

# Information Memorandum

## 800MHz Spectrum Auction



18 June 2007

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## **Important Notice**

This Information Memorandum is for information purposes only. It is made available on the express understanding that the recipient will use it for the sole purpose of assisting the recipient in deciding whether to proceed with and participate in the Auction. The Information Memorandum is not intended to form any part of the basis of any investment decision or other evaluation or any decision to participate in the Auction and should not be considered as a recommendation by the Commission to any recipient to participate in the Auction. Each recipient must make its own independent assessment of the potential value of an allocation of the spectrum on offer after making such investigation as it may deem necessary in order to determine whether to participate in the Auction.

The information contained in this document is believed to be accurate, and neither the Commission nor any of its Commissioners, Directors, officers or employees make any representation or warranty (express or implied) nor accept, nor will accept, any responsibility or liability as to, or in relation to, the accuracy or completeness of the information contained in the document or any other written or oral information made available to any interested party or its advisers. Any liability in respect of any such information or any inaccuracy in this document, or omission there-from is expressly disclaimed.

This Information Memorandum does not constitute an offer, but an invitation to participate in the Auction. It does not constitute the basis of any contract that may be concluded in relation to the Auction or in respect of any allocation of the spectrum under consideration.

Recipients are not to construe the content of this document or any other communication by or on behalf of the Commission as financial, legal, technical or other advice. Accordingly, each Recipient should consult its own professional advisers as to financial, legal, technical and other matters concerning any potential participation in the Auction or any allocation of the spectrum on offer. In other words, Applicants are advised to undertake their own due diligence.

The Commission does not accept any liability whatsoever consequent upon the issuance of this document and in particular shall not be liable to any Bidder, Applicant or any person whomsoever for any pecuniary loss, consequential or contingent damages including but not limited to loss of goodwill, downtime, revenue etc, consequent upon the issuance of and/or reliance of such person on these Guidelines or participation in the Auction.

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## **DEFINITIONS**

### **Applicant**

An Applicant is an organisation that has submitted a bid application template, including the prequalification criteria, bid deposit payment form and the Intention-to-Bid Deposit, but has not yet been qualified as an Approved Bidder by the Commission.

### **Approved Bidder**

An Approved Bidder is an organisation that has met the pre-qualification criteria and received formal approval from the Commission to participate in the 800 MHz Spectrum Auction.

### **Auction Day**

The Auction Day shall be 17<sup>th</sup> July 2007, unless otherwise conveyed to Approved Bidders through appropriate channels. The Auction Day will commence at 10.00 hours (NT) and finish at approximately 18.00 hours (NT).

### **Auction Location**

The Auction Location is the venue that will be used to host the Auction process in Abuja.

### **Auction Manager**

The Auction Manager is responsible for the operation of the Auction process itself.

### **Auction Room**

The Auction Room is an allocated room within the Auction Location where the Bid Team of the Approved Bidders will be situated on the Auction Day.

### **Bid Teams**

The Bid Team will consist of three (3) named representatives for each Approved Bidder who will participate in the Auction process and fulfill the terms of the Bidder Compliance Certificate.

### **NT**

Nigerian Time

### **Bid Team Member**

A Bid Team Member is a member of the Bid Team authorised to act on behalf of the Approved Bidder.

### **Winning Bidder**

A Winning Bidder shall be the Approved Bidder that submits the highest bid value in the final round of the Auction process.

## **1. INTRODUCTION**

The Nigerian Communications Commission has consistently been committed to ensuring fairness and transparency in discharging its statutory responsibilities as specified in the Nigerian Communications Act, 2003 and other guiding policies of the Federal Government of Nigeria.

Pursuant to its principal objective of facilitating entry and competition in the Nigerian telecommunications market, the Nigerian Communications Commission is empowered to allocate slots in the electromagnetic frequency spectrum to Licensees to operate telecommunications networks and/or provide telecommunications services.

