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DEFINITIONS

For the purpose of this Manual, the following terms have been defined as follows:

Act	Communications Act 2012
Appointing Authority	The entity designated in the Act to have representation in the Universal Service Fund Committee
Authority	Lesotho Communications Authority
Basic Postal Service	Any post service designated though the relevant law as a basic postal service.
Basic telephony service	A service that enables a user to place and receive telephone calls and send and receive simple text messages. Basic telephony can be a mobile or fixed network service;
Broadcasting	Any unidirectional electronic communications intended for reception by the public or any part thereof, conveyed by means of radio frequency spectrum or any electronic communication system or any combination thereof. ¹
Committee	The Universal Service Fund Committee
Critical Internet Infrastructure ²	Internet exchange point(s) and top-level domain name system
Internet access service	A telecommunications service that provides an end user with the ability to access and send information by means of the Internet. Internet Access shall be deemed to mean broadband access and the two terms shall be used interchangeably.
Licensees	A person who has been granted a licence by the Authority for the provision of a communications service ³ and falls into the category of licensees that contribute to the Fund.
Postal Service	Any service for the conveyance of postal articles from one place to another by post, and the incidental services of receiving, collecting, sorting, sending, despatching and delivering such postal articles, which includes: letter service; parcel post; and express mail service;

¹ Lesotho Communications Authority (Broadcasting) Rules 2004 – Legal Notice No. 71 of 2004

² The generic definition of critical internet infrastructure: a collective term for all hardware and software systems that constitute essential components in the operation of the internet.

³ Definition based on one in the Communications Act 2012 but adapted for the context of the Fund

1 INTRODUCTION

The purpose of this manual is to articulate rules of procedure pertaining to operations of the Fund to ensure compliance with the relevant legal and regulatory framework. The principles set out in this manual are based on the Communications Act 2012 (the Act) and the Southern African Development Community (SADC) Guidelines on Universal Access and Service adopted by Ministers responsible to Telecommunications, Postal and ICT on 16 June 2011.

The Universal Service Fund (USF), replaces the Universal Access Fund, which was established under the Lesotho Communications Act of 2000, and the Universal Access Rules of Rules of 2009. The present document replaces the UAF Operating Procedures of 2009.

2 GENERAL PRINCIPLES AND OBJECTIVES

The Act establishes the Universal Service Fund (USF), herein also referred to as the Fund, and the structures for managing it. The purpose of the Fund is to ensure that all inhabited areas, and population groups have affordable access to Information and Communication Technology (ICT) services. The institutional arrangement is that the Fund will be a unit within the Authority. The Authority shall operate the accounts of the Fund and it shall also provide technical and logistical support as necessary. The Committee shall have decision making powers over the Fund as prescribed in the Act.

2.1 Universal Access and Universal Service (UAS)

The Act addresses both universal access (UA) and universal service (US) as relates to the following communication services: basic telephony, internet access, broadcasting and basic postal services. UA refers to the provision of access on a shared basis, at a community level and is a precursor to US. US is the provision of access at an individual or household level. Within the context of Lesotho, there is a need for both approaches because of the different geographic and income needs of different areas, and the development in wireless technologies. Generically, the two are referred to as universal access and service (UAS).

The three hallmarks of UAS are:

- *Availability:* The service is available to all inhabited parts of the country through public, community, shared, or personal devices.

- *Accessibility*: All citizens can use the service, regardless of location, gender, disabilities or other personal characteristics.
- *Affordability*: The service is affordable to all citizens.

The prerequisite to these three hallmarks is universal geographic coverage of communication infrastructure and services. The private communication service providers extend coverage where it makes business sense to do so. From a social point of view, access to communication services is a basic right that governments are politically and socially obliged to ensure that such rights are addressed for all citizens. Special funding arrangement is therefore necessary to address this commonly recognised gap between the financial cost of what governments set as the target for universal access and what liberalised markets will be able to achieve without external inducement. This deficit is often referred to as the access gap. Some areas have no service at all, and they are referred to as unserved. Others have limited level of service, and these are referred to as underserved.

The Universal Service Fund (USF) is becoming the best-practice model for special funding to support access to communications by the poor and rural populations that are either unserved or underserved. It is a mechanism to enable a liberalised communications sector to induce and mobilise private sector investment into rural and remote areas by offering subsidies and investment incentives to private communications service providers (the operators).

