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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

MINISTRY OF INFORMATION TECHNOLOGY

(Information Technology and Telecommunication Division)

NOTIFICATION

Islamabad, the 28th September, 2006

S. R. O. 1017(1)/2006.—In exercise of the powers conferred by clause (ab) of sub-section (2) of section 57 of the Pakistan Telecommunication (Re-organization) Act (XVII of 1996), read with section 33 D thereof, the Federal Government is pleased to make the following rules, namely:—

THE RESEARCH AND DEVELOPMENT FUND RULES, 2006

1. *Title and commencement.*—(1) These rules may be called the Research and Development Fund Rules, 2006.

(2) They shall come into force at once.

2. *Definitions.*—(1) In these rules, unless there is anything repugnant in the subject or context,—

(a) “Act” means the Pakistan Telecommunication Re-organization) Act 1996 (XVII of 1996);

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- (b) "Board" means the board of directors of the Company;
- (c) "Budgetary Allocations" means the amounts released by the Federal Government from the R&D Fund to the Company in accordance with rule 7;
- (d) "chief executive officer" means the chief executive officer of the Company;
- (e) "Company" means the non-profit public limited company, limited by guarantee and not having share capital and incorporated by the Federal Government pursuant to rule 4;
- (f) "intellectual property" includes a patent, industrial design, lay-out design of integrated circuits, copyright and related rights, service mark, trade mark, trade name, trade secrets, invention, discovered or invented knowledge, geographical indications, technical know-how and ideas for new products and markets or any combination thereof, whether or not registered or capable of registration;
- (g) "intellectual property rights" means rights in intellectual property, whether or not any of these rights is registered, and includes all applications for any such right, matter or thing or registration thereof and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these rights which may subsist anywhere in the world;
- (h) "prescribed contribution" means the contribution by the relevant licensees to the R&D Fund as stipulated in their respective licenses;
- (i) "principal investigator" means the person, company, partnership, undertaking, concern, association of persons, body of individuals, consortium or joint venture which receives funding from the Company to execute a research and development project;
- (j) "relevant licensee" means a licensee under the Act required under the terms of its licence to make the prescribed contribution to the R&D Fund;
- (k) "R&D Fund" means the Research and Development Fund established under section 33 C of the Act;
- (l) "R&D Fund Account" means the bank account referred in sub-rule (1) of rule 3; and

(m) "R&D Implementation Framework" means the framework for the implementation of the R&D Fund annexed to these rules.

2. The words and expressions used but not defined herein shall have the same meanings as are respectively assigned to them in the Act.

3. *Administration, control and management of the R&D Fund*—(1) The R&D Fund and all accretions thereto from time to time shall be held in a bank account opened and maintained in the name of the Federal Government with a scheduled bank as Federal Government may, from time to time, determine.

(2) The prescribed contributions shall be credited directly to the R&D Fund Account by the relevant licensees.

(3) The Authority shall monitor and enforce the obligations of the relevant licensees to make the prescribed contributions in a timely and proper manner.

(4) The Federal Government shall administer, control and manage the R&D Fund and the R&D Fund Account and without prejudice to the generality of the foregoing, the Federal Government shall—

- (a) maintain proper books of account for the R&D Fund;
- (b) have custody of the account books, cheque books, securities, investment instruments and other documents and papers pertaining to the R&D Fund and the R&D Fund Account;
- (c) determine, make, monitor and liquidate investments and make re-investments of surplus sums standing to the credit of the R&D Fund Account;
- (d) make disbursements of the budgetary allocations;
- (e) nominate one or more signatories to the R&D Fund Account;
- (f) address all matters related to the audit of the R&D Fund; and
- (g) co-ordinate with relevant licensees and the Authority on matters related to contributions to the R&D Fund.

(5) The balance standing to the credit of the R&D Fund on the date these rules come into force, less the disbursement to the Company of the initial sum under the second proviso to sub-rule (3) of rule 7, shall be applied in the following order, namely:—

- (a) towards the projects and works in progress already being funded under the R&D Fund before the date these rules come into force;
- (b) towards the release of the budgetary allocation to the Company under its first annual budget; and
- (c) towards investments in accordance with sub-rule (4) of rule 7:

Provided that, the investments made under clause (iii) may be liquidated by the Federal Government from time to time on recommendations of the Board for the operational and capital expenditure of the Company towards realisation of the objectives stipulated in the R&D Implementation Framework.