However, in ensuring optimum level of competition, especially in the market segment that utilizes wireless technology, the most critical consideration has been the scarcity of the applicable frequencies and how to assign the resource in a fair and transparent manner. In the light of this, the Nigerian Communications Commission has often resorted to competitive means of allocating the resource through the auction process.

It is important to note that, in addition to Licensees who may require additional spectrum to expand their scope of operation and service delivery, the Commission has in recent times issued Unified Licences to a number of companies, amongst whom are new entrants who require relevant spectrum to roll out their services.

Based on its understanding of the demand for spectrum, relative to availability, the Commission has decided to award 3 Carriers in the 800MHz spectrum band in 26 States, and FCT – Abuja, to further advance the development of telecommunications in the country.

This Information Memorandum defines the process that the Commission has decided to follow in assigning the 3-Carrier spectrum in the 800MHz spectrum band. It provides information on the details of the available spectrum, the reserve price, the pre-qualification process, the award process and timetable.

## **2. REASONS FOR THE SPECTRUM ALLOCATION**

Since the year 2000, the Nigerian communications sector has experienced a major increase in competition driven by the government's liberalisation policies. This has led to increased competition in the market, major growth in the number of networks and connections as well as improved services for subscribers.

At the moment, there are five licensed national digital mobile – GSM – operating companies in the country, two national carriers, several Unified Licence holders and a range of competitive local access and internet service providers.

Whereas a good number of these network operators have acquired requisite spectrum to facilitate network and service roll out, there are others who either do not have sufficient spectrum to meet expansion needs, or do not possess applicable spectrum to commence operations.

Consequently, the proposed allocation of the 3 Carriers in the 800MHz spectrum band has been influenced by requests by interested Licensed Network Operators that require the spectrum to meet planned roll out of services.

However, considering the number of companies that have indicated interest for spectrum in the 800MHz band, the Commission has decided to adopt an auction process to allocate the available spectrum.

### 3. THE SPECTRUM ON OFFER/APPLICABLE STATES

The Commission is offering 3 Carriers (3.75MHz) in 26 States and FCT – Abuja, in the 800MHz band to one Licensee for commercial operation. In consonance with its spectrum pricing methodology, the Commission has decided to allocate this spectrum as specified below:

800 MHz Assignments			
Rx MHz	881.31	882.57	883.83
Tx MHz	836.31	837.57	838.83
<b>Applicable States</b>	<b>Ogun, Ondo, Osun, Oyo, Ekiti, Kwara, Edo, Delta, Benue, Kogi, Niger, Nasarawa, Taraba, Plateau, Bauchi, Gombe, Adamawa, Borno, Yobe Jigawa, Kano, Kaduna, Katsina, Zamfara, Kebbi &amp; Sokoto States and FCT – Abuja</b>		

The spectrum is offered by the Commission on a technology neutral basis. However, the Commission intends to follow the International Telecommunication Union (ITU) recommendations for the provision of telecommunications services in the 800MHz spectrum band.

### 4. RESERVE PRICE

The Reserve Price for the spectrum on offer is =N= **400,000,000.00 (Four Hundred Million Naira only)** and the spectrum fee is not subject to Value Added Tax (VAT).

Bidding will start at or above the Reserve Price.

## **5. TENURE & RENEWAL OF LICENCE**

The spectrum to be sold through this Auction process shall be valid for an initial 5-year period and shall be renewable for the same number of years, subject to the holder's compliance with relevant licence conditions.

The winning Bidder shall be required to roll out services in at least two-thirds (2/3) of the States for which the spectrum has been assigned within the life of the initial assignment (i.e. 5 years). In the event of the winning Bidder's inability to deploy services in the specified number of states, the spectrum shall be renewed for only the states in which services have been rolled out.

For the purpose of this Auction process, roll out shall be understood to mean that a service signal is available to at least one-third (1/3) of the population of each state.

The Licence shall be subject to renewal for another term of five (5) years. The applicable renewal fees shall be the prevailing spectrum fees specified in the Frequency Spectrum Fees and Pricing Regulations at the time of renewal.

