provide subsidy to the tune of Rs. _____ to us under USF Services and Subsidy Agreement (SSA) dated _____, and as per Clause 6.02 of the SSA and Rule 26(6) of USF Rules 2006, we, _____ Limited, a company incorporated under the Companies Ordinance 1984 and having its registered office at _____ (hereinafter referred to as the “USF Service Provider”), do hereby create Lien on the assets specified in Schedule-A hereto (the “Property under Lien”) in your favour for the purpose of securing the provision of services in the USF area for a period of ten years from the Effective Date of SSA or repayment of the Subsidy Amount upto an amount of Rs. [●²] (Rupees _____ Only) and other moneys payable under the SSA.

We further, irrevocably and unconditionally, undertake, agree, covenant and confirm as follows:

ARTICLE ONE - LIEN

1.01 Property under Lien

We hereby create lien in favour of USFCo all our moveable and immovable properties mentioned in Schedule A to this Letter and our assets as may hereafter be acquired by us for deployment of the USF Network in the USF Areas, together with the benefits of all rights relating thereto (all such properties and assets herein to be collectively called the “Property under Lien”) as security for provision of the USF Services in the USF Areas in accordance with the SSA, or repayment by us of the USF Subsidy and other moneys payable under the SSA.

1.02 No further lien

The Property under Lien shall be kept and held always distinguishable and as USFCo’s exclusive property specially appropriated to the security and we shall not create any

¹ Insert Value of USF CAPEX Subsidy only as mentioned in SSA

² Insert Value of USF CAPEX Subsidy only as mentioned in SSA

mortgage, charges, lien or encumbrance affecting the same or part with the Property under Lien except with the prior permission in writing of USFCo.

1.03 **Right to inspect**

We hereby permit USFCo, its agents, nominees and employees from time to time after giving reasonable notice to enter upon, during normal working hours, any premises wherein the Property under Lien or any part thereof may for the time being be and to view/inspect and value the same and take inventories thereof and shall render to USFCo, its agents, nominees and employees all facilities and reasonable assistance as may be required for any of the purposes aforesaid.

1.04 **Free from distress**

We shall punctually pay all rents, rates, taxes and other outgoing expenditures for the premises wherein the Property under Lien shall be stored and keep the same free from distress.

1.05 **Insurance**

During the validity of the SSA, we shall keep the Property under Lien insured in accordance with Article 7 of the SSA.

1.06 **No change**

We undertake that during the term of the SSA the listed machinery and equipment (as further defined in the USF Services and Subsidy Agreement) shall not be removed, disposed of or impaired in any manner whatsoever, except for repair, maintenance or replacement in the ordinary course of business.

1.07 **Information**

The USF Service Provider shall make and furnish to USFCo all statements and reports of the cost and market value of the Property under Lien and a full description thereof and produce such evidence in support thereof as USFCo may from time to time reasonably require.

ARTICLE TWO - REPRESENTATION AND INDEMNIFICATION

2.01 **Right to enter**

In the event of, we committing a breach of any of the terms and conditions of this letter or of the SSA, USFCo and its officers and agents shall be entitled without notice to us and at our risk and expense and if so required as attorneys for and in our name to enter and remain at any place where the Property under Lien shall be and to take possession or recover and receive the same and/or appoint any officer or officers of USFCo as receiver or receivers of the Property under Lien, confiscate the same, and/or sell by public auction or private contract or otherwise dispose off or deal with all or any part of the Property under Lien and to enforce, release, settle, compromise and deal with any of aforesaid without being bound to exercise any of these powers or being liable for any loss in the exercise thereof, except where

such loss is caused by the negligence or misconduct of USFCo or its officers, agents or receivers and without prejudice of USFCo's other rights and remedies including the right of legal action against us and to apply the net proceeds of such sale in or towards the repayment of the USF Subsidy and any other moneys that have become due under the SSA and have not been paid by us and we hereby agree to accept USFCo's account of sales and realization, except in case of any error or omission, and to pay any shortfall or deficiency therein shown. Provided, however, that the powers hereunder shall always be exercised to the extent of the Property under Lien.

2.02 **Clear Title**

We hereby declares that all the Property under Lien is our absolute property, at our sole disposal and free from any prior charges or encumbrance and that we have not done or knowingly suffered or been party or privy to anything whereby we are in any way prevented from creating lien over Property under Lien in the manner aforesaid. We shall do and execute at our cost all such acts and things for further and more particularly ensuring that the rights and remedies regarding the Property under Lien or any part thereof, under this letter, remain fully enforceable for the benefit of USFCo, as may be required by USFCo, and for giving better effect to this letter, we authorize and irrevocably appoint USFCo and/or its officers as attorney or attorneys for and in our name to act on our behalf and to execute or do any acts or things which we ought to execute or do under this letter and generally to use our name in the exercise of the powers hereby conferred.

