



CRAN

Communications Regulatory Authority of Namibia

SPECTRUM AUCTION

3300-3400 MHz

REQUEST TO BID

(ISSUED FOR PUBLIC COMMENTS ON

1 AUGUST 2023)

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SPECTRUM AUCTION 3300-3400 MHz

REQUEST TO BID

1. INTRODUCTION

The spectrum 3300-3400 MHz is allocated to MOBILE, on a primary basis, with the exclusion of aeronautical mobile services in terms of RR. 5.429A and RR. 5.429B and as set out in the Frequency Band Plan of Namibia published as General Notice No. 448, in Government Gazette No. 7617, on 31 August 2021, which respectively reads as follows-

"Additional allocation: in Angola, Benin, Botswana, Burkina Faso, Burundi, Djibouti, Eswatini, Ghana, Guinea, Guinea-Bissau, Lesotho, Liberia, Malawi, Mauritania, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sudan, South Sudan, South Africa, Tanzania, Chad, Togo, Zambia and Zimbabwe, the frequency band 3 300-3 400 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis. Stations in the mobile service operating in the frequency band 3 300-3 400 MHz shall not cause harmful interference to, or claim protection from, stations operating in the radiolocation service. (WRC-19)"

*"In the following countries of Region 1 south of 30° parallel north: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Congo (Rep. of the), Côte d'Ivoire, Egypt, Eswatini, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Malawi, Mauritania, Mozambique, **Namibia**, Niger, Nigeria, Uganda, the Dem. Rep. of the Congo, Rwanda, Sudan, South Sudan, South Africa, Tanzania, Chad, Togo, Zambia and Zimbabwe, the frequency band 3 300-3 400 MHz is identified for the implementation of International Mobile Telecommunications (IMT). The use of this frequency band shall be in accordance with Resolution 223 (Rev.WRC-15). The use of the frequency band 3 300-3 400 MHz by IMT stations in the mobile service shall not cause harmful interference to, or claim protection from, systems in the radiolocation service, and administrations wishing to implement IMT shall obtain the agreement of neighbouring countries to protect operations within the radiolocation service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. (WRC-19)."*

Frequency channel arrangements for this spectrum band are set out in ITU-R Rec. M.1036-6.

The Communications Regulatory Authority of Namibia (hereinafter referred to as "the Authority") will publish a notice in *Government Gazette* in terms of Regulation 6(1) of the Regulations prescribing Procedures regarding Application for and Amendment, Renewal or Transfer of Spectrum Licences published as General Notice No. 105, in *Government Gazette* No. 6888, on 29 April 2019.

The said General Notice serves to inform stakeholders on the assignment of the spectrum band for MOBILE services to be made available on a competitive basis by means of a spectrum auction.

2. LEGAL CONTEXT

The Authority was established in terms of the Communications Act of 2009 (Act No.8 of 2009). The Authority's duties in respect of spectrum management are set out in sections 99(1) and (2) of the said Act and read as follows-

- "(1) The Authority is vested with the control, planning, administration, management and licensing of the radio spectrum.*
- (2) In controlling, planning, administering, managing and licensing the use of the radio frequency spectrum, the Authority must comply with the applicable standards and requirements of the International Telecommunication Union and its Radio Regulations, as agreed to or adopted by Namibia"*

The Authority is vested with the powers to prescribe a Frequency Band Plan, aimed at defining radio spectrum utilisation, ensuring that such utilisation is managed in an orderly, efficient, and effective manner and providing opportunities for the introduction of the widest range of telecommunications services. Section 101 of the Communications Act, 2009, empowers the Authority to issue spectrum licenses conferring on the licensee the right to use or cause any person in his or her employ or under his or her control to use a transmitter for any prescribed purpose.

The Authority's Spectrum Assignment Strategy published as General Notice No. 673, in *Government Gazette* No. 6776, on 26 November 2018, sets out key objectives for the management of spectrum as stated hereunder-

- (i) Facilitate the availability of spectrum to be use as a tool to develop communications services and access to ICT infrastructure as a basis for social and economic development in urban and rural areas;
- (ii) Promote the effective and efficient use of spectrum within the digital dividend to address gaps in communications services and access to ICT infrastructure;
- (iii) Set conditions for spectrum use to ensure efficient use of a scarce resource and prevent anti-competitive practices such as hoarding of spectrum; and
- (iv) Ensure fair distribution of spectrum between market players to provide services in conjunction with the category of service licence awarded;

3. TIMELINES

The planned timelines for key elements of the spectrum auction process are indicated below-

ACTIVITY	DEADLINE
Publication of the Request to Bid inviting public comments	1 August 2023
Deadline for submission of comments	1 September 2023 at 16h00
Provision of reply to comments by the Authority	15 September 2023
Issuance of final Request to Bid document	18 September 2023
Deadline for Bidders to submit applications	17 October 2023 at 16h00
Confirmation of Bidders and Gazette & Newspaper Notice	18 October 2023
Consideration of bids subject to Round 1 evaluation criteria.	19 – 26 October 2023
Submission and consideration of monetary bids received (Round 2)	27 October 2023
Final approval by CRAN Board of Directors and notification of auction results to all bidders	30 October 2023 - 17 November 2023
Deadline for payment of auction price by successful bidders.	No later than 09 December 2023. The sooner the payment is made, the sooner the license will be granted.

Granting of Spectrum Licence confirmed by publication of final notice in the Gazette.	9 working days from date of payment of auction amount
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Note to bidders:

- **Kindly acquaint yourself with submission dates and timelines. No late submissions will be considered. No condonations will be considered.**
- **Making payment earlier than 09 December 2023 will result in earlier publication of the assigned spectrum license in the Government Gazette.**

4. STRUCTURE OF THE REQUEST TO BID

The Request to Bid sets out the-

- (i) The date, time, and place for Spectrum Auction;
- (ii) Bidders' qualification criteria;
- (iii) The spectrum to be assigned;
- (iv) Validity period of the spectrum licence;
- (v) Licence conditions subject to which the spectrum licence will be issued;
- (vi) Bidder's conduct;
- (vii) Publication of Request to Bid;
- (viii) Application to participate in spectrum auction;
- (ix) Qualification process for Bidders;
- (x) Communications during the spectrum auction process;
- (xi) Notification and publication of spectrum auction results;
- (xii) Payment of spectrum fees;
- (xiii) Issuance of spectrum licences; and
- (xiv) Cancellation and return of spectrum licences awarded by spectrum auction;

5. DATE, TIME, AND PLACE OF SPECTRUM AUCTION

The spectrum auction will take place as follows-

- **Round 1 (Bid evaluation)** from 19 October 2023 to 26 October 2023 at CRAN's Head office, Unit 4 & 5, Moth Centre, Peter Muller St, Windhoek; and
- **Round 2 (Consideration of financial offers)** on 27 October 2023 at CRAN's Head office, Unit 4 & 5, Moth Centre, Peter Muller St, Windhoek.