## **6. THE AUCTION PROCESS**

Based on its experience from previous allocation processes, and through monitoring of developments in international licensing trends, the Commission has decided to adopt an Auction process for the spectrum slots in the 800MHz spectrum band.

The Auction will be held at the head office building of the Nigerian Communications Commission in Abuja, on Tuesday, 17<sup>th</sup> July 2007 at 10.00 hours Nigerian Time (NT).

The Commission will implement a Sealed Bid style of Auction, consisting of two (2) rounds. In the first round, all Approved Bidders shall submit Sealed Bids, which shall be opened and announced. The two highest Bidders will then proceed to the second Round to submit a final sealed Bid. At each stage of the Process, Bidders shall be informed simultaneously of the bids submitted by each Bidder.

The Auction process will consist of a four-stage procedure as follows:

### **(a) Invitation Stage**

A Public Notice was issued highlighting the spectrum that is being made available at the Auction and inviting interested parties to apply in accordance with the criteria and requirements specified.

Subsequently, this Information Memorandum is being made available to all interested parties through the Commission's website.

Interested parties must submit any questions concerning the Information Memorandum by 15.00 hours (NT) on 26<sup>th</sup> June 2007 per email to [spectrumauction@ncc.gov.ng](mailto:spectrumauction@ncc.gov.ng). Answers to these questions will be provided, where appropriate, by 17.00 hours (NT) on 29<sup>th</sup> June 2007 on the NCC website.

### **(b) Pre-Qualification Stage**

The pre-qualification stage outlines the steps to be carried out and the requirements to be met by any organisation seeking approval to participate in the spectrum Auction.

- (i) All Applicants are required to confirm that they meet the qualification criteria detailed in Section 6 of this document.
- (ii) Applications from all interested parties to enter the Auction stage must be submitted to the Commission in a sealed envelope by 17.00 hours (NT) on 9<sup>th</sup> July 2007.
- (iii) Applicants must provide relevant proof that a deposit of ₦40 million (Forty Million Naira) – the Intention-to-Bid Deposit – has been paid into the designated account of the Commission. Payment shall have been received as cleared funds in the designated account of the commission by 17:00 hours (NT) on 9<sup>th</sup> July 2007.

The Intention-to-Bid Deposit is a commitment from the Applicant to pay at least the Reserve Price for the Licence, as specified in this Information Memorandum, and to participate in the first round of the Auction process. Failure to meet this obligation invalidates the application.

- (iv) Applicants will be informed in writing by 17.00 hours (NT) on 12<sup>th</sup> of July 2007 if they have been successful in their application to compete in the Auction stage by meeting the prequalification criteria. These Applicants will be awarded the status of Approved Bidders.
- (v) Applicants unsuccessful in their prequalification bidding applications will also be informed and their IBDs will be returned to them.

The Commission reserves the right to request additional information and/or clarification based on an Applicant's submission. Applicants are required to comply with all such requests.

### **(c) The Auction Stage**

The Auction stage details the controls and procedures in place to manage the competitive bidding between Approved Bidders for the award of the spectrum under consideration. If there is only one Approved Bidder, the Commission will provisionally award the spectrum to this Bidder at the Reserve Price.



It is not envisaged that Auction Days will occur on weekends or national public holidays.

The Commission reserves the right to make necessary and reasonable adjustments to the process in the overall interests of achieving a fair and transparent outcome.

The Auction stage of the process will consist of two rounds, which will run consecutively as follows:

**1<sup>st</sup> Round:** A Sealed Bid to determine the two highest Bidders.

- i) This round will commence at 10.00 hours (NT) on 17<sup>th</sup> July 2007 at the Auction location.
- ii) The round involves all the Approved Bidders submitting one Sealed Bid each, which will be opened and announced.
- iii) The top two (2) bid values will be made known to all Approved Bidders.
- iv) On completion of this Round, Approved Bidders will be given 10 minutes to raise any issues.
- v) At the end of this round, the process will go on a 2-hour break to enable the top two (2) Approved Bidders consult and consider their final bids for the 2<sup>nd</sup> round.