2.2 *Legal Mandate*

The Communications Act 2012, sets the direction for universal service and universal access. It mandates that, throughout the country, people should have access to: basic telephony, internet access, broadcasting and postal services. Collectively, these are referred to as communication services. The Act also sets direction on the sources, uses and management of the fund.

The Act recognizes the convergence of infrastructure, services and content in the ICT sector, and technology neutrality. As such this manual also embraces those principles.

2.3 *Fund Objectives*

Broadly, the objective of the Fund is to ensure that people throughout Lesotho have access to telephone services, broadcasting services and basic postal services.

In particular, the Fund should: Aligning of the second lines of the ensuing points

- i. Fast track access to high-speed internet access, basic telephony and broadcasting service;
- ii. Ensure that all localities /villages have access to services designated as eligible under USF as indicated in the Act;
- iii. Promote and support high-speed internet access in high population localities that are unserved or underserved, with emphasis on access that is shared through public facilities (post offices, health centres, schools, tourist centres, libraries, etc);
- iv. Ensure good quality communication services in all areas at affordable prices;
- v. Attract investment to help existing operators expand and upgrade their networks as well as encourage new investment to build Internet infrastructure.
- vi. Support consumer education to enable beneficiaries of the Fund with initiatives to realise the intended results of being connected.
- vii. Empower disadvantaged people and communities to achieve improved quality of life by ensuring equitable access to ICT networks and services that are affordable and of good quality.
- viii. Work with stakeholders to ensure that policies and legal framework in the sector promote competition to the extent possible, so that the Fund can address only the areas that are not attractive to private businesses due to hostile terrain, very low income potential or both.

2.4 Fund Priorities and targets

The Fund's priorities and targets, broadly, are derived from the Act, and they are:

- i. Ensuring access to basic telephony for all,
- ii. Ensure that all citizens have access to internet services,
- iii. That all citizens have access to broadcasting services and a variety of content sources; and
- iv. That all citizens have access to basic postal services.

As a first priority, the Fund shall target infrastructure gaps in the communication sector to ensure that all citizens have access to communication services. Specific priority areas and targets will be defined in the Fund's strategic business plan to be aligned with prevailing conditions at the time of planning.

The fund will use the following targeting approaches:

a. *Geographic Targeting*

The Fund will target areas where no infrastructure exists, and none is likely to be developed by private initiative in the near future. The Fund may target areas where infrastructure exists but the area is underserved, and the inherent profitability of the area is too low to attract additional investment to address the infrastructure gap.

Among the target areas, the Fund will prioritise areas according to a project's socio-economic impact, based on: populations size, level of economic activity in the area (e.g government services, small businesses, farming, schools, health centres, etc), availability of requisite infrastructure such as electricity and roads, readiness of the population to benefit from the service being introduced, and the cost of a project where several areas have similar characteristics.

b. *Community Targeting*

The Fund will target educational institutions, postal buildings, health facilities, libraries and other community service establishments for the provision of broadband infrastructure and services, and the development of awareness programmes and digital literacy where required.

c. *Critical internet infrastructure*

In line with the Act, the fund will support the establishment of critical internet infrastructure.

3 FUND MANAGEMENT, ADMINISTRATION AND ACCOUNTING

The USF shall be managed by the Committee. The composition, appointment and functions of the Committee shall be as outlined below:

3.1 *Composition of the Committee*

3.1.1 The Committee shall be constituted as follows:

- i) A representative of the Ministry responsible for communications, who shall be chairman;
- ii) A representative of the Lesotho Communications Authority, who shall be deputy-chairman;
- iii) A representative of the Ministry responsible for Local Government;
- iv) A representative of the Ministry responsible for Finance;
- v) A representative of the Lesotho Electricity Company
- vi) The Executive Secretary (ES) who shall be appointed by the Authority and shall serve as secretary to the Committee.

3.2 *Appointment of Members of the Committee*

3.2.1 Each of the entities shall be requested in writing to appoint representatives to the Committee. The appointment must also be effected in writing by the Appointing Authority.

3.2.2 Where a member absents himself from three consecutive meetings of the Committee without a valid excuse, the Committee shall advise the Appointing Authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.