4. *The Company.*—(1) Within thirty days of the commencement of these rules, the Federal Government shall cause the incorporation of the Company.

(2) The Company shall be wholly owned by the Federal Government.

(3) The Company shall be responsible for the implementation of research and development projects in the information and communications technology sector in accordance with and in furtherance of the objectives, key priority areas and the criteria laid down in the R&D Implementation Framework.

(4) The Secretary IT&T Division and two officers of the Federal Government nominated by the Secretary shall subscribe their names to the memorandum and articles of association of the Company.

(5) The Board shall consist of thirteen directors, twelve of whom shall be appointed by the Federal Government and the thirteenth director shall be the chief executive officer appointed by the Board.

(6) Out of the twelve directors of the Company referred to in sub-rule (5) for appointment by the Federal Government:

- (a) five shall be *ex-officio* office bearers in the Federal Government;
- (b) one shall be the chairman of the Authority;

- (c) three shall be selected from amongst the nominations made by the relevant licensees;
- (d) two shall be selected from amongst the nominations made by the scientific and academic community; and
- (e) one shall be a corporate management executive with management experience at a senior position in multinational or international companies.

(7) The method for seeking nominations for directors referred to in clauses (c), (d) and (e) of sub-rule (6) and the manner of selection from amongst the nominees shall be laid down in the articles of association of the Company.

(8) The chief executive officer of the Company shall be appointed by the Board as a full time employee director of the Company.

(9) The Company may, with the approval of the Federal Government, create posts and appoint officers, employees, experts, consultants and advisers on terms and conditions commensurate with the market conditions for attracting and retaining quality human resources with skills and experience relevant to the functions and activities of the Company. The Company may also engage and remunerate external advisers and experts on short term or long term basis for assistance, *inter alia*, in the evaluation, monitoring and commercial exploitation of projects.

5. *Functions of the Board.*— (1) The Board shall perform functions in accordance with the provisions of the Companies Ordinance, 1984 (XLVII of 1984) and the articles of association of the Company.

- (2) Without prejudice to the generality of sub-rule (1), the Board shall:
 - (a) review and guide corporate strategy within the parameters of the R&D Implementation Framework;
 - (b) determine risk policy, set high level business objectives and monitor performance against objectives, oversee major capital expenditures, acquisitions and divestitures;
 - (c) monitor the effectiveness of the Company's governance practices and make changes as needed;
 - (d) ensure key executive and Board level remuneration is aligned to the Company's objectives and reflects the objectives of stakeholders;

- (e) ensure that the appointment of directors is carried out in a fair, open and transparent way;
- (f) monitor and actively manage potential conflicts of interest affecting the directors, managers and other stakeholders including misuse of corporate assets and potential abuse in third party transactions;
- (g) ensure the integrity of the Company's accounting and financial reporting systems, including independent audit and ensuring that systems of control are in place for risk management, financial and operational control and ensure compliance with the relevant law and accounting standards;
- (h) approve and maintain a succession plan for the chief executive officer and senior executives;
- (i) design and implement programs for the orientation of the new directors and continuing education for existing directors on subjects that would assist them in discharging their duties;
- (j) oversee the process of disclosure and the communication of information to stakeholders;
- (k) establish committees and delegate authority to committees for performance of specialised Board functions while ensuring that the sub-committees do not get involved in the day-to-day operations and management of the Company in relation to matters falling within their respective terms of reference;
- (l) provide strategic direction for the Company by providing guidance, without, however, involving itself in the day-to-day operations and management of the Company;
- (m) maintain commercial orientation for the Company and actively explore, pursue and exploit commercial opportunities arising out of the research and development projects;
- (n) approve the business plan, annual budget and the operations manual prepared by the management of the Company;
- (o) set targets for the Company and review progress while leaving the details for achievement of the targets to the management of the Company;

- (p) advise the Federal Government for development, modification or refinement of the R&D Implementation Framework; and
- (q) liaise and interact with national and international research and development organisations in the field of information and communication technology.