**2<sup>nd</sup> Round:** A Sealed Bid to produce a single highest bid value.

- i) This round will begin two hours after the completion of the 1<sup>st</sup> round.
- ii) The round involves the top two Approved Bidders in the 1<sup>st</sup> round submitting one Sealed Bid each, which will be opened and announced.
- iii) The two (2) bid values will be made known to the Approved Bidders participating in this round.
- iv) The Round will be complete when the highest Bidder has been announced by the Auction Manager and there is no Tied Bid.
- v) The Winning Bidder will be formally announced and is deemed, as stated in this Information Memorandum, to have automatically been awarded a provisional Licence.

## **7. PRE-QUALIFICATION CRITERIA**

The allocation process is open only to companies operating in Nigeria, who shall be required to fulfill a set of pre-qualification criteria as specified in this section. Only parties that meet these criteria will be allowed to participate in the Auction.

Applicants are not required to submit financial or technical plans to pre-qualify for the Auction. However, details must be provided in accordance with the compliance requirements laid out as follows:

- Applicants shall possess a subsisting national network operating licence or Unified Access Service (UAS) Licence
  - For the purpose of this Auction, any Licensee that already has a cumulative spectrum size equal to or more than 5MHz on any or a combination of spectrum band(s), except for point-to-point microwave frequency band, is not eligible to participate in the auction.
- Applicants should have no outstanding obligations due as at the deadline for submission of applications.

These obligations shall include all administration, licence and operating fees due to the Commission, as well as all reconciled interconnect debt.

- A Bidder must not have a relationship with another Bidder. A relationship is defined as where a Bidder owns directly or indirectly an ownership stake of 10% or more in another Bidder.
- Applicants will be required to submit information, using the templates provided in this Information Memorandum (Appendix A).
- Applicants will be required to pay the sum of =N=40 million (Forty Million Naira) as an Intention-to-Bid Deposit. The Intention-to-bid Deposit must be paid into a designated account of the Commission. The IBD must be received as cleared funds no later than 17.00 hours Nigerian Time on the 9<sup>th</sup> July 2007. A Bank Guarantee, or similar instruments, will not be acceptable.
- Each Application must be accompanied by proof of lodgment of the Intention-to Bid Deposit into the designated account of the Commission.

## **8. INDICATIVE TIMETABLE**

The indicative timetable for key activities in the licensing process is given in the table below. It is subject to change by the Commission and any changes will be communicated as appropriate.

**Table 1: Process timetable**

<b>DATE &amp; TIME (NT)</b>	<b>ACTIVITY</b>
<b>Invitation Stage:</b> 18/06/07	Publish Information Memorandum on NCC website
<b>Pre-Qualification Stage:</b> 15.00 hrs (NT), 26/06/07	Deadline for submission of questions on Information Memorandum
17.00 hrs (NT), 29/06/07	Deadline for Commission's responses to submitted questions
17.00 hrs (NT), 09/07/07	Deadline for submission of bidding application & Intention-to-Bid deposit
17.00 hrs (NT), 12/07/07	Notification to all parties of rejection or acceptance of bidding application
<b>Auction Stage:</b> 10.00 hrs (NT), 17/07/07	Auction process begins

## **9. AUCTION RULES**

The following sub-sections set out the rules applicable to the Auction.

### *GENERAL RULES*

- i) Each Applicant is required to pay an Intention-to-Bid Deposit (IBD) of =N=40,000,000.00 (Forty Million naira only) into a designated account of the Commission. The IBD must be received as cleared funds by 17.00 hours (NT) on 9<sup>th</sup> July 2007. The Application must be accompanied by proof of lodgment of the Intention-to Bid Deposit into the designated account of the Commission.

An Applicant shall be deemed to be an Approved Bidder upon confirmation of payment of the IBD within the specified time as well as compliance with the prequalification criteria.