3.3 *Fund Management*

In particular, the Committee shall:

- i. Provide strategic direction for the Fund
- ii. Approve budgets pertaining to the Fund
- iii. Approve programmes and projects

- iv. Approve the disbursement of funds
- v. Monitor performance of the Fund in attaining its mandate

The Authority shall provide advisory and support to the Fund.

3.4 Fund Administration

The USF shall be administered by the ES. The functions of the ES are as follows:

- i. Executes the decisions of the Committee;
- ii. Transacts the day-to-day business of the Fund;
- iii. Organises and provides secretarial work to all meetings of the Committee;
- iv. Exercises such powers as directed by the Committee; and
- v. Performs the secretarial functions of the Fund.

3.5 Fund Accounting

- i. The Authority shall operate a separate account for all monies relating to the Fund's activities which shall be paid into and disbursed from this account.
- ii. Notwithstanding (i) above, the accounting function of the Fund will be the responsibility of the Authority. The Authority will:
 - a) Collect contributions from the Operators and any other sources permitted by the Act.
 - b) Disburse project funds as per service contracts and any other agreed-upon payment schedules at the direction of the Committee.
 - c) Maintain the financial accounts and records of the Fund.
 - d) Produce quarterly management reports.
- iii. The Fund's financial year shall run from the 1st of April of one calendar year to the 31st of March of the following calendar year.

- iv. All financial matters of the Fund shall be managed in accordance with the Authority's Financial Procedural Rules and shall be audited by the auditors of the Authority.

4 SOURCES AND USES OF USF RESOURCES

4.1 Sources of Funds for the USF

The revenues to the USF comprise:

- 4.1.1 The Government, pursuant to an appropriation made by the Parliament or in any other lawful manner;
- 4.1.2 The revenue from the Authority composed of:
 - a) An initial seed capital of M10 million
 - b) An annual contribution of not less than 25 percent of its annual surplus
- 4.1.3 Grants from donor agencies; and
- 4.1.4 Contributions from licensees, who shall contribute a percentage, not exceeding 2%, of their Net Operating Income from the provision of communication services in Lesotho.

4.2 Uses of Funds of the USF

- 4.2.1 The Authority shall disburse funds from the dedicated Fund Account to:
 - a) Cover the Fund's operating and administrative expenses
 - b) Meet the payments for the Fund's projects
- 4.2.2 *Operating and Administrative Expenses:* The following are the expenses that shall be incurred by the Fund:
 - a) Acquisition of fixed assets;
 - b) Operating costs of the Fund;
 - c) Professional and administrative fees associated with outsourcing of some tasks.

4.2.3 *Project Expenses:* The expenses of the project shall be in line with the USF objectives as stated in 2.3:

- a) The primary focus of the USF is to finance the infrastructure necessary for expansion of network coverage to the areas that remain unserved or underserved on grounds of non-viability. This is made up of:
 - i. The core infrastructure: This includes communications base station towers and/or voice and data transmission equipment;
 - ii. Supporting infrastructure: This includes access roads and power supply to the base station towers.
- b) Community / village access points centres for communication services;
- c) Broadband services for educational institutions, health centres and community service centres;
- d) Training and capacity building aimed at generating demand and expediting service take-up;
- e) Support the establishment of critical internet infrastructure; and
- f) Other activities necessary to promote universal access to communication services.

4.2.4 With respect to 4.2.3 (a) – (d) above, USF monies are primarily meant to finance projects in unserved, underserved and non-viable areas and communities.

5 PLANNING AND BUDGETING

5.1 Planning

- 5.1.1 Periodically, the ES shall conduct studies to determine which areas are unserved, underserved, commercially viable, or non-viable for the respective communication services. The studies will also quantify and qualify the demand for the various services that fall within the Fund's priority list. On the basis of findings of these studies, areas shall be zoned and prioritized in line with established criteria.
- 5.1.2 The ES shall prepare a strategic business plan every three years.
- a) The strategic business plan will set out the Fund's vision, mission and objectives.
 - b) There shall be yearly review of the strategic business plan within each three year cycle of the plan.
- 5.1.3 Further to the strategic business plan, the ES shall prepare the Fund's operational plan on an annual basis.