6. BIDDER QUALIFICATION AND SPECTRUM AUCTION CRITERIA

6.1 Bidder Qualification

Participation in the spectrum auction process will be limited to Bidders that meet the bidder evaluation criteria as determined by the Authority. Participation in the application and qualification process and the spectrum auction process should not be construed, in any way whatsoever as an acceptance or approval of any proposal/s made by the Bidder/s in its Request to Bid.

In terms of regulation 7 of the Spectrum Licensing Regulations, the Authority will consider the following evaluation criteria during the Bidder qualification process-

QUALIFICATION CRITERIA	YES/NO
a. The Bidder complied with the procedures and way to submit a Bid referred to in regulation 6 of the Spectrum Licensing Regulation?	
b. The Bidder has paid the non-refundable application fee of N\$ 10,000?	
c. The Bidder holds the appropriate telecommunication service licence to provide services within the borders of the Republic of Namibia or is the Bidder a new entrant and have attached a telecommunications service licence application form?	
d. Does the bidder comprise a consortium which may include the holder of a telecommunications service licence or broadcasting licence or comprise of the holders of telecommunications service licences or broadcasting licences or a combination of such licensees? (Note the spectrum on auction is for telecommunications services. A consortium involving broadcasting licensees will be	

<p>allowed, on condition that the telecommunications service licensee will be providing the services.</p> <p>Note to bidder: This criterion is only applicable to bidders that wish to form a consortium.</p>	
<p>e. Has the bidder duly completed and signed the Solvency and Financial Declaration set out in Annexure A?</p> <p>Note to bidder: This declaration must be signed by the authorised signatory.</p>	
<p>f. Is the bidder in good standing with CRAN, in that all spectrum fees, numbering fees, and all regulatory levies has been paid. Licensees with payment plans, must be up to date.</p> <p>Note to bidder: Please attach a letter of good standing issued by the Regulator.</p>	
<p>g. Has the bidder signed the Technical Declaration set out in Annexure B?</p> <p>Note to bidder: This declaration must be signed by the authorized signatory.</p>	

6.2 Disqualification of Bidder

A Bidder will be disqualified from the bidding process where such Bidder –

- (a) Did not comply with the Bidder Criteria set out in section 6.1 above. The expectation is that there must be full compliance with the criteria in section 6.1 and non-compliance, or minimum compliance will lead to ineligibility;
- (b) Submitted a Bid and is an affiliate or business associate of another Bidder or has an ownership or financial interest in respect of another Bidder who submitted a Bid relating to the same Request to Bid;
- (c) Submitted more than one Bid relating to the designated range of radio frequency spectrum stipulated in the Request to Bid;
- (d) Submitted a Bid containing false or misleading information;
- (e) Is colluding or attempting to collude with another Bidder in order to distort or manipulate information;

- (f) Obtained or acquired confidential information regarding another Bidder;
- (g) Failed to comply with the terms and conditions relevant to the Request to Bid; or
- (h) Failed to comply with a request by the Authority relating to a material aspect of the Bid.

The evaluation of the bids will take place from **19 to 27 October 2023** at CRAN's Head office, Unit 4 & 5, Moth Centre, Peter Muller St, Windhoek.

The spectrum auction will be based on multiple rounds as set out below-

ROUND 1:

Business cases submitted by the respective Bidders will be evaluated as per the criteria set out below-

- (a) Deployment of a 4G and 5G network;
- (b) The network must provide broadband services with a minimum downlink data speed of not less than 50 Mbps;
- (c) The bidder must demonstrate the ability to deploy a network that will support deployment of 5G use cases such as smart cities, industry applications, agriculture use cases or any other business case identified by a licensee;
- (d) The bidder must demonstrate how the envisaged business case is aligned to national development goals and milestones as set out in Vision 2030, the National Development Plan (NDP) 6, and the Harambee Prosperity Plan II etc;
- (a) Demonstrate the financial ability to construct, operate and maintain a network, through an appropriately detailed financial plan which indicates **the annual and total funding requirement for the provision of telecommunication services until the business operation concerned becomes self-funding**. The bidder must also submit an appropriately detailed financing plan which demonstrates **the amount and timings of the sources of funds which will be used to meeting the funding requirement** and **independent evidence of the availability of the funds identified in the financial plan**; and
- (f) The bidder must demonstrate its ability to construct, operate and maintain a network, either through previous experience or by partnering with an

entity that has the technical knowledge to construct and operate such a network.

Note to bidder:

- **For each criterion above, the bidder may submit any other additional considerations that the bidder believes will set their business case apart.**
- **Please refer to the weights allocated for each criterion on “Annexure C” to this bid document. Only bidders that score 80% and above will be considered for Round 2.**
- **The score of 80% and above obtained in Round 1 will not advantage a bidder in round 2. For instance, if two bidders (one scoring 80% and once scoring 85%) both proceed to round 2, the bidder with the highest financial offer will be assigned the spectrum. The 80% and above mark is only material for the bidder to proceed to round 2.**

ROUND 2:

Bidders that score 80% and more in Round 1 will qualify to participate in Round 2 of the spectrum auction. The reserve price for each lot is set out in section 6. The final price to be paid will be determined by the auction process during the second round of competitive bidding.

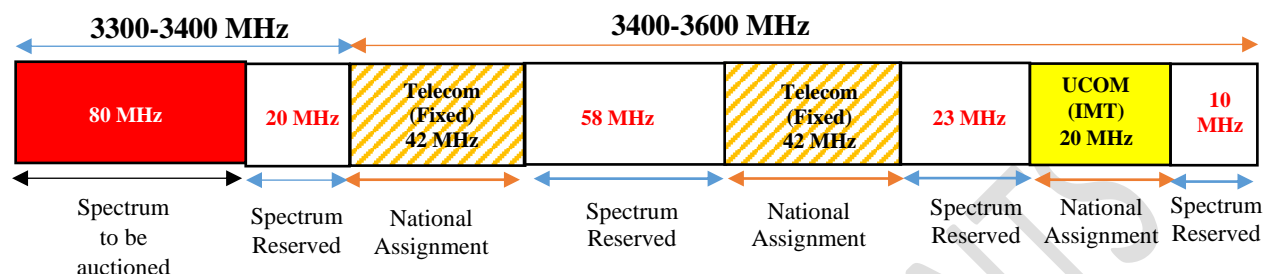
Note to bidder: The bidder submitting the highest financial offer per Lot, will be awarded the licence.