2.03 **Indemnification**

- a) We hereby agree and undertake to comply with all provisions of the various laws, orders, regulations, rules and notifications, already promulgated or that may be promulgated hereafter by the Government or any other authority.
- b) Nothing herein contained shall prejudice any of USFCo's rights or remedies in respect of any present or future security, guarantee, obligation or decree for our any indebtedness or liability.
- c) We shall indemnify and keep USFCo safe, harmless and indemnified against all losses, damages, detriments, harms, claims, liabilities, demands, actions, proceedings, costs, charges and expenses that may reasonably be sustained by or be made against or incurred by USFCo or to which USFCo may become a party hereunder, provided the same have arisen solely and directly from and default or breach of our obligations under the SSA and this Letter.

2.04 **Continued security**

The security hereunder shall operate as continuing security for all our liabilities notwithstanding any partial performance that may be made from time to time and continue till we shall discharge our obligations under this letter and the SSA in accordance with their respective terms, whereupon this security shall stand discharged.

ARTICLE THREE - GENERAL

3.01 Remedies

Nothing herein contained shall extinguish, derogate from, curtail, prejudice, impair or otherwise affect all or any of USFCo's rights and remedies under the said SSA or that may otherwise be available to USFCo under any law in respect of the USF Subsidy or the SSA.

3.02 No Waiver

If USFCo does not enforce any of its rights hereunder in the event of breach or non-compliance by us with the terms and conditions herein contained, the inaction or omission of USFCo to take action shall not be treated as waiver or abandonment of any such rights.

3.03 Territorial Jurisdiction

This Letter shall be governed by and construed in accordance with the laws of Pakistan and the Courts at Islamabad shall have exclusive jurisdiction in all matters under this letter.

USF SERVICE PROVIDER

Per:

[insert name and title]

SIGNED, SEALED AND DELIVERED)
in the presence of:)

_____))
Witness (1))

_____))
[insert name]

_____))
Witness (2))

_____))
[insert name]

SCHEDULE “A”

(As per list attached and updated from time to time)

USF SERVICE PROVIDER

Per:

[insert name and title]

SIGNED, SEALED AND DELIVERED)
in the presence of:)

_____)
Witness (1))

_____)
[insert name]

_____)
Witness (2))

_____)
[insert name]

Annex 7: Dispute Resolution Terms and Processes

- (1) USFCo and Applicant shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with participation in the RFA Process.
- (2) Neither party to the disagreement or dispute shall commence any appeal, action or arbitration proceedings for at least, twenty-eight (28) days after any unresolved disagreement or dispute has been notified to the Chief Executive Officer of USFCo and a similarly senior officer of the Applicant. These senior officers shall engage in further discussions in an effort to resolve the disagreement or dispute within the 28 day period.
- (3) If the parties have failed to resolve their disagreement or dispute using the processes described in paragraphs (1) and (2), then either party may give notice to the other party of its intention to commence appeal, action or arbitration in accordance with the laws of Pakistan and applicable procedures.

Annex 8: Tentative Time Schedule & Correspondence Contact

1. The timetable for the RFA events, beginning with publication of the pre-auction notice, is set out below.

Tentative Time Schedule – Zhob Lot	
Event	Calendar Date
Publication of Specific Procurement notice	January 30, 2015
Distribution of RFA document	January 30, 2015
Deadline for submission of questions by bidders	February 09, 2015
Answers to questions	February 16, 2015
Deadline for Registration of bidders	March 23, 2015
Deadline for submission of Proposals	April 01, 2015
Opening of the Qualifications & Service Proposal	April 01, 2015
Complete evaluation of Qualifications & Service Proposals and announcement of Qualified Applicants	May 22, 2015
Opening of USF Subsidy Proposal of Qualified Applicants	May 25, 2015
Financial Evaluation & Issue of LOI to the Qualified Applicant with lowest subsidy offer	May 29, 2015
Receipt of Performance Bond	June 05, 2015
Execution of USF Services and Subsidy Agreement and related transaction documents	June 12, 2015

2. The sealed Proposal package shall be delivered to USFCo at the address specified in clause 4 of this Annex no later than 3 pm on Wednesday 1st April 2015.
3. If the scheduled day of an event falls on a gazetted holiday in Pakistan, the day of the event will be the next working day following the holiday.
4. All correspondence shall be addressed to:

Chief Technology Officer, USFCo.

Fifth Floor, HBL Tower,
Jinnah Avenue, Blue Area
Islamabad, Pakistan

Telephone: 051-9212308 & 9212309
Fax: 051-9214261
e-mail: projects.tenders@usf.org.pk