6. *Operations manual.*—The Company shall develop, publish, maintain in force and implement an operations manual setting out the processes and procedures for applications, appraisals, approvals, solicitations, grants, contracts, disbursements, monitoring, modifications, reporting, commercial exploitation and other matters pertaining to projects contemplated under, or pursuant to, the R&D Implementation Framework.

7. *Annual budget.*—(1) No later than thirty days before the commencement of each financial year of the Company, the Board shall approve the annual budget for the next succeeding financial year of the Company; provided that, the first annual budget shall be prepared for the remaining months in the then current financial year.

(2) The annual budget shall, as a minimum, contain—

- (a) a statement of the estimated receipts for the financial year;
- (b) a statement of respective allocations for the priority areas set out in the R&D Implementation Framework, including allocations for the requisite proposals;
- (c) a statement of the capital and operating expenditure of the Company; and
- (d) a statement of proposed investments of surplus funds remaining with the Company during or at the end of the financial year, provided that, the Company may liquidate and utilise the said investments from time to time according to its requirements.

(3) Not later than fourteen days before the commencement of each quarter of the financial year, the Federal Government shall, consistent with the annual budget of the Company, make transfers of Budgetary Allocations to the Company for that quarter:

Provided that, supplementary transfers exceeding the annual or quarterly budgetary sums may also be transferred where requisitioned by the Board in respect of new projects not foreseen at the time of approval of the annual budget, cost overruns or unforeseen circumstances:

Provided further that, within fourteen days of the incorporation of the Company, a sum of fifty million rupees shall be transferred to the Company to enable the Company to meet its staffing, training, operational and capital expenditure requirements for commencement of its operations.

(4) A maximum of eighty percent of the annual incremental collections in the R&D Fund shall be expended towards research and development projects. The balance twenty percent sum shall be applied towards the capital and operating expenses of the Company in each financial year and any surplus remaining thereafter shall be invested in liquid securities prescribed under section 20 of the Trusts Act, 1882 or kept in profit and loss accounts in a scheduled bank.

(5) The Federal Government may, for reasons recorded in writing, relax the aforesaid limits in appropriate cases by a margin not exceeding ten percent in each case.

Explanation.—For the purpose of this rule the expression “annual incremental collections” means the prescribed contributions credited to the R&D Fund after the commencement of these rules and up to the last day of then current financial year and in each successive financial year thereafter.

8. *Intellectual property.*— (1) All intellectual property rights in, arising out of or capable of legal recognition in respect of the projects implemented by the Company shall vest absolutely in the Company on the basis of the projects being work for hire:

Provided that, pre-existing intellectual property rights vested in or owned by the principal investigator prior to the commencement of the project shall, save to the extent provided otherwise in the contract between the Company and the principal investigator, continue to vest in and owned by the principal investigator.

(2) It shall be a condition of all grants made by the Company that the principal investigator shall execute all assignments, licences, powers of attorney or other instruments as may be required under the relevant laws for registration and legal recognition of the rights of the Company in the intellectual property rights arising out of the said projects.

(3) The Company may assign or licence its rights in the said intellectual property to any person on such terms as it may deem appropriate.

(4) A contract for grant between the Company and a principal investigator may provide for extended protection of intellectual property rights in favour of the Company.

(5) Notwithstanding anything to the contrary hereinbefore contained, the Company shall give to any student undertaking post-graduate studies a limited, revocable, nonexclusive licence, free of cost, in the said intellectual property rights of the Company for the specific purpose of his thesis or dissertation and shall, subject to appropriate conditions of confidentiality, allow such student access to and use of the said intellectual property rights. The student shall own any additional or derivative intellectual property rights created or arising out of his thesis or dissertation.

9. *Resolution of disputes.*— (1) A dispute between an applicant for funding and the Company shall be resolved in the manner provided in the operations manual of the Company on the principle that no applicant has any right other than the right to his application being considered in accordance with the provisions of the operations manual of the Company.

(2) A dispute between a principal investigator and the Company shall be referred for resolution in the manner provided in the operations manual of the Company or the contract for project grant, as the case may be, which may include appeals to sub-committees of the Board or mediation by an expert in the information and communication technology or a related field, or both.