7. SPECTRUM TO BE ASSIGNED

This section should be read together with the following regulatory notices-

- (i) The Frequency Band Plan of Namibia published in Government Gazette No. 7617, General Notice No. 448 dated 31 August 2021; and
- (ii) The Regulations prescribing Procedures regarding Application for, and Amendment, Renewal or Transfer of Spectrum published as General Notice No. 105, in Government Gazette No. 6888, on 29 April 2019 (hereinafter referred to as “the Spectrum Licensing Regulations”).

The Authority intends to assign 1x 80 MHz in the spectrum band 3300-3400 for MOBILE services to be used for the deployment of 5G services. The spectrum blocks to be assigned are shown in the diagram below-



The Authority will assign the “right-to-use” spectrum on a competitive basis by means of a spectrum auction as indicated below-

Socio-economic philosophy

The spectrum band 3300-3400 for MOBILE IMT services is mid band frequency that offers higher speed but smaller coverage radius. Mid-band spectrum (1 GHz - 6 GHz) is considered perfect for 5G because it can carry plenty of data while traveling significant distances. 5G will allow network operators to deliver ultrahigh-speed broadband to suburban and lower density areas, supporting home and business applications where fibre is prohibitively expensive to lay and maintain. This will allow more communities to be connected to the internet via an ultrafast, reliable connection, bringing applications such as telemedicine and remote education to more people.

5G will provide the capacity to handle growing data traffic, and grant operators an opportunity to develop new and improved services to consumers. This will enable a new range of applications, including reliable mobile internet services for mass gatherings and sports events. Low latency and high reliability will enable new applications in manufacturing, logistics, health and transportation. 5G will be able to facilitate a large network of IoT devices, supporting the creation of smart cities, smart infrastructure and, in the utility sector, smart grids capable of self-identifying issues on networks¹.

The spectrum will therefore be allocated on a regional basis to allow for smart cities and the development of oil and gas and agriculture use cases or any other business case identified by a licensee as follows:

¹ <https://www.gsma.com/spectrum/wp-content/uploads/2022/02/mid-band-5G-spectrum-benefits.pdf>

Lot No.	Coverage Area
Lot A: 3300 – 3380 MHz (TDD)	Khomas Region
Lot B: 3300 – 3380 MHz (TDD)	Erongo Region
Lot C: 3300 – 3380 MHz (TDD)	Oshana Region
Lot D: 3300 – 3380 MHz (TDD)	!Karas Region
Lot E: 3300 – 3380 MHz (TDD)	Any other region identified by a Licensee for a business case.

The regions were identified based on some or all of the criteria: the centrality of the region, the socio-economic impact of 5G on the region, the possibility of future growth of specialised sectors and upcoming key economic projects such as oil and gas and green hydrogen, green schemes for e-agriculture and other energy projects planned.

The above spectrum block will be assigned on contiguous basis of 80 MHz per lot.

The reserve price is the minimum price that the Authority will accept for each lot in the spectrum auction process as set out hereunder-

Lot: N\$ 5,000,000. (Five million Namibian Dollars) per lot over a period of ten (10) years.

A bidder is required to bid to participate in the spectrum auction indicating the lot(s) it intends to bid for.

8. VALIDITY PERIOD OF SPECTRUM LICENCE

The spectrum licences awarded via the spectrum auction will be valid for a period of ten (10) years from date of publication in the *Government Gazette*.

9. LICENCE CONDITIONS SUBJECT TO WHICH THE SPECTRUM LICENCE WILL BE ISSUED

9.1 General spectrum licence conditions

The spectrum licence as awarded is subject to all provisions of the Communications Act, 2009, (Act. No. 8 of 2009), and the Spectrum Licensing Regulations.

The holder of the spectrum licence is duly authorised to-

- (i) transmit any signal by radio waves, use radio apparatus to receive any signal transmitted by radio waves or instruct, permit, or prohibit any person(s) in their employ or under their control to perform any of these actions; and
- (ii) use or cause any person in their employ or under their control to use a transmitter for any prescribed purpose or to use radio frequencies or radio receiver for any purpose and in the manner prescribed or determined in the spectrum licence concerned.

The spectrum licence awarded shall not confer any ownership rights of the frequencies indicated on the spectrum licence certificate, but only grant the licensee a right-to-use the spectrum assigned.

The spectrum licence awarded authorizes the holder of the said Licences to utilise the frequencies specified on the spectrum licence certificate within the geographical area specified on the spectrum licence certificate and final notice published in the Government Gazette. The spectrum licence is further awarded subject to any other licence conditions as set by the Authority.

Efficient use of spectrum must be adhered to at all times. The Authority may request the Licensee to prove efficient use of the frequencies specified on the spectrum licence certificate.

The spectrum use licence is awarded for the sole use of the licence holder. The trading or subleasing of the spectrum licence awarded, is strictly prohibited.

Hoarding of spectrum is strictly prohibited.

Transfer of the spectrum licence without prior approval by the Authority is strictly prohibited.

9.2 Licence Term and Renewal

The spectrum licence will be valid for a period of ten (10) years from date of publication of the assignment in the Government Gazette.

A Licensee must apply for the renewal of its spectrum licence not less than six (6) months prior to the expiry date of the spectrum licence. The Authority will consider renewing the spectrum licence for a further period of ten (10) years. The license fees payable on renewal will be as prescribed in the relevant Government Gazette before the renewal.

The spectrum licence will not be renewed if the Licensee has contravened the provisions of the Communications Act, 2009, the provisions of the Spectrum Licensing Regulations or any of the licence conditions set by the Authority.

9.3 Technical Conditions

The Licensee shall comply in its use of the frequencies specified on the spectrum licence certificate to ITU regulations and recommendations and the Frequency Band Plan for Namibia as published in the Government Gazette from time to time which includes amongst others.