5.2 ***Budgeting***

The ES shall prepare a budget comprising three separate components: Administrative costs, Capital for Office Assets and Capital for Projects. Effort shall be made to devote the bulk of the budget of the Fund towards capital for projects.

6 REPORTING AND AUDITING

6.1 Reporting

- 6.1.1 During each financial year, the ES shall prepare a quarterly report accompanied by management accounts and submit them to the Committee.
- 6.1.2 The Committee shall submit the annual report to the Board of the Authority within three months of the end of the financial year.

6.2 Auditing

The Authority shall appoint the auditors for the Fund. The Fund shall be audited annually.

7 PROJECT FUNDING

7.1 Eligibility of Infrastructure Projects

The places to be serviced by the Fund are determined by the Committee having considered:

- 7.1.1 Service coverage at a point in time.
- 7.1.2 The Operators infrastructure roll-out plans.
- 7.1.3 That the places are unserved, underserved or in non-viable areas.

7.2 Eligibility of Community Projects

Eligible community projects shall be to address specific community needs in unserved and underserved areas. In the case of underserved areas, projects will have to be determined to have high socio economic value and will not result in market distortion.

7.3 Eligibility of Service Providers

For network infrastructure expansion projects involving telephony and internet access, only the licensees of the Authority are eligible to receive USF project funds and to implement such projects.

For other types of projects, local businesses and not-for-profit organisations with the relevant qualifications and capacity to undertake such projects shall be eligible.

7.4 Allocation of USF Subsidies

- 7.4.1 Competitive bidding shall be the basis for award of project subsidies. Unless otherwise stated, least subsidy auctions shall be the default or preferred competitive process in applying for USF monies.
- 7.4.2 Special projects shall be allocated subsidies on the basis of merit in terms of their contribution to achievement of the mandate of the fund. Examples include co-funded projects supported by donor agencies.

8 SUBMISSION AND EVALUATION OF PROJECT PROPOSALS

8.1 Submission of Project Proposals

- 8.1.1 Submission of project proposals by service providers shall be in response to the Request for Proposals (RFP) issued by the ES.
- 8.1.2 The project proposals shall endeavour to indicate all the necessary information required in order to evaluate the proposal. The following information shall be contained in the project proposal:
- a) Name of entity proposing the project
 - b) Summary details of the proposing entity
 - c) Technical description of the project which shall comprise but not limited to:
 - i. The nature of the project as per the RFP
 - ii. Possible product and/or service customization to make the project output more suited to the targeted population and/or area
 - iii. Project inputs and supporting infrastructure

- iv. Proposed quality of service assurance measures
 - v. Project's flow chart and outcome milestones
 - vi. Any additional project services/offers volunteered by the applicant
- d) Financial description of the project which shall comprise:
- i. Initial capital investment and other start-up expenditures necessary to launch the project.
 - ii. Recurrent expenditures for running, maintenance and support needed to maintain ongoing delivery of the services provided by the project over a 1 to 3 year period.
 - iii. Estimated service revenues generated by the project taking into account expected revenue growth over the 1 to 3 year period.
 - iv. The amount of money required from the Fund.
 - v. The contribution volunteered by the applicant, if any.
- e) Identification and assessment of Technical and Financial risks that may prevent the project from proceeding as planned and proposed mitigation measures.

8.2 Evaluation of Project Proposals

- 8.2.1 Evaluation of project proposals shall be completed within thirty (30) working days of the closing date of the RFP.
- 8.2.2 The Executive Secretary shall issue notification of the Committee's determinations to all the bidders. Such communication will be made within five (5) days.

9 CONTRACT AWARD AND PROJECT IMPLEMENTATION

9.1 The bidder who is awarded a USF financing shall enter into a service contract with the Authority

9.2 The service contract shall include:

- a) The specific functions that the service provider or entity is to perform, including quantifiable performance measures.
- b) The total amount of money that the Committee will provide, and payment milestones which will be determined based on project's implementation timeline and linked to project's components.
- c) Where applicable, the scope and duration of any requirements to provide cost-based, non-discriminatory access to other licensees.
- d) Reporting requirement: this requirement entails a specification of periodic reports by the service provider to the Executive Secretary on matters such as progress assessment, identification and assessment of unexpected factors, financial statements and any other relevant analysis pertinent to the project.
- e) Consequences of non-compliance.