- ii) Each Approved Bidder will be represented by a Bid Team of no more than three (3) Members.
- iii) While in the Auction Room, Bid Teams are forbidden from using any type of communication method or device, electronic or otherwise, to communicate with parties outside the Auction Room. This includes, but is not limited to, the use of laptop computers, PDAs, Blackberrys, mobile phones and other electronic devices. All bidding material will be in the format defined and provided by the Commission.
- iv) If a Bid Team is found to be communicating outside the Auction Room, the Commission reserves the right to exclude the party from further participation in the Auction.

### *SPECIFIC RULES FOR 1<sup>ST</sup> ROUND*

The 1<sup>st</sup> round will commence at 10.00 hours (NT) on Auction Day and the process will proceed as follows:

- i) In the opening Round of bidding, Bidders must submit a minimum initial Bid at or above the Reserve Price, using the relevant Bid Form that would be issued by the Auction Manager.
- ii) All Bids must be submitted to the nearest =N=1 million (One Million Naira).
- iii) The Bid Teams will have 10 (ten) minutes to submit the completed Bid Forms.
- iv) Each Bid Form must be duly signed by each Bid Team Member before submission to the Auction Manager.
- v) The Bid Forms shall be enclosed in an envelope, sealed and submitted to the Auction Manager, who will confirm that the value of each bid is correct before announcing the Bids for the Round in descending value.
- vi) All Bid Team Members will remain in the Auction Room throughout this process.

### *SPECIFIC RULES FOR 2<sup>ND</sup> ROUND*

The 2<sup>nd</sup> Round will commence two (2) hours after the announcement of the completion of the 1<sup>st</sup> Round. It will proceed as follows:

- i) Each qualified Bid Team will be issued with a 2<sup>nd</sup> Round Bid Form containing the 1<sup>st</sup> Round Bid Table.
- ii) Bid Teams will have one opportunity to submit a Sealed Bid for the purchase of the spectrum on offer. This Bid must be at or above the Bid Value submitted in the 1<sup>st</sup> Round. There will be no subsequent opportunities to submit an increased Bid Offer, other than to resolve a tie.
- iii) The Final Price to be paid by the Successful Bidder is the final Bid Value submitted for the winning bid in the 2<sup>nd</sup> round of the Auction.
- iv) The Bid Form must be duly signed by each Bid Team Member before submission to the Auction Manager.
- v) The Bid Forms shall be enclosed in an envelope, sealed and submitted to the Auction Manager, who will confirm that the value of each bid is correct before announcing the Bids for the Round in descending value. This will mark the end of the Auction.

- vi) All Bid Team Members will remain in the Auction Room throughout this process.

## **10. PAYMENT OF WINNING BID**

On completion of the Auction, the winning Bidder will be deemed to have been awarded the specified spectrum provisionally, and is required to pay the sum equal to the amount of its winning bid, less the Intention-to-Bid Deposit, to the Commission within 14 business days from the date of the Auction, following which the Commission will issue the applicable spectrum Licence.

Payment shall be in cleared funds in the designated account of the Commission by 17.00 hours (NT) of 6<sup>th</sup> August 2007.

Failure to effect the full payment of the winning bid amount within the specified 14 business days from the date of the Auction shall lead to forfeiture of the offer as well as the IBD and the second-placed Approved Bidder shall be invited to take up the spectrum at its own bid amount in the 2<sup>nd</sup> round. The second-placed Approved Bidder shall accept the invitation to take up the spectrum not later than 2 working days from the date of the invitation, otherwise the process shall be aborted.

If the second-placed Bidder accepts to take up the spectrum, it shall pay the amount equal to its final bid value, less the IBD. However, failure to effect the full payment of the bid value within 14 business days of the date of acceptance of the offer shall lead to forfeiture of the offer and the Bidder's IBD.

If the second-placed Bidder in the 2<sup>nd</sup> Round fails to pay the full amount of the bid value within the specified 14 business days, the Auction shall be aborted.

The IBD of the two Approved Bidders in the 2<sup>nd</sup> Round shall be retained until the end of the Auction process, i.e. until the spectrum is fully paid for or the process is aborted.