- (a) Recommendation ITU-R M.2012-5 (02/2022): Detailed specifications of the terrestrial radio interfaces of International Mobile Telecommunications-Advanced (IMT-Advanced).
- (b) Recommendation ITU-R M.2150-1 (02/2022): Detailed specification of the terrestrial radio interfaces of International mobile Telecommunications-2020 (IMT-2020).

Utilisation of the assigned radio frequency spectrum is subject to maximum radiated power as set out hereunder-

- (a) Mobile stations transmissions must not exceed 23 dBm E.I.R.P.
- (b) The in-block base station power limit is 68 dBm/5 MHz E.I.R.P.
- (c) A higher E.I.R.P. may be permitted if technical justification has been provided. Approval of such a concession will be considered on a case-by-case basis by the Authority prior to any implementation thereof.
- (d) Subscriber terminal stations should comply with technical specifications as outlined in the latest version of 3GPP specifications (TS 36.521-1 for 4G(LTE) and TS 38.521-1 for 5G New Radio (NR)

The Licensee must prevent harmful interference with other licensees in the same or adjacent spectrum bands.

Licensees intending to deploy services in the vicinity of any airport should prior to the deployment of services seek approval from both the Authority and The Namibia Civil Aviation Authority. The following information should be provided.

- (a) Tower location
- (b) Technology (4G/5G)
- (c) Power output.
- (d) Antenna tilt
- (e) Tower height

The Licensee must prevent harmful interference with other licensees across international borders, in line with the coordination distances set out below. Coordination distances may be reviewed by the Authority from time to time.

To this end, the use of the spectrum as assigned will require coordination with neighbouring countries within the coordination zones set out hereunder-

- (f) 6 km in case of coordination carried out for 4G/5G-to-4G/5G technology from the neighbouring country.
- (g) 9 km in case of coordination carried out from 4G/5G to other technologies from the neighbouring country.

The Licensee is required to inform the Authority in advance of its intention to construct and operate its network within the perimeters set out above, to allow for the conclusion of the coordination process pertaining to the use of frequencies between the regulatory bodies of the affected countries prior to the provision of telecommunications services.

9.4 Rollout Obligations

The Licensee shall utilise the frequencies specified on the spectrum licence certificate to provide mobile services maintaining a download data speed of not less than 50 Mbps to ensure meaningful connectivity to consumers.

The Licensee shall construct, maintain, and operate a 4G or 5G network as set out in the business case submitted by the Licensee during the bidding process.

The Licensee is under no obligation to construct its own tower infrastructure to meet the rollout obligations but may enter into infrastructure-sharing agreements with other licensees as provided for in terms of the Infrastructure Sharing Regulations.

The Licensee may implement a pilot phase for a testing period not exceeding 3 months prior to commercial launch of its envisage services as detailed in its business case.

9.5 Payment of Spectrum Fees

The spectrum licence will be issued subject to payment of the auction price in full as follows-

- (i) the licence fee will be payable over a period of ten (10) years from date of issuance;
- (ii) The licence fee will be payable in advance in ten (10) equal amounts to be paid on an annual basis; and
- (iii) The licence fee each year will be payable on or before the payment deadline of 31 December each year.

In case of no payment, delayed or incomplete payment received by the deadline(s) as set out the in the results notification, the Authority has the right to cancel the spectrum licence.

Should the spectrum licence be renewed, the Licensee will be required to pay the annual spectrum fees as set out in the spectrum fee regulations at the time of renewal.

9.6 Reporting, Monitoring and Compliance

The Licensee must report quarterly to the Authority on its progress to meet the implementation plan set out in its business case and subsequently imposed as licence conditions by the Authority.

All reports must be submitted utilising the Authority's portal in respect of reporting requirements set out in General Notice No. 24, of Government Gazette No. 7445, dated 01 February 2021.

The Authority, in the course of carrying out its obligations under the Communications Act, 2009 and its supporting regulatory framework, may require the Licensee to provide information, so as to enable it to-

- (i) Assess efficient use or hoarding of spectrum;
- (ii) Monitor and enforce quality of service, compliance with licence conditions;

- (iii) Addressing harmful interference; and
- (iv) Monitor and enforce any provisions of the Act or other regulations.

9.7 Cancellation

The Authority reserve the right to cancel the spectrum licence on non-payment of spectrum fees, contravention of the provisions of the Communications Act, 2009 or the Spectrum Licensing Regulations.

If the licensee fails to make payment of the spectrum price or part of the spectrum auction price as per the payment schedule set out in the result notification the Authority will cancel the licence in terms of regulation 19 of the Spectrum Licensing Regulations.

If a licensee has their spectrum licence cancelled, the spectrum auction price paid and any other payments relating to the spectrum licence, will not be refunded by the Authority.

10. BIDDER'S CONDUCT

Bidders and Applicants, collectively referred to as "Participants" includes any additional entity or person who has knowledge of a Participant's confidential information. Such entities or persons may include financiers, consultants, legal advisors, and vendors. Participants must provide a list of such entities or persons in their application and must notify the Authority of any change to the list.

Participants must refrain from any activity, which may compromise the integrity of the spectrum auction process including the sharing of confidential information and rules of conduct as set out below.

10.1 Confidential information

Confidential information means any information which, if known to another participant, may influence its conduct during the spectrum auction process.

Confidential information relates to –

- (i) Participation in the spectrum auction process itself;
- (ii) The participant's business case, financial information, spectrum lot and bid value; and
- (iii) Auction bidding strategy.

It is possible that a Participant is unaware that it has an entity or person with knowledge of confidential information in common with another Participant. If the Authority identifies that two (2) or more Participants have an entity or person in common, it shall-

- (i) Notify in the Applicants concerned and provide a deadline by which they may apply for an exemption from the Rules of Conduct relating to such entities or persons; or
- (ii) Require one or more of the Applicants to end the involvement of such persons or entities in their participation in the spectrum auction process; or
- (iii) Exclude the affected Applicants from the spectrum award process.

Participants seeking an exemption must demonstrate to the Authority that measures have been put into place to ensure that no confidential information is shared between Participants. The Authority may take appropriate actions to verify that such measures exist and are effective. The Authority may, at its sole discretion, grant an exemption from the Rules of Conduct relating to common persons or entities with access to confidential information.

If the Authority does not grant an exemption, and the Applicants do not rectify the breach of conduct to the satisfaction of the Authority, the Authority will exclude the Participants from further participation in the spectrum auction process.