10 MONITORING AND EVALUATION

10.1 The service provider reporting requirement in 9.2 (d) above forms a crucial aspect of USF monitoring and evaluation (M&E).

10.2 In addition to 10.1. above, the Executive Secretary shall develop tools and procedures for ongoing monitoring such as:

- a) An up-to-date database of all the projects, facilities and services, including service roll-out status, service quality and (possibly) usage statistics;
- b) Performance assessment through a combination of routine field visits, spot checks, user interviews and operator interviews, and telephone surveys as may be appropriate;

- c) A process for filing and resolution of customer or operator complaints/difficulties and comments;
- d) An open communication process between the Fund and project operators on the process and progress of the project.

11 STAKEHOLDER ENGAGEMENT

- 11.1 All activities of the Fund shall be conducted in an open, transparent manner and in close consultation with the general public, private and public sector stakeholders. To the extent possible, stakeholders shall be given opportunity to make inputs in the development of USF strategy, programmes and project design.
- 11.2 The Fund shall regularly communicate with the different stakeholder groups, individually and collectively through:
- a) Public media: radio, television, print media and the internet
 - b) General public meetings
 - c) Focused meetings
 - d) Letters and email
- 11.3 Stakeholders will also be regularly informed on the performance of the fund through quarterly and annual reports. Ad hoc reports may be produced and published on request by stakeholders.
- 11.4 The fund shall respond to ad-hoc queries from stakeholders within 30 days of such a query. Queries must be submitted in writing for them to be recorded. A record of queries and responses shall be kept for a period not exceeding 24 months, after which they may be disposed of. Telephonic queries will be responded to, but no recorded.

12 MEETINGS OF THE COMMITTEE

- 12.1 The Committee shall ordinarily meet at least four times a year, at intervals of around 3 months, and at such times and places as it deems necessary for the transaction of its business and it shall convene a special meeting upon request by at least half of the members.
- 12.2 An ordinary meeting of the Committee shall be convened by the Chairman, and the Executive Secretary shall arrange for such a meeting to take place. The notice of a meeting shall specify the agenda, the venue, date and time of the meeting and it shall be sent to each member at his usual place of business or residence not less than 10 days before the date of the meeting and where the Chairman is unable to act by reason of illness or other case or is absent from the country, the Vice-chairman may convene the meeting.
- 12.3 The Chairman or, in his absence, the Vice Chairman may, on his own motion, or if requested by at least half of the members shall, convene a special meeting of the Committee.
- 12.4 The Committee may invite any person who is not a member to participate in the deliberations of the Committee, but any person so invited shall have no right to vote at the meeting.
- 12.5 The quorum at any meeting of the Committee shall be two-thirds of the full complement of the Committee. A meeting may not proceed unless there is a quorum.
- 12.6 The Committee may act notwithstanding any vacancy in its membership.
- 12.7 Minutes of each meeting of the Committee shall be kept and shall be confirmed by the Committee at its next meeting.
- 12.8 At the beginning of each sitting, Committee members shall sign the attendance register. The attendance register will record the full date, place, description of the meeting (ordinary / extra-ordinary / continuation), and the meeting sequence number.
- 12.9 Each member has an obligation to disclose any real or potential conflict of interest, should such a situation arise. Ordinarily, disclosure must be made at the beginning of a meeting.
- 12.10 Where there is a conflict of interest, the concerned member(s) should recuse him- or herself when the related matter(s) is discussed.
- 12.11 Resolutions shall be reached by consensus and in cases of voting, where consensus is not reached, with a simple majority. Where there is a tie, the Chairman will have a casting vote. Voting shall be by show of hand or secret ballot.

12.12 Decisions of the Committee regarding approval of budgets, programmes, projects and disbursements shall be contained in resolutions that will be signed by the Chairman of the Committee.

12.13 Members shall receive allowances as approved by the Authority.

13 OFFICIAL IDENTITY AND SEAL OF THE FUND

13.1.1 The Official seal and identity of the Fund shall be that of the Lesotho Communications Authority.

13.1.2 All agreements, documents, rulings, declarations or other official instruments requiring the seal of Fund shall be affixed with the official seal, and signed by the CEO of the Authority.