## **11. NEXT STEPS**

The next step for Applicants, in accordance with the full instructions laid out within this Information Memorandum, is to submit a completed application, including appropriate template documentation and confirmation of transfer of the IBD, by 17.00 hours Nigerian Time (NT) on 9<sup>th</sup> July 2007.

## **12. APPLICATION INSTRUCTIONS AND APPLICATION CONTENTS**

### **12.1 INTRODUCTION**

This section provides a summary of the actions required to be taken by Applicants to submit an application to participate in the Auction for the 3 Carriers (3.75MHz) in the 800MHz spectrum band.

In the event of a discrepancy between the application instructions contained in this section and the licensing process descriptions provided in Section 6 of this Information Memorandum, the licensing process descriptions shall prevail.

### **12.2 APPLICATION INSTRUCTIONS**

#### **(a) Application format, address and delivery**

All applications must be submitted using the standard templates that are included in this Information Memorandum. These are detailed on the Compliance Checklist.

Applications should be submitted in a sealed envelope, marked as follows:

800 MHz Spectrum Auction  
For the attention of:  
Executive Vice Chairman

Applications need to reach the following address by the application deadline:

Nigerian Communications Commission  
Plot 423, Aguiyi Ironsi Way  
Maitama, Abuja  
Nigeria.

It is strongly advised that Applicants deliver their Application in a secure manner. Upon receipt of the application, the Commission will issue a “proof of receipt” that will serve as a record of the date and time of delivery of the application.

#### **(b) Intention-to-Bid Deposit**

The Application must be accompanied by proof of payment of the Intention-to Bid Deposit, which should be received as cleared funds in the following bank account of the Commission before the Application closure date:

Oceanic Bank Plc, Maitama, Abuja  
Account No: 1871301004737

## 12.3 APPLICATION DOCUMENTATION

### (a) Part 1 – Cover Letter

A duly completed Cover Letter, as contained in **Appendix A.1**, should be signed and dated by an Authorised Signatory of the Applicant. This Authorised Signatory should be included as a member of the Bid Team, as detailed in the Bidder Compliance Certificate Template, found in **Appendix A.5**

### (b) Part 2 – Pre-Qualification Criteria Table

A duly completed pre-qualification criteria table, as contained in **Appendix A.3**, should be signed and dated by an Authorised Signatory of the Applicant. This Authorised Signatory should be included as a member of the Bid Team, as detailed in the Bidder Compliance Certificate template in **Appendix A.5**.

The pre-qualification criteria table requires the Applicant to self-certify against the following criteria:

- Accredited as a qualifying Nigerian Licensed Network Operator;
- Independence from other Applicants;
- Lodgment of Intention-to-Bid Deposit; and,
- Fulfillment of all regulatory obligations.

### (c) Part 3 – Intention-to-Bid Deposit

The Intention-to-Bid Deposit submitted by Applicants shall:

- i) Equal =N=40 million (Forty million naira);
- ii) Be paid into the designated account of the Commission
- iii) Be received as cleared funds by the Commission before the Application closure date; and,
- iv) Form part of the legal commitment of the Applicant to participate in the Auction process if they are awarded Approved Bidder status. This includes the commitment to pay at least the Reserve Price for the acquisition of the 3 Carriers in the 800 MHz spectrum band being offered by the Commission.

**(d) Bid deposit payment form**

A duly completed Bid Deposit Payment Form as contained in **Appendix A.4** should be completed, dated and signed by an Authorised Signatory of the Applicant, who should be a member of the Bid Team.

**(e) Binding Nature of Application**

By submitting an application, the Applicant will be bound by the information provided and the commitments outlined in this Information Memorandum and any subsequent notices and communications by the Commission relating to the 800 MHz Spectrum Auction.