If it is not possible to rectify the situation by the deadline set by the Authority and no exemption has been granted, then one or more of the Participants may withdraw from the spectrum auction process prior to the deadline so that it is not necessary for the Authority to exclude all affected parties.

If the commonality is identified later in the spectrum auction process, the Authority may take whatever action it deems necessary to ensure the integrity of the spectrum auction process.

10.2 Rules of Conduct

The Rules of Conduct governing the behaviour of Participant is applicable from the date of publication of the draft Request to Bid to the date on which the Authority publicly announce the award of spectrum licences.

Participant must refrain from any activity which may result in compromising the integrity of the spectrum auction process. Such activities may include, but are not limited to-

- (i) Submitting false or misleading information as part of its application;

- (ii) Failing to update the Authority in a timely manner of any material changes to information provided as part of the application process;
- (iii) Submitting more than one application relating to the same lot stipulated in the Request to Bid;
- (iv) Communicating confidential information to any other Participant either by making such information public or by communicating such information directly or indirectly via a third party to another Participant and/or seeking to obtain confidential information in relation to any other Participant;
- (v) Communicating with other Participants or undertaking any activity with the intention to collude or attempt to collude with another Bidder in order to distort or manipulate information;
- (vi) Entering into any agreement with another Participant in respect of the spectrum award process or the subsequent use or sharing of any spectrum licence which may be granted as a result of the spectrum auction process;
- (vii) Seeking to communicate directly or indirectly with the Authority's staff, management and board members or advisors in relation to the spectrum auction process other than by the mechanisms described in the Request to Bid; and
- (viii) Any other breach of the spectrum auction rules.

A participant must notify the Authority in writing if it has evidence to believe that it or another Participant has or may have breached the Rules of Conduct.

10.3 Penalties

If the Authority finds a Participant to be in breach of the Rules of Conduct, the Authority may, at its sole discretion, apply a penalty to that Participant.

Penalties may include, but are not limited to, one of the following-

- (i) Exclusion of the spectrum auction process;
- (ii) Suspension or revocation of the Participant's spectrum licence assigned via spectrum auction.

The Authority may also seek penalties for breach of the Rules of Conduct under regulation 28 of the licensing procedure regulations.

If a breach of the Rules of Conduct occurred due to the actions of other entities and persons then the Authority may, at its sole discretion, waive or limit the penalties if it can be shown that the breach occurred without the Participant's knowledge, or that the Participant had taken all reasonable steps to avoid the

breach or that the breach has not materially damaged the integrity of the spectrum auction process.

11. PUBLICATION OF REQUEST TO BID

The Authority will publish the Request to Bid on the Authority's website (www.cran.nq), in the Government Gazette, send it via email to all telecommunications service licensees and provide a paper copy on request. Notification of the publication of the final Request to Bid and any additional information will also be sent directly to any interested party or telecommunications service licensee that are registered with the Authority.

Any party or telecommunications service licensee interested in participating in the spectrum auction process may submit, in writing, comments to the Authority in respect of any aspect of the Request to Bid within fourteen (14) days from date of publication.

The Authority will respond collectively to comments within fourteen (14) days without identifying the party that submitted the question by email to all entities that submitted comments.

Any party not wishing any part of its comments to be communicated to all parties, should clearly mark the relevant part/s as "confidential" and the Authority will take this into account in terms of section 29 of the Communications Act, 2009, when deciding whether to communicate such comments and responses.

12. APPLICATION TO PARTICIPATE IN SPECTRUM AUCTION

12.1 Application Procedure and Deadline

The application must consist of the following-

- (i) One (1) duly completed application form as set out in **Annexure A**;
- (ii) One (1) duly completed declaration as set out in **Annexure B**
- (iii) One (1) duly completed application form as set out in **Annexure C**.
- (iv) One (1) hard copy of the application information listed in section 12.2, 12.3, 12.4, and 12.5 of the Request to Bid;
- (v) One (1) electronic copy on USB or CD included with hard copies of the same information requested in (ii);
- (vi) A completed copy of the application checklist as set out in **Annexure D**.

The application documents must be delivered in a sealed package and marked only with the words “**APPLICATION FOR PARTICIPATION IN 3300-3400 MHz SPECTRUM AUCTION 2023**” addressed to:

The Chief Executive Officer

Communications Regulatory Authority of Namibia

Unit 4 & 5, Moth Centre, Robert Mugabe Ave

Windhoek

Namibia

The application deadline is **16h00 on 17 October 2023**

Applications must be delivered by hand or courier. All applications will be dated, and time stamped. Applicants will be given a receipt acknowledging the submission of their application.

Any application received after the application deadline will not be opened, and will be returned and will not be considered by the Authority.

No applications will be opened by the Authority before 16h00 on 17 October 2023.

Applicants are obliged to inform the Authority of any material change in their circumstances, which affect the information provided in their application.

12.2 General information

All Applicants must provide all general information as set out hereunder-

- (i) Application form, attached hereto as **Annexure A**, duly completed and signed by the Applicant's authorized signatories;
- (ii) Appropriate evidence that the two (2) persons signing the application form are duly authorized by the Applicant to do so. Appropriate evidence may include-
 - a. A board resolution from the Applicant; or
 - b. An irrevocable power of attorney.
- (iii) Appropriate evidence that the three (3) persons who will be bidding on behalf of the Applicant (Authorized Agents) are duly authorized by the Applicant to do so. Appropriate evidence will include-
 - a. A board resolution from the Applicant; or
 - b. An irrevocable power of attorney; or

- c. Equivalent evidence from an Applicant not based in the Republic of Namibia supported by a legal opinion from a duly registered legal company in the Applicant's country of domicile.
- (iv) The declaration to abide by the Rules of Conduct including restrictions on confidential information and spectrum auction rules as set out in **Annexure B**, duly completed and signed by the Applicant's authorized signatory.
- (v) Proof of payment of the application fee of ten thousand Namibian Dollars (N\$10,000.00) to the following bank account-

Account Name: Communications Regulatory Authority of Namibia

Bank Name: Bank Windhoek

Account Number: 8002848071

Branch: Capricorn

Branch Code: 486-372

Type of Account: Cheque Account

- (vi) Certified copies of the following documents of the Applicant-
 - a. Memorandum and Articles of Association for registered companies
 - b. Certificate of incorporation for registered companies or certificate of compliance for foreign companies.
- (vii) In the case of consortiums, the following information must be provided:
 - a. Members of consortiums;
 - b. Legal documentation indicating the structure of the consortium;
 - c. Confirmation that the consortium shall be jointly and severally liable for meeting the terms of the spectrum licence;
 - d. For each consortium member-
 - i. Memorandum and Articles of Association for registered companies
 - ii. Certificate of incorporation for registered companies or certificate of compliance for foreign companies.
 - e. The declaration contained in Annexure B must be signed by all members of any consortium;
 - f. An identified lead member, duly authorized to bind the consortium, appointed by a written power of attorney. The power of attorney must also be provided.
- (viii) The Authority reserve the right to request any further information in respect of the application, at its sole discretion, to determine whether the

participation of the Applicant complies with the laws of the Republic of Namibia and the spectrum auction rules.