(3) Where a dispute is referred for mediation, the expert shall act as a mediator and shall give his decision within thirty days of the referral of the dispute to him. The costs of the expert shall be borne by the Company. Other matters relating to mediation shall be as set out in the operations manual of the Company or in the contract for project grant.

(4) The Company or the principal investigator, as the case may be, if not satisfied by the decision of the expert, may refer the dispute for arbitration.

10. *Confidentiality and disclosure of information.*— (1) All applications for research and development grants, research findings and reports produced by the principal investigator shall be kept confidential and appropriate provisions to prevent unauthorised disclosure shall be made in the contract between the Company and the principal investigator.

(2) Upon completion of a research and development project, the reports and findings may be published by the Company for general information; provided that, the publication may withhold sensitive commercial or proprietary information.

(3) The Company shall maintain a public register with brief particulars of the applications received, projects awarded, status of the projects and other relevant particulars in such form as may be decided by the Board from time to time. The register shall be open to public inspection and copies thereof shall be provided to any person requesting copies against payment of reasonable copying charges.

11. *Accounts and audit.*—(1) The accounts of the R&D Fund shall be prepared and maintained in accordance with the guidelines laid down by the Controller General of accounts under clause (d) of section 5 of the Controller General of Accounts (Appointments, Functions and Powers) Ordinance, 2001 (XXIV of 2001), and shall be audited each year by the Auditor General of Pakistan.

2. The accounts of the Company shall be maintained in accordance with the provision of the Companies Ordinance, 1984 and shall be audited annually in accordance with the provisions of the said Ordinance.

Annex

[See rule 4(3)]

R&D Implementation Framework

1. Implementation Objectives

1. To focus on and to allocate funds to the *key priority areas* in the information and communications technology ("ICT") sector of Pakistan.
2. To provide an enabling environment that facilitates deployment, exploitation and utilization of ICT for enhanced national productivity.
3. To enhance the national ICT related human resource development capacity manifold by facilitating industrial demand focused human resource capacity building.
4. To help develop knowledge based ICT industry for delivery of value-added ICT products and services.
5. To facilitate the development of comparative advantage in the ICT industry.
6. To facilitate research and development in those sections of ICT that enhance quality of life for citizens.

2. Key Priority Areas

The key priority areas for allocation of the monies representing the R&D Fund consistent with the implementation objectives are:

- (a) capacity building of human resources;
- (b) national productivity enhancement;
- (c) ICT market development;
- (d) ICT product development; and
- (e) multisectoral support programme.

2. A summary of the *implementation plan* for funding in the key priority areas is shown in the table below.

| Priorities Areas | Sub Areas within each Priority Area. | Implementation Plan |
|--------------------------|--|---------------------|
| HR Capacity Building | <ul style="list-style-type: none"> Promotion of education to all segments of the society Creation of industry driven HRD To create and develop, through ICT, formal and informal learning networks for communities Develop an IT-trained workforce | Immediate Term |
| National | <ul style="list-style-type: none"> Local Indigenous Development | Short Term |
| Productivity Enhancement | <ul style="list-style-type: none"> Advanced Information and telecommunication Networks Telecom and Internet Infra structure Development | |
| ICT Product Development | <ul style="list-style-type: none"> ICT Innovations ICT Infrastructure support Re-engineering the local industry Identifying and developing technologies, architectures, standards, security and privacy requirements and initiatives. | Medium Term |
| ICT Market Development | <ul style="list-style-type: none"> Promotion of web-enabled services Facilitation of E-Commerce Digitization of the administration. Provide government services to stakeholders online | Long Term |
| Multi Sectoral | <ul style="list-style-type: none"> Use of ICT in Agro-based Industries | Long Term |
| Support Program | <ul style="list-style-type: none"> Use ICT in biotechnology and pharmaceutical industries Use of ICT to facilitate international transactions | |

3. Review

The implementation framework outlined above shall be in force for a term of five years. A review shall take place after five years. However, for emergent reasons the Federal Government may undertake a review after the expiry of the first three years of the implementation framework being in force, but in any event not earlier than three years.

[No.F. 1- 114/2005 -Dir (Legal).]

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