**(f) Completeness of Applications**

Incomplete applications will not be considered by the Commission. If there is any doubt surrounding the completion of applications, this should be addressed in the submissions of questions to the Q&A regarding the 800 MHz Spectrum Auction, specifically to the following email address: [spectrumbauction@ncc.gov.ng](mailto:spectrumbauction@ncc.gov.ng)



## ***APPENDIX A: APPLICATION FORMS***

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### **1. INTRODUCTION**

This section contains all appropriate forms for interested parties wishing to be considered for inclusion in the Auction process.

Templates:

- ✓ Cover Letter Template
- ✓ Compliance Statement
- ✓ Pre-qualification Criteria Check-list
- ✓ Bid Deposit Payment Form
- ✓ Bidder Compliance Certificate.

All templates and forms must be submitted on the Applicant's headed paper.

## **A.1: COVER LETTER TEMPLAT E**

(insert date)

Executive Vice Chairman,  
Nigerian Communications Commission  
Plot 423, Aguiyi Ironsi Way  
Maitama, Abuja  
Nigeria.

(Applicant's details, including mailing address, contact mobile telephone number and email address)

Dear Sir,

We the undersigned, having dutifully read the Information Memorandum pertaining to the Auction of 3 Carriers in the 800 MHz spectrum band, including the disclaimer and all appropriate adjuncts, we herewith submit an application to take part in the auction for the award of licence to operate commercial services in that band.

Should our application be successful in the Auction, we hereby undertake to pay all fees relating to the acquisition of, and operation under, the licence, as well as abide by all appropriate terms and conditions as set out in the Information Memorandum, including the referenced auction.

By submitting this letter, we certify that we have lodged an Intention-to-Bid Deposit of value =N=40 million (Forty million naira only) in the designated Bank Account of the Commission.

By submitting this application and deposit we understand that we have entered the Auction process to purchase the spectrum under reference and will perform all obligations as stipulated in the Information Memorandum.

We also understand that by entering into this auction process we are making a commitment to abide by the requirements and rules in relation to the 3-Carrier in the 800 MHz spectrum auction process as communicated by the Commission and that the Commission reserves the right to take appropriate actions, including disqualification from the process, in the event of infringement of these requirements and rules.

We have completed and enclosed the following:

- a) Compliance Statement
- b) Pre-qualification Criteria Check-list
- c) Bid Deposit Payment Form
- d) Bidder Compliance Certificate (containing details of Bid Team members).

We confirm that all of the information provided in our application and associated documents are accurate and true to the best of our knowledge.

We acknowledge that this letter and all associated documentation relating to this process and our participation in it are governed by Nigerian law.

B

Yours sincerely

*<insert signature of authorised signatory>*

*<insert name of signatory>*

*<insert name of Applicant>*

*<insert date of signature>*

Attachments concerning (see Appendix B.4):

- Participating entities
- Independence of Applicants and cross-ownership (Bidder Relationships)

## A.2: COMPLIANCE STATEMENT

Executive Vice Chairman,  
Nigerian Communications Commission  
Plot 423, Aguiyi Ironsi Way  
Maitama, Abuja  
Nigeria

Date

Name of Applicant.....

**Request for Applications for the award of 3 Carriers in the 800 MHz spectrum in the Federal Republic of Nigeria**

Category	Criteria	Proof
Template	Application to take part at Auction in the auction process for 3 Carriers in the 800 MHz spectrum	Cover Letter
Template	Confirmation that the Applicant meets all defined pre-qualification criteria	Pre-qualification Criteria Check-list
Template	Confirmation that the Applicant understands the nature of the Intention-to-Bid Deposit	Bid Deposit Payment Form
Template	Applicant's nomination of the bid team authorised to take part at Auction	Bidder Compliance Certificate

*<insert signature of authorised signatory>*

*<insert name of signatory>*

*<insert name of Applicant>*

*<insert date of signature>*

### A.3 PRE-QUALIFICATION CRITERIA CHECK-LIST

[Note to applicants: Please complete and return this form as part of the bidding application]