12.3 Information related to associates, affiliates, entities, and persons.

Consortiums and/or non-licensed parties must provide all information listed below of all consortium members.

Applicants must provide the following information-

- (i) Complete ownership structure of the Applicant with sufficient information to identify the ultimate owner and controlling interest in the Applicant;
- (ii) The identity of any person or entity that the Applicant knows to be or reasonably believe to be also associated or affiliated with another Applicant;
- (iii) Ground for exemption should an Applicant wish to seek exemption on the Rules of Conduct based on an association or affiliation with another Applicant;
- (iv) The identity of persons or entities who have knowledge of the Applicant's confidential information. The Applicant must provide the following information in respect of identified person or entities-
 - a. Name;
 - b. Position; and
 - c. Organization.

12.4 Technical and Operational Information

Applicants, who holds an existing telecommunications service licence, should submit-

- (i) Certified copies of their licence certificate;
- (ii) Evidence that it is in good standing with the Authority. A licensee is in good standing when it has paid all spectrum, numbering, type approval, license fees and regulatory levies to the Authority. Licensees with any levies/fees outstanding are not in good standing and cannot participate in this auction. Licensees that have payment plans with the Authority are deemed to be in good standing if they are up to date with the payment plan. Licensees that have defaulted on their payment plans are not in good standing and should not participate in this auction.

- (iii) A detailed business plan inclusive of an annual technical network rollout plan which demonstrates its ability to construct, maintain and operate a 4G or 5G network. This plan should as a minimum include-
 - a. The number of sites to be implemented at the end of each year;
 - b. Coverage maps in respect of each site showing which areas will be provided with services;
 - c. Transmission and backhaul plan;
 - d. Network equipment cost assumptions; and
 - e. Total annual network related capital expenditure.
- (iv) All Applicants must provide a financial plan demonstrating their ability to meet the financial requirements to pay, as a minimum, the spectrum fees for the 1st 3 years for the spectrum licence to be awarded via spectrum auction, construction and operation of the network and providing telecommunications services. This plan should include, as a minimum-
 - (a) Indicate the annual and total funding requirement for the build and operation of the network and telecommunications services utilising the spectrum licence as awarded.
 - (b) A business plan with financial projections setting out at least the revenue forecast, detailed OPEX and CAPEX per annum for the first 5 years, any loans or capital requirements to indicate how the plan will be funded.
 - (c) Latest annual financial statements or any other financial information that would assist the Authority to determine the probability of the licensee succeeding and implementing the business plan.
 - (d) Independent evidence of availability of funds identified in the financing plan.

Applicants who do not hold a telecommunications service licence in the Republic of Namibia should submit-

- (i) An application for a Class Comprehensive telecommunications service licence (ECS & ECNS) as in terms of the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences as published in Government Gazette No. 4785, General Notice No.272 dated 29 August 2011.
- (ii) A detailed business plan inclusive of an annual technical network rollout plan which demonstrates its ability to construct, maintain and operate a 4G or 5G network. This plan should as a minimum include-
 - a. The number of sites to be implemented at the end of each year;

- b. Coverage maps in respect of each site showing which areas will be provided with services;
 - c. Transmission and backhaul plan;
 - d. Network equipment cost assumptions; and
 - e. Total annual network related capital expenditure.
- (iii) All Applicants must provide a financial plan demonstrating their ability to meet the financial requirements to pay, as a minimum, the spectrum fees for the 1st 3 years for the spectrum licence to be awarded via spectrum auction, construction and operation of the network and providing telecommunications services. This plan should include, as a minimum-
- (a) Indicate the annual and total funding requirement for the build and operation of the network and telecommunications services utilising the spectrum licence as awarded.
 - (b) A business plan with financial projections setting out at least the revenue forecast, detailed OPEX and CAPEX per annum for the first 5 years, any loans or capital requirements to indicate how the plan will be funded.
 - (c) Latest annual financial statements or any other financial information that would assist the Authority to determine the probability of the licensee succeeding and implementing the business plan.
 - (d) Independent evidence of availability of funds identified in the financing plan.

12.5 Demand for lot

The Applicant must specify the lot which it is legally bound to make a Bid(s) for during the spectrum auction.

For avoidance of doubt, the Applicant can only bid for the lot specified in its application form. The Applicant is legally bound to bid for the specified lot during the spectrum auction.

Should there be no interest in a specific lot it will be withdrawn from the auction and the Authority will inform the licensees of its decision in this regard.

13. QUALIFICATION PROCESS FOR BIDDERS

The Authority will consider all applications submitted by the application deadline.

Applications will first be reviewed based on compliance with application requirements. Applicants will be deemed non-compliant if-

- (i) The Applicant has not adhered to the application requirements set out in section 13;
- (ii) The Applicant has not paid the application fee;
- (iii) The Applicant is not in good standing with the Authority.

The Authority will secondly review all compliant applications against the Rules of Conduct in respect of associated and affiliated Applicants.

If the Authority found an Applicant to be associated or affiliated with another Applicant, the Authority shall notify the Applicants affected and set the deadline by which time the Applicants must-

- (i) Apply for an exemption from the Rules of Conduct in respect of associates and affiliates;
- (ii) Nominate a single entity to participate in the spectrum auction;
- (iii) Bring the relationship to an end; or
- (iv) Refrain from further participation in the spectrum auction.

Applicants, who remain non-compliant with the Rules of Conduct in respect of associates and affiliates by the deadline specified above, may be disqualified at the sole discretion of the Authority. Such an Applicant will not be permitted to participate in any further stages of the spectrum auction process.

At the same time as the review of the Rules of Conduct in respect of associated and affiliated Applicants, the Authority will also review all compliant applications to identify whether two or more Applicants have an entity or person in common.