Characteristics	Criteria	Compliance (Yes/No)
Eligibility	<p>Applicant must be a qualifying Licensed Network Operator in Nigeria, as defined in Section 7</p> <p>Applicant must confirm all participating entities and their relationships in the context of this Application. [To be provided as an attachment to the Cover Letter]</p>	
Independence	<p>Confirmation of independence from all other Licensed Network Operators participating in the 3-Carrier 800MHz Spectrum Auction.</p> <p>Indication of cross-ownerships and/or other issues which could affect Bidder Relationships (as defined in Bidder Relationships section under Auction rules). [To be provided as an attachment to the Cover Letter]</p>	
Advisors	<p>Identification of professional advisors supporting the Applicant's submission. [To be provided as an attachment to the Cover Letter]</p>	
Financial (deposit)	<p>Confirmation that ₦40 million (Forty Million Naira only) Intention-to-Bid Deposit has been paid into the designated Bank Account of the Commission</p>	
Fulfillment of regulatory obligations	<p>Applicant must confirm that it is up to date with all administration, licence and operating fees due to the Commission, as well as all reconciled interconnect debt.</p>	

<insert signature of authorised signatory>  
 <insert name of signatory>  
 <insert name of Applicant>  
 <insert date of signature>

#### **A.4: BID DEPOSIT PAYMENT FORM**

The Applicant certifies, agrees and undertakes that:

- a) It has paid a deposit of =N=40 million (Forty million Naira only) to the Commission as required by the Information Memorandum issued for the 3-Carrier 800MHz spectrum auction process.
- b) Where a Bidder submits the highest bid value in the 2<sup>nd</sup> Round of the Auction process, the Bidder is considered to be the Winning Bidder and is deemed to have been provisionally awarded the spectrum on offer. Consequently, the IBD of =N=40 million (Forty million Naira only) will form part of the payment for the price of the spectrum that will be allocated to the Winning Bidder.
- c) Where the Winning Bidder fails to make full payment in accordance with the conditions of the Auction and the Information Memorandum, the deposit will be forfeited to the Commission.
- d) Where an Approved Bidder has contravened any of the Auction rules as set out by the Commission, the Bidder accepts to be liable to pay any penalty as may be determined by the Commission in the event of such contravention. The sum payable for the penalty shall be deducted from the deposit of =N=40 million (Forty million Naira only) made by the Bidder.
- e) Where an unsuccessful Approved Bidder has not contravened any of the Auction rules as set out by the Commission, and/or in this Information Memorandum, the deposit of =N=40 million (Forty million Naira only) will be refunded to the Bidder.

The common seal of the Bidder is hereby attached in presence of:

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**DIRECTOR**

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**SECRETARY**

## A.5: BIDDER COMPLIANCE CERTIFICATE

The Bidder certifies and undertakes that:

- a) The Authorized Officers of the Bidder have read and understood the relevant Legislation and the Information Memorandum.
- b) The Bidder is legally capable of bidding in the Auction and has in place all necessary consents, permissions and board approval for this purpose, save those which, by virtue of legal or regulatory process, are not obtainable until after the results of the Auction are known and the Bidder further understands that it will bear the risk of failure to obtain such consents, permissions and approvals that are not obtainable until after the results of the Auction are known.
- c) The Bidder understands and will be legally capable of satisfying its obligations under the terms and conditions of the Licence granted pursuant to the Auction.
- d) The actual information provided in, or in support of, the Application is, to the best of the Bidder's knowledge and belief, true, accurate and complete in all material respects and that any opinion expressed is honestly held.
- e) The Bidder in the Application is not the subject, and none of its Directors, officers or representatives are the subject, of criminal investigation or proceedings in Nigeria or abroad which might adversely affect their business or materially affect the Bidder's ability to bid in the Auction or to satisfy the terms of any Licence awarded pursuant to the Auction, and that there is no reason to believe that such investigations or proceedings might occur during the Auction.
- f) The following Officers representing the Bidder in the Auction have been duly and properly delegated by the Bidder to do so and they have the authority and power to bind the Bidder in the transaction.

S/N	Name	Designation
1.		
2.		
3.		

The Common seal of the Bidder is hereby attached in presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Secretary