The Authority will notify the Applicants affected and set the deadline by which time the Applicants must-

- (i) Apply for an exemption from the Rules of Conduct in respect of such entities or persons;
- (ii) End the involvement of such entities or persons in the spectrum auction process; or
- (iii) Refrain from further participation in the spectrum auction.

Applicants, who remain non-compliant with the Rules of Conduct in respect of common entities or persons by the deadline specified above, may be disqualified at the sole discretion of the Authority. Such an Applicant will not be permitted to participate in any further stages of the spectrum auction process.

Lastly, the Authority will review all compliant applications that conform to the Rules of Conduct on associates, affiliates and common entities or persons against the Bidder qualification criteria set out in section 11.1 of the Request to Bid. The Authority may request additional information from the Applicant, if required, in order to make a determination whether the Applicant has met all qualification criteria.

The Authority will individually inform Applicants that have qualified as Bidders in the spectrum auction. The Authority will also notify Applicants that have not met the qualification criteria.

If, at any time during the spectrum auction, a Bidder is found to have submitted information that is materially incomplete or incorrect, the Authority will take whatever measures deemed necessary. Necessary measures may include terminating the Bidder's participation in the spectrum auction or nullifying the results of the spectrum auction.

The notice to Applicants informing them that they have qualified as Bidders will also include the spectrum auction model to be followed and any additional instructions given by the Authority.

14. COMMUNICATION DURING THE SPECTRUM AUCTION PROCESS

14.1 Communication prior to the start and end dates of the spectrum auction process

The Authority will email all relevant information, documents and updates to Applicants and Bidders.

Prior to the spectrum auction start date and after the spectrum auction, Application and Bidders can contact the Authority either via email or in writing-

Chief Executive Officer

Communications Authority of Namibia

Unit 4 & 5, Moth Centre, Robert Mugabe Ave

Windhoek

Namibia

Email: SpectrumAuction@cran.na

14.2 Communication during the spectrum auction process

The Authority may use phone or email to send individual messages to Bidders.

Bidders should not need to contact the Authority during the auction process except in exceptional circumstances. In an exceptional circumstance, Bidders can communicate with the Authority via email, SpectrumAuction@cran.na.

15. NOTIFICATION AND PUBLICATION OF SPECTRUM AUCTION RESULTS

The Authority will notify all successful Bidders in writing, after conclusion of the spectrum auction. The notification will set out-

- (i) The spectrum lot(s) that have been awarded to the Bidder;
- (ii) The total auction price that the Bidder is required to pay to the Authority; and
- (iii) The deadline by which the initial payment is to be made as well as subsequent annual payments until the auction price is paid in full to the Authority.

The Authority will publish the results of the spectrum auction in terms of regulation 9 of the spectrum licensing regulations in the Government Gazette and one newspaper with national circulation. The public notice will contain the following information-

- (i) The number of Bidders that participated in the spectrum auction;
- (ii) The identity of the successful Bidder(s);
- (iii) The spectrum assigned to each successful Bidder; and
- (iv) The auction price paid by each Bidder.

Participants in the spectrum auction are prohibited from announcing or publishing information pertaining to the spectrum auction, until such time that the Authority has made the spectrum auction results public.

16. PAYMENT OF SPECTRUM FEES

Bidder(s) are required to make payment in full by the payment deadline(s) as set out in the result notification from the Authority.

The due amount(s) will be stipulated in Namibian Dollars.

Payments should be made to-

Account Name: Communications Regulatory Authority of Namibia

Bank Name: Bank Windhoek

Account Number: 8002848071

Branch: Capricorn

Branch Code: 486-372

Type of Account: Cheque Account

In case of no payment, delayed or incomplete payment received by the deadline(s) as set out in the results notification, the Authority has the right to cancel the spectrum licence. The Authority will further give notice of cancellation of the spectrum licence in terms of regulation 19 of the spectrum licensing regulations.

17. ISSUANCE OF SPECTRUM LICENCES

In cases where the successful Bidder is an existing telecommunications service licensee, the Authority expects to grant the spectrum licence in accordance with the spectrum auction results upon approval by the Authority's Board of Directors provided that the successful Bidder has paid the applicable spectrum fees on or before 17 August 2021.

In cases where the successful Bidder does not hold a telecommunications service licence, the successful Bidder will be required to apply for a telecommunications service licence.

The submission of an application for a telecommunications service licence by the Participant to the spectrum auction in no way constitute an automatic award of such service licence should the participant become a successful bidder on completion of the auction process.

The Authority will only award the spectrum licence if the Board of Directors have granted approval of the applicable telecommunications service licence.

Should the Board of Directors not grant approval for issuance of the telecommunications service licence, the Authority will refund all monies paid to the Authority in respect of the spectrum auction to the Bidder.

18. CANCELLATION AND RETURN OF SPECTRUM LICENCES AWARDED BY SPECTRUM AUCTION

A Licensee may at any time apply for withdrawal of its spectrum licence in terms of regulation 16 of the spectrum licensing regulations.

If a successful Bidder fails to make payment of the spectrum price or part of the spectrum auction price as per the payment schedule set out in the result notification the Authority cancel the licence in terms of regulation 19 of the spectrum licensing regulations.

If a Licensee has their spectrum licence cancelled, the spectrum auction price paid and any other payments relating to the spectrum licence from date of issuance to date of cancellation will not be refunded by the Authority.

ANNEXURE A

SOLVENCY AND FINANCIAL DECLARATION

I _____, duly authorised, hereby declare that I have made a full inquiry into the affairs of _____ and that, having done so, have formed the opinion that the Bidder is solvent and is not-

- (i) in default of loan payments or in negotiations regarding debt settlement proceedings;
- (ii) insolvent or the subject of a liquidation or winding-up application; or
- (iii) in the process of passing or in the position of having passed a resolution for a voluntary winding up.

Applicant Name _____

**Signed for and on behalf
of the Applicant** _____

(Signature of those persons who are empowered to bind the Applicant or are otherwise
authorised to bind the Applicant)

Date _____

ANNEXURE B

TECHNICAL DECLARATION

I _____, duly authorised, hereby declare that I have apprised myself of the technical conditions set out in 8.3 , and that, having done so, undertakes on behalf of the Bidder to ensure adherence to the aforementioned technical conditions, which conditions will also form part of the conditions attached to be spectrum licence that may be awarded.

Applicant Name

**Signed for and on behalf
of the Applicant**

(Signature of those persons who are empowered to bind the Applicant or are otherwise
authorised to bind the Applicant)

Date

ANNEXURE C:

APPLICATION FORM

In terms of section 101(2) of the Communications Act, Act No. 8 of 2009, read with regulation 6 of the Regulations prescribing Procedures regarding Application for, and Amendment, Renewal Transfer and Cancellation of Spectrum Licences, as published in Government Gazette No. 6888, General Notice No. 104 dated 29 April 2019, a person or licensee intending to participate in the spectrum auction is required to complete this application form.

The application form must be submitted together with the application fee and all supporting documentation as set out in the Request by; the submission deadline of **16h00 on 17 October 2023**.

APPLICANT:

Applicant (full and official names)	
Company Registration No.	

CONTACT PERSON:

Contact Person: (Full and Official Name(s))	
Physical Address	
Postal Address	
Telephone Number(s)	
Facsimile Number(s)	

Email Address(s)	
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SIGNATORIES TO APPLICATION FORM

Name and Position of the two (2) persons who will sign the application form	Person 1:
	Name
	Position
	Person 2:
	Name
	Position

PERSONS RESPONSIBLE FOR BIDDING

Three (3) authorised persons who will be responsible for bidding	Person 1:
	Name
	Address
	Email
	Phone
	Person 2:
	Name
	Address
	Email

	Phone
	Person 3:
	Name
	Address
	Email
	Phone

LOT/S BEING BID FOR

--

AUTHORISED SIGNATURES

Authorised signatures	Person 1:
	Signed
	Date
	Person 2:
	Signed
	Date

ANNEXURE D: DECLARATION

_____ and _____, having been appointed as authorized agents of _____ hereby undertake, warrant and declare on behalf of the Applicant, that:

- (i) The Applicant is entitled to participate in the spectrum auction process and has obtained the necessary approval in this regard;
- (ii) The information contained in the Applicant's application is correct;
- (iii) The Applicant will inform the Authority of any material change(s) to the information provided in its Application;
- (iv) To its knowledge, the Applicant confirms that it is not associated or affiliated with another Applicant or another entity which might reasonably be expected to be an Applicant;
- (v) The Applicant will take all reasonable measures to ensure that confidential information is not disclosed to another party other than those who needs access to the confidential information.
- (vi) The Applicant will refrain from any action that could have an adverse effect on the spectrum auction process;
- (vii) The Applicant shall comply with the Spectrum Auction Rules as contained in the Request to Bid;
- (viii) The Applicant confirms that it has the financial resources to meets is obligations under the terms and payment schedule and to meet the licence conditions as set by the Authority were it to be awarded a spectrum licence through the spectrum auction process.

Applicant Name _____

Signed for and on behalf
of the Applicant _____

(Signature of those persons who are empowered to bind the Applicant or otherwise
authorized to bind the Applicant)

Name of Signatory in

Block capital letters _____

Date _____

If the Applicant is a partnership, joint venture or equivalent, the declaration must also be signed by the relevant partners or participants.

As partner/participant

Name of Signatory in

Block capital letters

Date

DRAFT FOR COMMENTS

ANNEXURE E: APPLICATION CHECK LIST

All Applicants are required to complete the checklist to confirm all information is included in the applications;

1	Completed and signed Annexure A	
2	Completed and signed Annexure B	
3	Completed and signed Annexure C	
4	Application for Class Comprehensive telecommunications service licence (ECS & ECNS) in case of a new entrant (if applicable)	
5	Completed and signed declaration (Annexure D)	
6	1 hard copy and 1 electronic copy of the following documents	
	(a) Evidence of authorization to sign the application form	
	(b) Evidence of authorization to bid on behalf of the Applicant	
	(c) Proof of payment of the application fee	
	(d) Certified copies of memorandum and articles of association, certificate of incorporation or certificate of compliance	
	(e) In case of consortiums: members of the consortium, legal documentation on the structure of the consortium, confirmation of joint and several liability for meeting the terms of the spectrum licence, certified copies of memorandum and articles of association, certificate of incorporation or certificate of compliance, a signed declaration (Annexure D) for each consortium member and a power of attorney for the authorized signatory on behalf of the consortium	
	(f) Information relating to associates, affiliates, entities and person if applicable as set out in section 11.3	
	(g) Technical and operational information as set out in section 11.4	
7	Completed checklist	

ANNEXURE F

ROUND 1 BIDDING EVALUATION CRITERIA

**(This criterion must be read in conjunction
with part of 6.2 and all other applicable parts of this bid document)**

Criteria	Weight
(a) Deployment of a 4G and 5G network and provisioning of broadband services	15
(b) Provide broadband services with a minimum downlink data speed of not less than 50 Mbps. The minimum download speed of 50 Mbps will attract a full 10 points and anything less will be scored 0 points.	10
(c) The bidder must demonstrate the ability to deploy a network that will support deployment of 5G use cases such as smart cities, oil and gas applications, agriculture use cases or any other business case identified by a licensee;	25
(d) The bidder must demonstrate how the envisaged business case is aligned to national development goals and milestones as set out in Vision 2030, the National Development Plan (NDP) 6, and the Harambee Prosperity Plan II etc;	10
(e) Demonstrate the financial ability to construct, operate and maintain a telecommunications network, through an appropriately detailed financial plan which indicates the annual and total funding requirement for the provision of telecommunication services until the business operation concerned becomes self-funding. The bidder must also submit an appropriately detailed financing plan which demonstrates the amount and timings of the sources of funds which will be used to meeting the funding requirement and independent evidence of the availability of the funds identified in the financial plan. Scoring will be assigned as follows- <ul style="list-style-type: none">• CAPEX and OPEX layout = 5• Financial planning = 5,• Funding available = 10	30

<ul style="list-style-type: none"> • Note to bidder: providing financial information will not automatically result in a full score. The financial plan will be evaluated on substance in relation to the rollout plan. • While the submission of Audited Financial Statements is mandatory, the scoring is not about the mere submission of financial statements, but the information provided within the financial statements i.e., does it demonstrate the licensee financial resources to construct and maintain a network and provide services to efficiently utilise this spectrum. The AFS may therefore be utilised to demonstrate that ability of the applicant to roll-out a network and provide service. • The bidder must also submit independent evidence of availability of funds identified in the plan and its financial statements to substantiate, its financial position. 	
(f) Demonstrate ability to construct, maintain and operate a network either through previous experience or by partnering with an entity that has the technical knowledge to construct and operate such a network.	10
TOTAL	100